

The Emergency Regulations 2005

This document contains an annotated and consolidated version of the emergency regulations enacted by the President of Sri Lanka following the assassination of Lakshman Kadirgamar in August 2005.¹

The regulations have undergone a number of modifications and amendments since that date and the text shown here reflects all of those changes up to 31 July 2007. The footnotes include details of all the amending regulations as published in the Government Gazette. I have also annotated the various references to other statutes with brief explanations of the relevant statutory provisions. By way of explanation, Sri Lankan legislation passed before independence from Britain in 1957 is usually called an “ordinance” and after that date an “act”. The regulations use “the Republic” and “the State” more or less interchangeably and the Secretary to the Ministry of Defence, who has a major role under the regulations, is also variously referred to as “Secretary to the Ministry of the Minister of Defence” and “Secretary to the Ministry of the Minister in charge of the subject of Defence”.

There are a number of typographical errors in the regulations. I have silently corrected the more minor ones and have in some places inserted a word or two in square brackets to make grammatical sense. The footnotes indicate those places where cross-references to other parts of the regulations or other statutes appear to be incorrect and (where possible) suggest the correct cross-reference. The regulations are also somewhat inconsistent in terms of punctuation, capitalisation of defined terms (e.g. “competent authority”) and numbering lay-out (e.g. regulation 49). Again, I have silently corrected those more minor occurrences which appear to be simple typographical errors. I have also added a summary table of contents for the regulations; the text therein is my own and does not come from the regulations, other than the headings to the parts.

Gregory Norton

Trincomalee, August 2007

¹ The full title of the regulations is the Emergency (Miscellaneous Provisions and Powers) Regulations, No. 1 of 2005

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THE PUBLIC SECURITY ORDINANCE (CHAPTER 40)

REGULATIONS made by the President under Section 5 of the Public Security Ordinance (Chapter 40).

CHANDRIKA BANDARANAIKE KUMARATUNGA,
President.

Colombo.
August 13, 2005.

Regulations

PART 1 – GENERAL

1. These regulations may be cited as the Emergency (Miscellaneous Provisions and Powers) Regulations, No. 1 of 2005.

2. (1) In any emergency regulation, unless any other definition is expressly provided therein or unless it is otherwise expressly provided therein or the context otherwise requires—

“Attorney-General” in relation to any emergency regulation includes the Solicitor-General, Additional Solicitor-General and Deputy Solicitor-General, or any Counsel for the State being a Counsel for the State authorized by the Attorney-General in that behalf for the purpose of such regulation;

“competent authority” in relation to any emergency regulation means, unless otherwise provided for in such regulation, any person appointed by name, or by office, by the President to be a competent authority for the purpose of such regulation;

“emergency regulation” means any of these regulations or any other regulations made under the Public Security Ordinance²;

“essential service”³ means any service which is of public utility or is essential for national security or for the preservation of public order or to the life of the community and includes any Department of the Government or branch thereof, which is declared in terms of regulation 40 of these regulations;

“explosive” has the same meaning as in the Explosives Act (Chapter 183)⁴;

“guns” shall have the same meaning as in the Firearms Ordinance (Chapter 182)⁵;

² It should be noted that this will therefore include all of the various regulations establishing “prohibited”, “restricted” or “high security” zones, as well as the Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulations 2006.

³ The original definition of “essential services” was removed by Gazette 1414/22 (published on 13 October 2005). A replacement definition was inserted by Gazette 1456/27 (published on 3 August 2006) but this was in turn amended by Gazette 1464/26 (published on 29 September 2006), which inserted the wording shown above.

⁴ Section 37 of the Explosives Act 1956 gives “explosives” a very broad definition including fuses, fireworks, rockets, percussion caps, detonators and “ammunition of every description”.

“Inspector-General of Police” shall include any Deputy Inspector-General of Police;

“land” includes land covered with water and parts of houses or buildings;

“Police Officer” means a member of any police force established under the Police Ordinance (Chapter 53)⁶;

“public officer” shall have the same meaning as in the Constitution⁷;

“requisitioning” means, in relation to any vehicle, the taking possession of the vehicle or requiring the vehicle to be placed at the disposal of the requisitioning authority, and its grammatical variations or cognate expressions shall be construed accordingly;

“Secretary to the Ministry of Defence” includes any Additional Secretary to the Ministry of Defence;

“Sri Lanka” means the territory of Sri Lanka and includes the territorial waters of Sri Lanka;

“territorial waters” shall have the same meaning as in the Constitution⁸.

(2) The Interpretation Ordinance shall apply to the interpretation of an emergency regulation and of any orders or rules made thereunder, as it applies to the interpretation of an Act or Ordinance or Law.

(3) Any reference in any document or any other written law to any emergency regulation shall, unless the contrary intention appears, be construed as a reference to that regulation, as amended by any subsequent regulation made under the Public Security Ordinance.

(4) The service specified in the Schedule hereto⁹ or any service declared by the President by order in terms of regulation 40 of this regulation declaring any service to be of public utility or to be essential for national security or to the life of the community may be made generally for the whole of Sri Lanka or for any area or place specified in such order.

⁵ Section 2 of the Firearms Ordinance 1917 defines a gun broadly speaking as a barrelled weapon which can discharge a bullet or missile with sufficient force to penetrate a certain number of straw boards at a certain distance.

⁶ Although there is no formal mention of the Special Task Force (the paramilitary wing of the Police) in the Police Ordinance, a member of the STF would probably qualify as a Police officer. The Home Guard Service (now known as the Civil Security Force) was raised under Part VI of the Mobilisation and Supplementary Forces Act 1985 and its members therefore presumably do not qualify as Police officers.

⁷ Under Article 170 of the Constitution a “public officer” is anyone holding a paid office under the Republic, excluding (*inter alia*) the President, ministers or MPs.

⁸ Under Article 170 of the Constitution, “territorial waters” are defined as “the territorial sea and the historic waters of Sri Lanka”.

⁹ This reference to the now-repealed Schedule to the regulations seems to have been inadvertently allowed to remain.

(5) Where any emergency regulation requires or enables a period to be specified in any direction or order made under such regulation, and such direction or order does not specify any such period, such period shall be deemed to be the period during which the regulation under which such direction or order is given or made remains in force.

3. Save as otherwise expressly provided, the powers conferred by any emergency regulation shall be in addition to, and not in derogation of any other rights or powers which by law are vested in or conferred on the President or any other authority or person.

4. Any power, duty or function conferred or imposed on the President by any emergency regulation may be exercised, performed or discharged by any Minister who is authorised in that behalf by the President.

5. (1) The appointment of any persons as a competent authority for the purposes of any emergency regulation may be made generally for the whole of Sri Lanka or for any area or place specified in writing by which such person is appointed and may be limited to such of those purposes as may be specified in writing.

Provided that nothing in the preceding provisions of this paragraph shall be deemed to preclude the appointment of two or more persons to be competent authorities for any of the purposes of any regulation or for any specified area or place.

(2) Where the holder of a designated office has been appointed to be a competent authority, then, unless express provision is made to the contrary, the appointment shall be deemed to extend to the person for the time being performing the duties of the office designated.

6. Without prejudice to any special provisions contained in any emergency regulation a notice to be served on any person for the purpose of any emergency regulation may be served by sending it by post addressed to that person at his last or usual place of abode or place of business.

7. Any power conferred by any emergency regulation to make any order or rule shall be construed as including a power, exercisable in the like manner and subject to the like conditions, if any, to revoke or vary the order or rule.

PART 2

TAKING INTO POSSESSION OF PREMISES AND REQUISITIONING OF VEHICLES AND OF PERSONAL SERVICES

8. (1) Where any building or premises is alleged to have been used in the commission of, or in connection with the commission of, any offence under these regulations or the Prevention of Terrorism Act, No. 48 of 1979, the Superintendent of Police of the area shall take possession of such building or premises and shall evict any person found therein or ordinarily resident therein and secure such premises from access to any unauthorized persons.

Provided that any person claiming ownership to such building and premises shall be entitled to make application in that behalf to the High Court for the making of an order for the release of such building and premises and the Court may, on the expiration of a period of two weeks from the making of such application, order the release of such building or premises, if it is satisfied that such building and premises was used without his knowledge or contrary to his instructions.

Provided further that if no proceedings are instituted within six months of the taking into possession of such property for the commission of an offence as is referred to above, such building or premises shall be returned to its lawful owner.

(2) Where any person is convicted of any offence under this regulation or the Prevention of Terrorism Act and the Court is satisfied that such premises or buildings had been used in the commission or in connection with the commission of, an offence under this regulation or the Prevention of Terrorism Act, the Court shall, in addition to any penalty which it may impose, for such offence, order that such building or premises be forfeited to the Republic.

9.¹⁰ (1) The President may, by order¹¹, appoint any person by name or by office, to be the Commissioner-General of Essential Services for the whole of Sri Lanka. It shall be the duty of the Commissioner-General of Essential Services to execute and co-ordinate all activities relating to the maintenance of essential services.

(2) The Commissioner-General of Essential Services may appoint, by name or by office, such Deputy Commissioners or Assistant Commissioners as may be necessary for the performance of his duties under these regulations.

(3) The Commissioner-General of Essential Services may delegate to any Deputy Commissioner or Assistant Commissioner appointed under paragraph (2) any power, duty or function conferred or imposed on or assigned to such Commissioner-General by or under these regulations.

(4) For the purpose of the performance of duties under this regulation the Commissioner-General of Essential Services may exercise any power

(a) conferred on the Secretary to the Ministry of the Minister of Defence or a Competent Authority appointed under these regulations;

¹⁰ The original regulation 9 was repealed by Gazette 1414/22 (published on 13 October 2005), which also (*inter alia*) repealed regulations 10 and 11. The above replacement regulation 9 was inserted by virtue of Gazette 1458/5 (published on 15 August 2006)

¹¹ By Gazette 1458/5 (published on 15 August 2006) the President appointed Mr Seneviratne Bandara Divaratne, Deputy Secretary to the Treasury, to be Commissioner-General of Essential Services for the whole of Sri Lanka.

(b) conferred on any authority or officer to whom any power under these regulations has been delegated.

(5) The Commissioner-General of Essential Services may give to –

(a) any competent authority appointed under these regulations; or

(b) any authority or officer, to whom any power has been delegated under these regulations;

such directions as may be necessary for ensuring the maintenance of essential services, and it shall be the duty of such Competent Authority or officer as the case may be, to comply with every such direction.

10. [*The original regulation 10, dealing with the power to requisition personal services, was repealed by Gazette 1414/22 (published on 13 October 2005)*]

11. [*The original regulation 11, dealing with the power of the Commissioner-General to coordinate essential services, was repealed by Gazette 1414/22 (published on 13 October 2005)*]

PART 3

CONTROL OF MEETINGS, PROCESSIONS, PUBLICATIONS, FIREARMS AND RIGHT OF ENTRY, & C.,

12. (1) If a competent authority is of opinion that special precautions should be taken to prevent the entry of unauthorized persons into any area, place or premises wholly or mainly occupied or used for the maintenance of essential services, that competent authority may by order provide that no person shall, subject to such exemptions as may be specified in the order, enter or remain upon that area or place or those premises without the permission or such authority or person as may be specified in the order.

(2) If any person is in any area, place or premises in contravention of an order made under this regulation, then without prejudice to any other proceedings that may be taken against him, he may be removed therefrom by any other person authorized in that behalf by a competent authority.

(3) In this regulation, “competent authority”, in relation to any essential service, means any person appointed by name or by office, to be a competent authority for the purposes of that service by the President.

13.¹² (1) The President may, by order¹³, prohibit the holding of public processions or public meetings, or of such public processions or meetings as may be specified in that order in any area in Sri Lanka for such period as may be so specified, subject to such exemptions as may be made by that order or by any subsequent order made under this regulation.

(2) The President may give directions prohibiting the holding of any procession or meeting in any area in Sri Lanka, the holding of which would be in the opinion of the President likely to cause a disturbance of public order or promote disaffection.

(3) Any police officer may take such steps, and use such force as may be reasonably necessary for securing compliance with any order or directions made or given under this regulation.

14. (1) The President may, as respects any area in Sri Lanka, by order direct that, subject to such exemptions as may be made by that order or by any subsequent order made under this regulation, no person in that area shall, between such hours or during such period as may be specified in the order, be on any public road, railway, public park, public recreation ground, or other public ground, or the seashore, or any other building or premises or place specified in the order, except under the authority of a written permit granted by such person as may be specified in [the] order.

(2) In paragraph (1) of this regulation, “public road” includes any roadway over a public bridge, any pavement, drain, embankment or ditch belonging or appertaining to a public road.

15. (1) A competent authority may take such measures and give such directions as he may consider necessary for preventing or restricting the publication in Sri Lanka or any specified area in Sri Lanka, or the transmission from Sri Lanka to place outside Sri Lanka, of matters which should or might be prejudicial to the interests of national security or the preservation of public order or the maintenance of supplies and service essential to the life of the community or of matters inciting or encouraging persons to mutiny, riot or civil commotion, or to commit breach of any law for the time being in force, which in the opinion of the competent authority may be prejudicial to the preservation of public order or the maintenance of supplies and services essential to the life of the community, and any directions issued under this paragraph may contain such incidental and supplementary provisions as appear to the competent authority to be necessary or expedient, including provision for securing that documents, pictorial representations, photographs, cinematograph films, teleprinter, telegraph, television, transmission of matters relating to the operations of security forces including news reports, editorials, articles, letters to the editors, cartoons and comments, shall before publication be submitted or exhibited to the competent authority.

¹² The provisions of this regulation (and regulation 15) were temporarily suspended by Gazette 1411/14 (published on 21 September 2005) but then re-imposed by Gazette 1442/13 (published on 25 April 2006).

¹³ By Gazette 1442/16 (published on 27 April 2006), the President made an order under this regulation prohibiting the holding of public processions or public meetings in the Western Province with effect from 27 April 2006 without obtaining the written permission of the Inspector General of Police.

(2)

(a) Every person who contravenes the provisions of any direction given under paragraph (1) of this regulation shall be guilty of an offence, and where any person is convicted of such an offence by reason of his having published a newspaper, the President may by order direct that during such period as may be specified in that order that person shall not publish any newspaper in Sri Lanka.

(b) Without prejudice to the provisions of sub-paragraph (a), where there is a contravention of the provisions of any direction given under paragraph (1) of this regulation and such contravention is in respect of any publication in any newspaper, the competent authority may, after issuing one or more warnings as he may consider reasonable, order —

(i) that no person shall print, publish or distribute or in any way be concerned in the printing, publication or distribution of such newspaper for such period as may be specified in the order; or

(ii) that the printing press in which such newspaper was published shall, for such period as is specified in the order, not be used for any purposes whatsoever or for any such purpose as is specified in the order and any such order may authorize any person specified therein to take such steps (including the taking possession of any printing press with respect to which the order is made or of any premises in which it is contained or of any part of such printing press or premises) as appear to the persons so authorized to be necessary for securing compliance with the order.

(3) If a Competent Authority is of opinion that there is or has been or is likely to be in any newspaper, publication of matter which is in his opinion, calculated to be prejudicial to the interest of national security or the preservation of public order or the maintenance of supplies and services essential to the life of the community, or matter inciting or encouraging persons to mutiny, riot or civil commotion, he may —

(a) by order direct that no person shall print, publish or distribute or in any way be concerned in the printing, publication or distribution of such newspapers for such period as may be specified in the order, and that the printing press in which such newspaper was printed shall for such period as is specified in the order, not be used for any purpose whatsoever or for any such purpose as is specified in the order, and authorize any person specified therein to take such steps (including the taking possession of any printing press with respect to which the order is made or of any premises in which it is contained or of any part of such printing press or premises) as appear to the person so authorized to be necessary for securing compliance with the order; or

(b) take such measures or give such directions or make such order as is provided for in paragraphs (1) and (2) of this regulation in respect of such newspaper.

(4) Where a Competent Authority has made an order under the provisions of paragraph (2) (b) or paragraph (3) of this regulation in relation to any newspaper specified by name in the order,

such order shall apply not only to any newspaper published under that name, but also to any newspaper published under any other name if the publication thereof, is in any respect, in continuation of, (or in substitution for), the publication of the newspaper specified in the order.

(5) No person shall print, publish or distribute, or in any way be concerned in the printing, publication or distribution of any newspaper in respect of which an order has been made under the provisions of paragraph (2) (b) or paragraph (3) of this regulation.

(6) At any time after an order has been made under this regulation, the President may direct that the operation of the order be suspended, subject to such conditions as the President thinks fit and may at any time revoke such direction.

(7) If a Competent Authority is of opinion that any printing press or a printing press under the control of any person, has been or is likely to be used for the production of any document containing matter which is in his opinion calculated to prejudice the interests of national security or the preservation of public order or the maintenance of supplies and services essential to the life of the community or matter inciting or encouraging persons to mutiny, riot or civil commotion, the Competent Authority may by order direct that the printing press, or all or any of the printing presses under the control of that person, as the case may be, shall so long as the order is in force, not be used for any purpose whatsoever or for any such purpose as is specified in the order; and any such order may authorize any person specified therein to take such steps (including the taking possession of any printing press with respect to which the order is made or of any premises in which it is contained or any part of such printing press or premises) as appear to the person so authorized to be necessary for securing compliance with the order.

(8) For the purpose of paragraphs 2 (b), (3) and (7) of this regulation, there shall be one or more Advisory Committees consisting of persons appointed by the President and any person dissatisfied with any order made under any of those paragraphs may make his objections in respect thereof to the appropriate Advisory Committee.

(9) It shall be the duty of the Competent Authority to secure that, in any case where an order is made under paragraph (2) (b), paragraph (3) or paragraph (7) of this regulation, the proprietor of the newspaper or the owner of the printing press affected thereby is informed that he may make representations to the President in writing with respect to that order and that he may, whether or not such representations are made, make objections to the appropriate Advisory Committee.

(10) Any meeting of an Advisory Committee held to consider such objections as aforesaid shall be presided over by a chairman nominated by the President, and it shall be the duty of the chairman to afford to the objector an opportunity of making representations in person in support of his objections.

(11) The report of an Advisory Committee upon any such objections as aforesaid shall be submitted to the President who may after consideration thereof, revoke or vary the order to which the objections relate.

(12) Where any newspaper is printed, published or distributed in contravention of any provisions of this regulation, or of any condition attached to a direction given under paragraph (6) of this regulation, the proprietor, the manager, the editor and the publisher of that newspaper shall, whether or not the direction is revoked in consequence of the contravention be severally guilty of an offence.

(13) In this regulation —

(a) “cinematograph film” includes a sound track and any other article on which sounds have been recorded for the purpose of their being reproduced in connection with the exhibition of such a film;

(b) “publication” means, in relation to a cinematograph film, the exhibition of the film to the public and includes the mechanical or electrical productions of any sounds in connection with the exhibition of the film as aforesaid;

(c) “newspaper” includes any journal, magazine, pamphlet or other publication; and

(d) “printing press” includes any machinery, apparatus or plant capable of being used for printing, lithography, photography, or other mode of representing or reproducing words in a visible form, or any type or other article belonging to such machinery, apparatus or plant.

16. Every Divisional Secretary of a Divisional Secretary’s Division shall appoint for that Divisional Secretary’s Division, a committee consisting of public servants, office bearers of trade unions, and other recognized persons in the community. It shall be the duty of every such committee to advise the relevant authorities, on the preservation of public order and the maintenance of essential supplies and services, in that Divisional Secretary’s Division.

17. (1) The Inspector-General of Police may, in the interests of national security, and with a view to ensuring the maintenance of public order, direct that any gun or explosive in the possession of any person shall be removed and kept in such custody as he may determine.

(2) Any person specified in that behalf by name or by office in any direction issued by the Inspector-General of Police under paragraph (1) of this regulation may carry out such direction. For the purpose of carrying out such direction, such person may be assisted by any other person or persons and may enter any premises or place and open or break open any outer or inner door or window for the purpose of entering such premises or place and any receptacle or repository wherein any gun or explosive is suspected by such person to be kept.

(3) No person shall conceal any gun or explosive to which a direction issued by the Inspector-General of Police under paragraph (1) of this regulation relates or do any other act with a view to preventing or hindering the carrying out of such direction.

PART 4

SUPERVISION, SEARCH, ARREST AND DETENTION

18. (1) Where the Secretary to the Ministry of the Minister in charge of the subject of Defence is of opinion with respect to any particular person that, with a view to preventing that person –

(a) from acting in any manner prejudicial to the national security or to the maintenance of public order, or to the maintenance of essential services; or

(b) from acting in any manner contrary to any of the provisions of regulation 25 or of paragraph (3) of regulation 71 of these regulations;

it is necessary so to do, the Secretary may make an order for all or any of the following purposes :—

(i) for securing that, except in so far as he may be permitted by the order, or by such authority or person as may be specified in that order, that person shall not be in any such area in Sri Lanka as may be so specified;

(ii) for requiring that person to notify his movements in such manner, at such times, and to such authority or person as may be specified in that order;

(iii) for prohibiting that person from leaving his residence without the permission of such authority or person as may be specified in that order, and prohibiting any other person from entering or leaving such residence except in such circumstances as may be specified in that order or be determined by such authority or person as may be specified in that order;

(iv) for requiring that person, if he is in possession of a passport or of travel documents or tickets for transportation for a journey outside Sri Lanka, to surrender such passport or travel documents or tickets, as the case may be, to such authority or person as may be specified in that order;

(v) for prohibiting or restricting the possession or use by that person of any specified articles; and

(vi) for imposing upon that person such restrictions as may be specified in that order in respect of his employment or business, in respect of his association or communication with other persons and in respect of his activities in relation to the dissemination of news or the propagation of opinions.

(2) If any person is in any area in contravention of an order made under sub-paragraph (i) of paragraph (1) of this regulation or fails to leave any area in accordance with the requirements of such an order, then, without prejudice to any proceedings that may be taken against him, he may be removed from that area by any police officer or by any other person authorized in that behalf by the Secretary to the Ministry of Defence.

19. (1) Where the Secretary to the Ministry of Defence is of opinion with respect to any person that, with a view to preventing such person —

(a) from acting in any manner prejudicial to the national security or to the maintenance of public order, or to the maintenance of essential services; or

(b) from acting in any manner contrary to any of the provisions of regulation 25 of these regulations,

it is necessary so to do, the Secretary may order that such person be taken into custody and detained in custody.

Provided however that no person shall be detained upon an order under this paragraph for a period exceeding one year.

(2) Any police officer or member of the Sri Lanka Army, Sri Lanka Navy or Sri Lanka Air Force shall have the right to carry into effect any order made under paragraph (1) of this regulation and to use all such force as may be necessary for the purpose.

(3) Any person detained in pursuance of an order made under paragraph (1) of this regulation shall be deemed to be in lawful custody and shall be detained in such place as may be authorized by the Inspector-General of Police and in accordance with instructions issued by him, and where such person is so detained in a prison established under the Prisons Ordinance —

(a) all the provisions of [that] Ordinance other than the provisions of Part IX of that Ordinance¹⁴, and

(b) all the rules made under that Ordinance other than the rules which relate to visits to, and the correspondence of, prisoners, shall apply to such person as though he were a civil prisoner within the meaning of that Ordinance¹⁵.

Provided however, that the Inspector-General of Police may, where he considers it expedient so to do —

(a) by order direct that any provisions of the said Ordinance or any rules made thereunder which under the preceding provisions of this paragraph apply to such person, shall not apply or shall apply subject to such amendments or modifications as may be specified in such order; and

(b) permit visits to, and the correspondence of, such person in such manner and at such time and place, as the Inspector-General of Police may from time to time direct.

¹⁴ Part IX of the Prisons Ordinance 1878 regulates visits to and the correspondence of prisoners.

¹⁵ The Prisons Ordinance does not specifically define a “civil prisoner” but they are (for example) required to be kept separate from criminal prisoners, may carry on their previous trade whilst in prison and may buy their food, clothing and bedding from private sources.

(4) For the purpose of this regulation, there shall be one or more Advisory Committees consisting of persons appointed by the President, and any person aggrieved by an order made against him under this regulation may make his objections to such a Committee.

(5) It shall be the duty of the Secretary to the Ministry of Defence to secure that any person against whom an order is made this regulation shall be afforded the earliest practicable opportunity of making to the President representations in writing with respect thereto and that he shall be informed of his right whether or not such representations are made to make his objections to such an Advisory Committee as aforesaid. Rules may be made by the President in relation to the hearing and disposal of such objections.

(6) Any meeting of an Advisory Committee held to consider such objections as aforesaid shall be presided over by a chairman nominated by the President and it shall be the duty of the chairman to inform the objector of the grounds on which the order under this regulation has been made against him and to furnish him with such particulars as are in the opinion of the chairman sufficient to enable him to present his case.

(7) Where an Advisory Committee consists of three persons, the quorum for any meeting thereof shall be two, and where an Advisory Committee consists of more than three persons, the quorum shall be three.

(8) The report of an Advisory Committee with respect to any such objections as aforesaid shall be submitted to the Secretary to the Ministry of Defence who may, after consideration thereof, revoke the order to which the objections relate.

(9) Where the Secretary to the Ministry of the Minister in charge of the subject of Defence certifies in writing that any person in respect of whom an order under paragraph (1) of this regulation is made by him to be or have been a member of an organization, proscribed under regulation 71 of these regulations, the provisions of paragraphs (4), (5), (6), (7) and (8) of this regulation shall not apply in regard to that person.

(10) An order under paragraph (1) of this regulation shall not be called in question in any court on any ground whatsoever.

20. (1) Any public officer, any member of the Sri Lanka Army, the Sri Lanka Navy or the Sri Lanka Air Force, or any other person authorized by the President to act under this regulation may search, detain for purposes of such search, or arrest without warrant, any person who is committing or has committed or whom he has reasonable ground for suspecting to be concerned in, or to be committing, or to have committed, an offence under any emergency regulation, and may search, seize, remove and detain any vehicle, vessel, article, substance or thing whatsoever used in, or in connection with, the commission of the offence.

(2) Any person detained under paragraph (1) shall, within twenty-four hours, be handed over to the nearest police station.

(3) Any person conducting a search under paragraph (1) of this regulation may question any other person present in the premises, place, vehicle or vessel searched, or the person who is searched, in regard to any matter connected with or relating to the purpose of the search.

(4) Every person who is questioned under paragraph (3) of this regulation shall furnish such information as is within his knowledge in regard to the matter on which he is questioned.

(5) The person residing in or in charge of any premises, place, vehicle or vessel which is to be searched under this regulation shall, on demand of the person conducting the search, allow him free ingress thereto and afford all reasonable facilities for a search therein.

(6) A person conducting a search under this regulation may, in order to effect an entrance into the premises, place, vehicle or vessel to be searched, open or break open any outer or inner door or window.

(7) Whenever it is necessary to cause a female to be searched, the search shall be made by another female.

(8) It shall be the duty of the arresting officer to report the arrest made under paragraph (1), where the arresting officer is a police officer, to the Superintendent of Police of the Division within which the arrest is made, and, where the arresting officer is a member of the armed forces, to the Commanding Officer of the area within which the arrest is made, within twenty-four hours of the arrest.

(9) Where any person is taken into custody under the provisions of this regulation it shall be the duty of the arresting officer to issue to the spouse, father, mother, or any other close relative a document in such form as is specified by the Secretary¹⁶, acknowledging the fact of arrest. It shall be the duty of the holder of such document to return the same to, or produce the same before, the appropriate authority when such arrested person is released from custody.

Provided that where any person is taken into custody and it is not possible to issue a document as set out above, it shall be the duty of the arresting officer if such officer is a police officer, to make an entry in the information book, giving reasons why it is not possible to issue such documents, and if the arresting officer is a member of the armed forces, to report to the officer in charge of the police station the reasons why it is not possible to issue such documents and the officer in charge shall make an entry of such fact along with the reasons therefore in the information book.

(10) Where any person without reasonable cause fails to issue a document acknowledging the fact of arrest as required by paragraph (9) or wilfully omits to make such entry as is referred to in the proviso to that paragraph or to report the fact that the document was not issued and the reasons therefor, he shall be guilty of an offence and upon conviction after trial before the High Court be liable to a term of imprisonment extending to two years and a fine.

¹⁶ Presumably the Secretary to the Ministry of Defence. In addition, the President issued directions to the security forces on 2 June 2006 (restated in April 2007) reminding them of arrest procedures and requiring them to notify the Human Rights Commission of Sri Lanka following any arrests.

(11) Where any property is seized or detained under the provisions of this regulation a person effecting the seizure or detention shall issue a receipt in respect of such property to the person from whose custody such property was seized [or] detained.

21. (1) The provisions of sections 36, 37 and 38 of the Code of Criminal Procedure Act, No. 15 of 1979¹⁷, shall not apply in relation to persons arrested under regulation 19.

Provided that where any person has been arrested and detained under the provisions of regulation 19 of these regulations, such person shall be produced before any Magistrate within a reasonable time, having regard to the circumstances of each case, and in any event, not later than thirty days after such arrest. Further, the Magistrate shall not release any person on bail unless the prior written approval of the Attorney-General has been obtained. The production of any person in conformity with the provisions of these regulations shall not affect the detention of such person under paragraph (2).

(2) Any person detained in pursuance of provisions of regulation 19 in a place authorised by the Inspector-General of Police may be so detained for a period not exceeding ninety days reckoned from the date of his arrest under that regulation, and shall at the end of that period be released by the officer in charge of that place unless such person has been produced by such officer before the expiry of that period before a court of competent jurisdiction; and where such person is so detained in a prison established under the Prisons Ordinance —

(a) all the provisions of that Ordinance other than the provisions of Part IX of that Ordinance¹⁸, and

(b) all the rules made under that Ordinance other than the rules which relate to visits to and the correspondence of prisoners,

shall apply to such person as though he was a civil prisoner within the meaning of that Ordinance¹⁹.

Provided, however, that the Inspector-General of Police may, where he considers it expedient so to do —

(a) by order direct that any provisions of the said Ordinance or any rules made thereunder which under the preceding provisions of this paragraph apply to such person, shall not apply or shall apply subject to such amendments or modifications as may be specified in such order; and

(b) permit visits to an correspondence of such person in such manner and as such time and place, as the Inspector-General of Police may from time to time direct.

¹⁷ Section 36 requires a person arrested without warrant to be produced before a magistrate “without unnecessary delay”. Section 37 requires that such a person be produced within 24 hours and section 38 requires that the magistrates’ court be informed by the police of all persons arrested without warrant.

¹⁸ See note 13 above.

¹⁹ See note 14 above.

(3) Where a person who has been arrested and detained in pursuance of the provisions of regulation 19 is produced by the officer referred to in paragraph (2) before a court of competent jurisdiction, such court shall order that such person be detained in the custody of the Fiscal in a prison established under the Prisons Ordinance.

(4) In this regulation Inspector-General of Police includes any Deputy Inspector-General of Police, or any Superintendent of Police or any Assistant Superintendent of Police.

22.²⁰ (1) The President may by order²¹ appoint, by name or by office, a person to be the Commissioner General of Rehabilitation for the purposes of this regulation.

(2) Any person who surrenders (hereinafter referred to as the “surrendee”) in connection with any offence under the Explosives Act, the Offensive Weapons Act, No. 18 of 1966, the Firearms Ordinance, the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 or under Chapter VI, Chapter VII or Chapter VIII of the Penal Code²² or under any emergency regulation, or through fear of terrorist activities to any police officer, or any member of the armed forces, or to any public officer or any other person or body of persons authorized by the President by order, shall be required to give a written statement to the officer or person authorized to the effect that he is surrendering voluntarily.

(3) The Secretary to the Ministry of the Minister in charge of the subject of Defence shall, from time to time approve Centres to be known as “Protective Accommodation and Rehabilitation Centres” (hereafter referred to as “the Centre”) for the purpose of receiving and keeping surrendeeds.

(4) The officer or person to whom a person surrenders in terms of paragraph (2), shall, within ten (10) days of such surrendee hand over the surrendee to the Commissioner-General of Rehabilitation who shall assign such surrendee to a Centre. The Commissioner-General of Rehabilitation shall upon assigning the surrendee to a Centre, endeavour to provide the surrendee with appropriate vocational, technical or other training during his stay at the Centre.

(5) The officer or any other person to whom a person surrenders in terms of paragraph (2) shall inform the Secretary to the Ministry of the Minister in charge of the subject of Defence, no later than ten (10) days of the surrender, that a voluntary surrender has been made and such person was handed over to the Commissioner-General of Rehabilitation in the manner set out in paragraph (4) above.

(6) On the Secretary to the Ministry of the Minister in charge of the subject of Defence being informed in terms of paragraph (5), by the officer or person to whom the surrendee surrendered, that the surrendee has been handed over to the Commissioner-General of Rehabilitation, he shall make an order authorizing the Commissioner-General of Rehabilitation

²⁰ The original regulation 22 was repealed and replaced with the above text by Gazette 1462/8 (published on 12 September 2006).

²¹ By Gazette 1462/9 (published on 12 September 2006), the President appointed Mr Suhada Gamalath, Secretary to the Ministry of Justice, to be the Commissioner-General of Rehabilitation for the whole of Sri Lanka.

²² Chapters VI, VII and VIII of the Penal Code 1885 deal with offences against the State, offences relating to the armed forces and offences against “public tranquillity” respectively.

to keep such surrendee for a period not exceeding twelve months in the first instance at the Centre to which he has been assigned. Such period will be computed from the date of handing over of such surrendee by the officer or person as the case may be, to the Commissioner-General of Rehabilitation.

(7) The Commissioner-General shall within a period of two months of the date of the surrendee being handed over to him, forward a Report to the Secretary to the Ministry of the Minister in charge of the subject of Defence indicating the nature of the rehabilitation being carried out in respect of the surrendee.

(8) A surrendee assigned to a Centre may with the permission of the officer in charge of the Centre be entitled to meet his parents, or relations or guardian as the case may be, once in every two weeks.

(9) The Commissioner-General of Rehabilitation shall prior to the expiration of the aforesaid period of twelve months, forward to the Secretary to the Ministry of the Minister in charge of the subject of Defence, a report stating whether in his opinion it is appropriate to release the surrender or to extend for a further period the rehabilitation of such surrendee.

(10) At the end of the period of twelve months the Secretary to the Ministry of the Minister in charge of the subject of Defence, may, after perusal of the report submitted to him under paragraph (9) by the Commissioner-General of Rehabilitation—

(a) order the release of such person; or

(b) extend the period of rehabilitation for periods of three months at a time, so however that the aggregate period of such extensions shall not exceed a further twelve months. Each such extension shall be made on the recommendation of the Commissioner-General of Rehabilitation and of an Advisory Committee appointed by the President in terms of paragraph (4) of regulation 19 of these regulations.

(11) The surrendee shall, at the end of the extended period of rehabilitation, be released.

(12) The Superintendent of Police of the Division in charge of the division within which a person surrendered in terms of paragraph (2) may, after the expiration of three months from the date of his being assigned to a Centre, with prior written approval of [the] Secretary to the Ministry of the Minister in charge of the subject of Defence, investigate the involvement of any surrendee who is suspected of being connected with, or concerned in, the commission of an offence set out in paragraph (2) and where it is so necessary to try him for the commission of such offence.

(13) Where at the end of any trial a surrendee is found guilty of the offence in connection with which he is charged or indicted, the Court may in determining the sentence to be imposed on him take into consideration the fact of his surrender. The Court may where appropriate, order that such surrendee be subjected to a further period of rehabilitation as may be determined by Court, at a Centre.

(14) Where a surrendee found guilty of an offence and subjected to a further period of rehabilitation by Order of Court in terms of paragraph (13), acts in a manner detrimental to the rehabilitation programme or the interest of the other surrendeeds at the Centre, the Commissioner-General of Rehabilitation may on production of such person before the Court which sentenced him present such facts to [the] Court and the Court may after such summary inquiry as the Court thinks fit, make order sentencing him to imprisonment in lieu of such further period of rehabilitation.

23.²³ (1) Every Officer - in - Charge of a Police Station may direct every householder residing within his Police Station area to furnish him with a list of names of all the persons residing with him in his household, distinguishing the members of his family from other residents, whose stay may be of a temporary or permanent nature, and servants. Further, if he is so directed by the aforesaid Police Officer, he shall from time to time, report any increase or diminution or change in the list furnished by him.

(2) No householder who has received a direction under paragraph (1) shall harbour a stranger in his household without informing the aforesaid Officer-in-charge of such fact.

(3) Every householder directed to furnish information under paragraphs (1) and (2) who fails to comply with such direction, shall be guilty of an offence.

24. Every member of the Sri Lanka Army, the Sri Lanka Navy or the Sri Lanka Air Force, who is for the time being engaged in escorting any prisoner or in guarding any prison or other place where prisoners are confined or are employed in work, or in assisting in the quelling of any disturbance or violence on the part of any prisoner, or in recapturing any escaped prisoner or in enforcing or assisting in the enforcement of any lawful order, shall be deemed to have all the powers and rights vested in a police officer by virtue of section 77 (5) of the Prisons Ordinance²⁴ and the rules relating thereto made under that Ordinance.

PART 5

OFFENCES AND PENALTIES

25. (1) Any person who -

(a) does any act which causes the destruction of, or damage to, property, whether movable or immovable, or any such change in any such property, as destroys or diminishes its value or utility; or

²³ The original regulation 23 was repealed and replaced with the above text by Gazette 1450/18 (published on 21 June 2006).

²⁴ Section 77(5) gives police officers involved in guarding, escorting or recapturing prisoners or quelling disturbances amongst prisoners all the powers of a prison officer to use weapons (if possible to disable rather than kill) or force to prevent escape.

(b) causes or attempts to cause death or injury to any other person with fire or any combustible matter or any explosive or corrosive substance or with any missile, weapon or instrument of any description; or

(c) commits theft of any article in any premises which have been left vacant or unprotected or which have been damaged or destroyed; or

(d) commits any offence under any of the Sections 427 to 446²⁵ of the Penal Code or illegally removes, or attempts to remove, any goods or articles from any such premises; or

(e) is a member of an unlawful assembly as defined in Section 138 of the Penal Code²⁶ the object of which assembly is to do any act referred to in sub-paragraph (a) or sub-paragraph (b) or sub-paragraph (c) or sub-paragraph (d); or

(f) dishonestly receives or retains any article or goods referred to in sub-paragraph (c) or subparagraph (d), knowing or having reasons to believe, an offence had been committed in respect of such article or goods under sub-paragraph (c) or sub-paragraph (d),

shall be guilty of an offence and, notwithstanding anything in the Penal Code or in these regulations shall, on conviction thereof before the High Court, be liable to suffer death or imprisonment of either description²⁷ for life.

(2) Section 96 of the Penal Code which relates to the right of private defence of property and prescribes the circumstances in which death or other harm can be caused to a wrongdoer in the exercise of such right²⁸ shall have effect as though there were added at the end of that section the following :-

Fifthly any offence under regulation 24 of the Emergency (Miscellaneous Provisions and Powers) Regulations.

(3) An indictment in respect of any offence under this emergency regulation may be forwarded by the Attorney - General, if he is satisfied that the offence was committed in furtherance of or in connection with or in the course of a civil disturbance prevailing at or about the time of the commission:

Provided that, having regard to the circumstances relating to the commission of any offence, he may authorize the Inspector - General of Police to institute proceedings in respect of such cases or such category of cases as he may specify in the Magistrate's Court and there upon such proceedings may be instituted with the written authority of the Inspector - General of Police,

²⁵ Broadly speaking, these offences relate to "criminal trespass", "house trespass" and "house-breaking", as therein defined.

²⁶ An assembly of five or more persons to commit various broadly defined unlawful acts.

²⁷ Imprisonment can be of either "rigorous" (with hard labour) or "simple" description. See section 52 of the Penal Code 1885

²⁸ The other four grounds are (in summary) robbery, house-breaking by night, arson and theft leading to grievous hurt or death.

and the provisions of Chapter XVII of the Code of Criminal Procedure Act, No. 15 of 1979²⁹, relating to the trial in respect of such offences, shall, *mutatis mutandis*, apply.

(4) Where the proceedings are instituted in a Magistrate's Court, the offence shall be punishable with the punishment provided for in regulation 48³⁰ of these regulations.

26. Whoever by words whether spoken or written or by signs or by visible representations or by conduct or by any other act, advocates, urges or advises directly or indirectly the necessity, duty or desirability of overthrowing or overpowering, otherwise than by lawful means, the Government of Sri Lanka by law established shall be guilty of an offence.

27. No person shall affix in any place visible to the public or distribute among the public any posters, hand bills or leaflets, the contents of which are prejudicial to public security, public order or the maintenance of supplies and services essential to the life of the community.

28. No person shall, by word of mouth or by any other means whatsoever, communicate or spread any rumour or false statement which is likely to cause public alarm or public disorder.

29. Any person who prints or publishes any document recording or giving information or commenting about, or any pictorial representation, photograph or cinematograph film of any of the following matters :—

(a) the activities of any organization proscribed under these regulations;

(b) any matter relating to the investigations carried on by the Government into the terrorist movement;

(c) the disposition, condition, movement or operations of the Police, Sri Lanka Army, Sri Lanka Navy and Sri Lanka Air Force;

(d) any matter pertaining to the defence and the security of Sri Lanka;

(e) any matter likely, directly or indirectly to create communal tension;

shall be guilty of an offence.

30. Any person who without the written authorization of the Secretary to the Ministry of Defence previously obtained, takes any photographs whatsoever –

²⁹ Chapter XVII deals with cases which can be tried summarily by the magistrates' court.

³⁰ This reference to regulation 48, which is a procedural regulation, does not seem to be correct. Possibly the reference should be to regulation 43.

(a) of any building, ship or aircraft vested in or being used by any police officer or any member of the Sri Lanka Army, the Sri Lanka Navy, or the Sri Lanka Air Force; or

(b) in the vicinity of any such building, ship or aircraft;

shall be guilty of an offence.

31. If any person —

(a) in answer to any request made in pursuance of any emergency regulation or any order made any such regulation makes any statement or furnishes any information which he knows or has reasonable cause to believe to be false in a material particular; or

(b) makes such a statement as aforesaid in any account, declaration, estimate, return or other document which he is required by any emergency regulation or by order under any emergency regulation to make,

he shall be guilty of an offence.

32. Whoever without lawful excuse, the proof whereof shall lie on such person, procures or has in his custody or control, possesses or attempts to procure or possess, any map, plan, sketch, drawing or outline, or other particulars, pertaining or relating to any office, organization, institution or establishment of the Government, including a public corporation, or the deployment or disposition of members of the Police or the Armed Services, transport services or any arms or ammunition belonging to the Police or the Armed Services, shall be guilty of an offence.

33. Whoever without lawful authority or reasonable excuse, the proof whereof shall lie on such person, has in his possession, custody or control, any book, document or paper containing any writing or representation which is likely to be prejudicial to the interests of national security or to the preservation of public order or which is likely to arouse, encourage or promote feelings or hatred or contempt to the Government or which is likely to incite any person directly or indirectly to take any step towards the overthrowing of the Government, shall be guilty of an offence.

34. Whoever collects, or has unauthorized possession of arms, ammunition, explosives or weapons or other dangerous articles or substances or prepares, trains, or attempts to train any person in the manufacture or use of such arms, ammunition, explosives, weapons or dangerous articles or substances shall be guilty of an offence and shall upon conviction be liable to rigorous imprisonment for a term not less than ten years.

35. Whoever not being a member of the Armed Forces, or the Police Force wears or has in his possession the custody or control of any garb, dress, uniform, identity card, token or other symbol resembling in any manner or in any detail, the garb, dress, uniform, identity card, token or other symbol worn or used by any member of the Armed Forces or the Police Force shall be guilty of an offence.

36. (1) Any person who, without lawful authority or reasonable excuse, the proof whereof shall lie on such person, transports, causes the transport of, or has in his possession or under his control, any gun, explosive, offensive weapons or offensive substance shall be guilty of an offence.

(2) A police officer, a member of the Sri Lanka Army of a rank not below that of Corporal, a member of the Sri Lanka Navy of a rank not below that of Leading Seaman, or a member of the Sri Lanka Air Force of a rank not below that of Corporal, may remove any gun, explosive, offensive weapon or offensive substance which is in the possession or under the control of any person whom he has reasonable cause to believe to be committing an offence under this regulation.

(3) Where any person is convicted of an offence under this regulation —

(a) all property movable or immovable of such person ; and

(b) any vehicle or vessel which has been used in connection with the commission of the offence,

shall by virtue of such conviction be deemed to be forfeited to the Republic free of encumbrances.

(4) Any property forfeited to the State under sub - paragraph (a) shall—

(a) if no appeal has been preferred to the Court of Appeal against the relevant conviction, vest absolutely in the State with effect from the date on which the period prescribed for preferring an appeal against such conviction expires ;

(b) if an appeal has been preferred to the Court of Appeal against the relevant conviction, vest absolutely in the State with effect from the date on which such conviction is affirmed on appeal.

In this paragraph, “relevant conviction” means the conviction in consequence of which any property is forfeited to the State under sub-paragraph (a).

(5) Any person who commits an offence under this regulation shall upon conviction be punished with death or with imprisonment of either description³¹ for life.

(6) In this regulation —

³¹ See note 26 above.

“offensive substance” means any inflammable, corrosive or volatile substance; and

“offensive weapon” means a bomb or grenade or any other device or contrivance made or intended for a use or purpose similar to that of a bomb or grenade or any article capable of being used for causing injury to person or property and includes any thing or substance which could form a part of such bomb, grenade, device or contrivance.

37. No person shall throw any thing or substance at any person or at any engine, tender carriage or truck upon any railway, or at any vehicle upon any public road, in such manner as to endanger the safety of such person or any person who is in or upon such engine, tender carriage, truck or vehicle. Any person who contravenes any of the preceding provisions of this regulation shall be guilty of an offence and shall upon conviction be liable to rigorous imprisonment for a term of not less than ten years.

38. No. person shall, without lawful excuse, point at any other person any gun whether loaded or unloaded.

39. (1) No person shall, in any area in Sri Lanka specified by the President by order, attend at or near a house or place where any other person resides or works or carries on business or happens to be in, such manner as to be calculated to intimidate any person in that house or place or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace.

(2) In this regulation, the expression “intimidate” means to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or to any of his dependants or of violence or damage to any person or property and the expression “injury” includes injury to a person in respect of his business, occupation, employment or other source of income, and includes any actionable wrong.

40.³² (1) The President may by Order published in the Gazette declare any service to be an essential service for the purpose of these regulations. Where any service is declared to be an essential service, any person who, on or after August 13, 2005 was engaged or employed in any work in connection with that service—

(a) fails or refuses after the lapse of one day from the date of such Order, to attend at his place of work or employment or such other place as may from time to time be designated by his employer or a person acting under the authority of his employer or fails or refuses to work or walks out or keeps away from work without working during the full period or any part of the normal working day as is required of him in accordance with the terms and conditions of his employment in such service ; or

³² The original regulation 40 was replaced with a new regulation 40 by Gazette 1456/27 (published on 3 August 2006) which in turn was amended by Gazette 1464/26 (published on 29 September 2006).

(b) fails or refuses after the lapse of one day from the date of such Order, to perform such work as he may from time to time be directed by his employer or a person acting under the authority of his employer to perform at such time or within such periods as may be specified by such employer or such person for the performance of such work (whether such time or period is within or outside normal working hours or on holidays) he shall, notwithstanding that he has failed or refused to so attend or to so work in furtherance of a strike or other organized action —

(i) be deemed for all purposes to have forthwith terminated or vacated his employment, notwithstanding anything to the contrary in any other law or the terms and conditions or any contract of employment; and

(ii) in addition, be guilty of an offence.

(2) Where the President by Order published in the Gazette declares any service to be an essential service, any person employed or engaged in any work in connection with such service may be required to work outside normal working hours or on holidays.

(3) Where any service is declared by order made by the President to be an essential service—

(a) any person who, in any manner whatsoever -

(i) impedes, obstructs, delays or restricts the carrying on of that service, or

(ii) impedes, obstructs or prevents any other person employed in or in connection with the carrying on of that service to refrain from, attending at his place of work, or

(iii) incites, induces or encourages any other person employed in or in connection with the carrying on of that service to refrain from, attending at his place of work, or

(iv) compels, incites, induces or encourages the establishment or maintenance of any other service in lieu, of or parallel with, that service being a Government Department or branch thereof; or

(v) compels, incites, induces or encourages any other person employed in or in connection with the carrying on of that service to surrender or depart from his employment (whether or not such other person does so surrender or depart in consequence); or

(vi) prevents any other person from offering or accepting employment in or in connection with the carrying on of that service; or

(b) any person who, by any physical act or by any speech or writing incites, induces or encourages any other person to commit any act specified in sub-paragraph (a) of this paragraph (whether or not such other person commits in consequence any act so specified), shall be guilty of an offence under these regulations.

(4) Where the President is of the opinion that the members of any organization are committing, aiding and abetting the commission of any act referred to in paragraph (3) of this regulation, he may by Order published in the *Gazette* declare such organization to be a proscribed organization.

(5) Where an organization is declared to be a proscribed organization by an Order made under paragraph (4) -

(a) the provisions of paragraphs (2), (3), (4), and (5) of regulation 71 shall, *mutatis mutandis*, apply to, and in relation to, such organization ;

(b) every person who is a member of such organization on or after the date of such Order shall –

(i) if such person is though³³ holder of any office under the Government or in any public Corporation, be deemed, for all purposes, to have terminated or vacated such office, with effect from the date of such Order ;

(ii) in addition, be guilty of an offence under these regulations ; and

(c) any bank in which such organization maintains an account shall not permit any person to operate such account.

(6) Every person who is deemed to have terminated or vacated his employment by reason of the operation of the provision of paragraph (1) of this regulation shall vacate any quarters provided to him by, or on behalf of, the Government within three days of such termination or vacation. Any such person who fails to vacate such quarters within such period shall be guilty of an offence under these regulations.

In this paragraph “quarters” means any building or room or other accommodation occupied or used for the purposes of residence and includes any land or premises in which such building, room or other accommodation is situated.

(7) Where any person is convicted by any court of any offence under this regulation, then, in addition to any other penalty that the court shall impose for such offence -

(a) all property, movable or immovable, of that person shall by virtue of such conviction be deemed to be forfeited to the Republic ; and

(b) any alienation or other disposal of such property effected by such person after the date of the coming into force of these regulations shall be deemed to have been and to be null and void.

³³ The meaning of this part of the regulation is not entirely clear but the intention of the drafting seems to be that any person who is a member of a proscribed organisation and also a government servant or office-holder automatically loses their government post.

41. (1) Any person who—

(a) without lawful authority, has in his possession, or prints, publishes or distributes, any document containing any statement or pictorial representation —

(i) which constitutes a threat of death or bodily harm to any other person; or

(ii) which is reasonably capable of being construed as a threat of death or bodily harm to any other person, if such person engages in any lawful occupation, profession, trade, business or enterprise or associates with any other person or does, or refrains from doing, any other act or thing;

(b) by threat of death or bodily harm, whether by words, written or spoken or by signs or by conduct, endeavours to induce any other person, to resign from any political party or trade union of which such other person is a member, or to resign from any office held by such other person in such political party or trade union or to resign from any office held by such other person or to join any political party; or

(c) by threat of death or bodily harm, whether by words, written or spoken, or by signs or by conduct, endeavours to induce any public officer or person engaged in the performance of any essential service, to do, or omit to do, anything in breach of his duty as a public officer or a person so engaged, as the case may be,

shall be guilty of an offence under these regulations, and shall, on conviction after trial before the High Court, be punished with death.

Proof that a person was found in possession of a document containing any such threat as is referred to in paragraph (b) or paragraph (c) of this regulation shall be *prima facie* proof that such person has attempted to commit, or has done an act preparatory to the commission of, the offence described in that paragraph.

(2) The trial for an offence under this regulation shall be notwithstanding anything to the contrary in these regulations be commenced on the filing of report in the High Court, by the Inspector-General of Police, to the effect that such offence has been committed and upon the production of the accused in court.

(3) The provisions of paragraphs (a) and (b) of subsection (6) of section 450 of the Code of Criminal Procedure Act, No. 15 of 1979³⁴ shall, *mutatis mutandis*, apply to the trial of offences under these regulations.

(4) A confession or other incriminatory statement to whomsoever and in whatsoever circumstances made by any person who is alleged to have, or is suspected of having, committed an offence under these regulations may, at any trial for such offence, be proved against such person, so, however, that if it is sought by or on behalf of such person to reduce or

³⁴ Section 450(6) does not have any paragraphs and so the reference appears to be incorrect. Possibly the reference should be to section 450(5)(a) and (b), which provide for trial by three High Court judges without jury to be held as expeditiously as possible, without postponements.

minimize the weight that shall be attached to such confession or incriminatory statement the burden of proving the facts necessary to support such contention shall be on such person.

(5) Notwithstanding any thing in any other written law, no court shall have power or jurisdiction to make any order setting aside, or varying an order made in the course of a trial for an offence under these regulations or staying, suspending or prohibiting the holding of any such trial.

42. Any person who —

(a) attempts to commit or does any act preparatory to the commission of; or

(b) aids or abets another person to commit; or

(c) conspires with another person, in the commission of,

an offence under any emergency regulation shall himself be guilty of that offence and shall accordingly be tried in like manner and be punished with the same punishment as is prescribed for such offence under the emergency regulation.

43. No person knowing or having reasonable cause to believe that any other person is guilty of an offence under any emergency regulation shall give that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for the said offence.

44. Where an offence under any emergency regulation is committed by a body of persons, then-

(a) if that body is a body corporate, every director or the corporate; and

(b) if that body is a firm, every partner of that firm,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent that commission of the offence.

45. (1) If any person contravenes or fails to comply with any emergency regulation, or any order or rule made under any such regulation or any direction given or requirement imposed under any such regulation, he shall be guilty of an offence, and subject to any special provisions contained in such regulation, shall on conviction after trial before the High Court without a jury or before a Magistrate, be liable to rigorous imprisonment for a term not less

than three months and not exceeding five years and to a fine of not less than five hundred rupees and hundred rupees³⁵ and not exceeding five thousand rupees.

(2) Where no punishment is prescribed in any emergency regulation for an offence under that regulation a person guilty of such offence shall, on conviction after trial without a jury before the High Court or before a Magistrate, be liable to the same punishment as that specified in paragraph (1) of this regulation.

(3) Section 306 (2) of the Code of Criminal Procedure Act, No. 15 of 1979³⁶, shall not apply to any person convicted of an offence under any emergency regulation.

PART 6

INVESTIGATIONS, TRIALS & C.

46. (1) Whoever becomes aware of an intention of an attempt of a preparation to commit, or the commission of an offence under any emergency regulation shall forthwith give information thereof to the nearest Grama Niladhari or to the Officer-in-charge of the nearest police station.

(2) Any person who wilfully fails to refuses to give the information referred to in paragraph (1) shall be guilty of an offence.

47. Any police officer investigating into an offence under any emergency regulation may —

(a) examine orally any person suspected to be acquainted with the facts and circumstances of the offence and shall reduce into writing any statement made by the person so examined;

Provided, however, that such a statement shall be signed both by the person making it as well as by the police officer recording it;

And provided further that in the case of a person refusing to sign such a statement, such refusal shall be recorded by the police officer;

(b) obtain specimen handwriting photographs, fingerprints and other identifying features of such person;

(c) search such person or enter and search the dwelling house or the place of work of such person;

³⁵ This does not make sense as it stands – probably the words “and hundred rupees” should be omitted.

³⁶ Section 306(2) permits the court, “having regard to the character, antecedents, age, health, or mental condition of the person charged or to the trivial nature of the offence or to the extenuating circumstances under which the offence was committed”, to conditionally discharge those convicted of offences normally punishable with imprisonment.

(d) enter and search any place, building, vehicle or vessel concerned in, or connected with, or suspected to be concerned in or connected with, any such offence; and

(e) inspect and take possession of any movable property whatsoever including any telegraph message, postal document or other book or document in any bank;

Provided, however, that before any book or document is sought to be obtained from any bank, or post office, the manager or officer - in - charge of such bank or post office, as the case may be, shall be furnished with prior written information by a Police officer not below the rank of an Assistant Superintendent that such book or document is required for the purpose of such investigation.

48. Any book, document or paper found in the possession, custody or control of a person suspected to be concerned in any offence under any emergency regulation shall be relevant in any proceedings against such person in respect of such offence and the contents of such book, document or paper shall be admitted in evidence, against such person without proof thereof.

49. (a) A police officer or a person duly authorized under the emergency regulations investigating into an offence under any emergency regulation shall notwithstanding anything to the contrary in any other law have —

(i) the right to question any person, including a person detained or held in custody under any emergency regulation and to take such person from place to place for the purpose of such investigation during the period of such questioning ; and

(ii) the right to take charge from any person so questioned any article or other thing including a document necessary for the purpose of such investigation.

(b) It shall be the duty of every person to give all assistance to a Police Officer or to other person duly authorized, investigating into an offence under any emergency regulation; and every person questioned under subparagraph (i) of paragraph (a) of this regulation shall truthfully answer all questions put to him and notwithstanding anything to the contrary in any other law shall disclose all information including the contents of any document, touching the subject matter of the investigation, irrespective of the capacity in which such person has received such information or knowledge of the contents of such document³⁷.

(c) It shall be the duty of every person questioned under paragraph (a) of the regulation to deliver to the police officer or a person duly authorized, investigation into an offence under any emergency regulation any article or other thing including a document in the custody or possession of such person when directed so to do by such police officer or person duly authorized.

³⁷ This would presumably include attorney-client or doctor-patient confidentiality.

(d) A contravention of any of the provisions of this regulation or the breach of any duty imposed thereunder shall be an offence under the emergency regulation under regulation 48³⁸ of these regulations.

50. During the period that any person is held in detention or custody, a police officer investigating into an offence under any emergency regulation shall have a right of access during reasonable hours to any such person for the purpose of such investigation.

51. The powers of a police officer under any emergency regulation shall be in addition to, and not in derogation of, his powers under any other written law.

52. (1) The powers of a police officer under any emergency regulation may be exercised by any commissioned or non - commissioned officer of the Sri Lanka Army, the Sri Lanka Navy or the Sri Lanka Air Force who is authorized to do so by the Commander of the Sri Lanka Army, the Commander of the Sri Lanka Navy or the Commander of the Sri Lanka Air Force respectively.

(2) The powers of [a] police officer under any emergency regulation may also be exercised by any person authorized by the President in that behalf.

53. Where in the course of his duty a police officer or any member of the armed forces causes the death of any person, such officer or member as the case may be, notwithstanding the provisions of any other law, such police officer or member of the armed forces³⁹ shall be handed over to the appropriate authority to be detained in police custody or military custody as the case may be.

54.⁴⁰ Where a police officer or member of the armed forces has reason to believe that the death of any person may have been caused as a result of any action taken in the course of duty either by him or by any subordinate officer as the case may be, or where any person dies in police custody or military custody, the Superintendent of Police in charge of the division to which such police officer is attached or in the case of a member of the armed forces the Commanding Officer of the Unit to which he belongs, shall, notwithstanding anything to the contrary to Chapter XXX and Section 9 of Code of Criminal Procedure Act, No. 15 of 1979⁴¹ or the provisions of any other written law for the time being in force, report the facts relating to such death to the Inspector - General of Police or the nearest Deputy Inspector - General of Police.

³⁸ See note 29 above.

³⁹ There is some inadvertent repetition here.

⁴⁰ The original regulations 54 to 58 were repealed by Gazette 1414/22 (published on 13 October 2005). New regulations 54 to 58 as shown above were inserted by Gazette 1448/21 (published on 8 June 2006).

⁴¹ Chapter XXX deals with inquests of deaths and section 9 gives power to the magistrates' court to inquire into sudden deaths.

55. Upon receipt of the information under regulation 54, the Inspector - General of Police or the Deputy Inspector - General of Police as the case may be, shall -

(a) direct an officer not below the rank of an Assistant Superintendent of Police to proceed to the scene of the incident and -

(i) record his observations;

(ii) take charge of any probable productions; and

(iii) record the statements of any persons, who in his opinion, appear to be acquainted with the circumstances relating to such death; and

(b) in any case where the body is found, forthwith report such fact to the Magistrate.

56. (1) The Magistrate shall, upon receipt of the report of the facts by the Inspector-General of Police, or the Deputy Inspector-General of Police as the case may be under regulation 55:

(a) direct a Government Medical Officer to forthwith hold a post-mortem examination of such body and may direct that the dead body if it has already been buried, be disinterred; and

(b) make an order that at the conclusion of the post-mortem examination the dead body be handed over to the Deputy Inspector-General of Police for disposal.

(2) The Deputy Inspector-General of Police to whom the body is handed over [may hand over⁴²] the dead body to any relations who may claim the dead body, subject to such conditions or restrictions as he may deem necessary in the interest of national security or for the maintenance or preservation of public order.

Provided, however, that the Deputy Inspector-General of Police may in the interest of national security or for the maintenance or preservation of public order, authorize the taking possession of and effecting the burial or cremation of the dead body in accordance with such steps as he may deem necessary in the circumstances.

57. (1) The High Court holden in Colombo shall notwithstanding anything to the contrary contained in any written law have exclusive jurisdiction to inquire into the death of any person in any part of the island or within its territorial water, caused or purported to have [been] caused in the circumstances specified in regulation 54.

(2) The Judge of the High Court holden in Colombo shall upon application being made to such Court by the Inspector-General of Police hold an inquiry into the cause of death of the person named as deceased in such application.

⁴² Some words appear to be missing here.

(3) Where any proceedings are pending in any Magistrate's Court in respect of the death of such person named as deceased in an application under paragraph (2) of this regulation, all such proceedings pending in the Magistrate's Court on the date of such application shall stand transferred to [the] High Court.

(4) The Judge of the Court may hold such inquiry or part of such inquiry in any part of Sri Lanka having regard to the interest of national security and preservation of public order.

(5) The Government Medical Officer conducting the post-mortem examination shall forward his report to the Judge of the said High Court and shall not disclose any thing contained therein to any person unless authorized to do so by the High Court.

(6) The Inspector-General of Police shall forward to the judge of the High Court the report of the preliminary observations and any other documents as may be necessary for the purpose of conducting the inquiry.

(7) The Judge of the High Court shall record such evidence as may be placed before him by the Inspector-General of Police or other officer authorized by him in that behalf and the evidence of any other person who appears to be acquainted with the circumstances relating to the death under inquiry.

(8) The proceedings before the High Court shall not be open to the public and only such reports of the proceedings or part thereof as is authorized by the Competent Authority, shall be published.

Provided, however, that the Court or a Appeal may on application made to in that behalf⁴³ direct that the proceedings or any part thereof, shall be open to the public.

(9) At the conclusion of the inquiry the Judge of the High Court shall transmit the record of evidence and a report of the circumstances under which the death was caused together with any other documents to the Attorney-General.

58. Upon receipt of the record of evidence and other documents transmitted to him under paragraph (9) of regulation 57, it shall be lawful for the Attorney-General.

(a) to call for any further material or information as he may require;

(b) if he is satisfied that the commission of any offences has been disclosed:

(i) direct the institution of proceedings under Chapter XIV or XV of the Code of Criminal Procedure Act, No. 15 of 1979⁴⁴; or

⁴³ There seems to be a typographical error here but presumably the intention was to give power to the Court of Appeal to open the proceedings to the public.

⁴⁴ Chapter XIV deals with commencement of proceedings in the magistrates' court and Chapter XV deals with offences triable by the High Court.

(ii) proceed under the provision of subsection (7) of Section 393 of the Code of Criminal Procedure Act, No. 15 of 1979⁴⁵.

58A.⁴⁶ Notwithstanding the preceding provisions of this regulation, where death is caused to a police officer or a member of the armed forces, it shall be lawful for the Secretary to the Ministry of the Minister in charge of the subject of Defence -

(a) to instruct the Inspector-General of Police or the Commander of the Sri Lanka Army, the Commander of the Sri Lanka Navy or the Commander of the Sri Lanka Air Force as the case may be, to take all such measures as may be necessary for the cremation or burial of the dead body, subject to such restrictions and conditions as he may impose in the interest of national security, or for the maintenance or preservation of public order; or

(b) to direct the Inspector-General of Police to take such steps as are set out in regulation 54 in respect of such death and accordingly the provisions of regulations 55, 56, 57 and 58 shall thereupon be applicable.

PART 7

GENERAL

59. The proceedings in any court in respect of an offence alleged to have been committed by a person under any emergency regulation shall be taken up before any other business of the court.

60. (1) Save as otherwise herein provided and notwithstanding any other written law the proceedings in respect of an offence alleged to have been committed by a person under any emergency regulation may be taken before the appropriate court in Sri Lanka having jurisdiction over the place where that person is for the time being.

(2) The Attorney - General may decide in which court —

(a) offences alleged to have been committed by persons under the emergency regulations; or

(b) offences alleged to have been committed by persons under any other written law where the acts or commission constituting such offences were consequent on, or arose out of, or were done or omitted to be done in, whether directly or indirectly, the exercise or performance, or the supposed exercise or performance, of any power or duty

⁴⁵ Section 393(7) gives the Attorney-General power to require that summary offences be moved from the magistrates' court to the High Court.

⁴⁶ Inserted by Gazette 1458/5 (published on 15 August 2006). The above text replaces a previous regulation 58A inserted by Gazette 1456/4 (published on 31 July 2006).

under such regulations shall be inquired into or tried. Such court shall be a court which would have had jurisdiction of such court.

(3) Where at least one of the charge is for an offence referred to in sub-paragraph (b) of paragraph (2) the Attorney - General may, notwithstanding the provisions of any other written law, forward an indictment directly to the High Court and the accused shall be tried upon the indictment so preferred without a jury.

(4) Where the Attorney-General decides, under paragraph (2) of this regulation the court by which any offence shall be inquired into or tried, he shall by his fiat in writing designate such court as the court by which such offence shall be inquired into or tried and accordingly such inquiry or trial shall be held by such court on the authority of such fiat, which shall be filed of record with the proceedings of such inquiry or trial.

(5) A decision of the Attorney General under paragraph (2) of this regulation may be made applicable to –

(a) all offences alleged to have been committed by persons under the emergency regulations throughout Sri Lanka or in any particular area in Sri Lanka ; or

(b) all such offences alleged to have been so committed by persons of any particular class or description in any particular area in Sri Lanka ; or

(c) all such offences of any particular class or description alleged to have been so committed by persons throughout Sri Lanka or in any particular area in Sri Lanka ; or

(d) all such offences of any particular class or description alleged to have been committed by person of any particular class or description, or any particular person, throughout Sri Lanka or in any particular area in Sri Lanka ; or

(e) any particular offence alleged to have been committed by any particular person throughout Sri Lanka or in any particular area in Sri Lanka.

61. (1) Subject to the provisions of paragraph (3) of regulation 24⁴⁷, no prosecution shall be instituted in the Magistrate's Court -

(a) for an offence against any emergency regulation ; or

(b) for an offence against any other written law where the act or omission constituting such offence was consequent on, or arose out of, or was done or committed to be done in, whether directly or indirectly, the exercise or performance, of any power or duty under such regulation

except by or with the written sanction of the Attorney - General.

⁴⁷ There is no paragraph 3 in regulation 24 and so the reference is incorrect. Possibly the reference should be to regulation 25.

(2) The President may by order declare that the provisions of paragraph (1) of this regulation shall not apply in respect of any offence against any such emergency regulation as may be specified in the order and accordingly, so long as such order remains in force, that paragraph shall not apply to any such offence.

62. (1) Notwithstanding any emergency regulation or other written law the trial, including a trial at bar, for any offence under the emergency regulations, may be held upon indictment by the Attorney - General and thereupon the person charged shall be tried without a preliminary inquiry before the High Court or High Court at bar, as the case may be, without a jury.

Provided that where the Attorney - General being of opinion that evidence recorded at a preliminary inquiry will be necessary for preparing an indictment, may direct the holding of a preliminary inquiry, the provisions of Chapter XV of the Code of Criminal Procedure Act, No. 15 of 1979⁴⁸ shall, *mutatis mutandis*, apply to such preliminary inquiry.

(2) A person indicted before the High Court under this regulation shall not be admitted to bail except with the consent of the Attorney - General.

(3) Subject to the provisions of paragraph (2) at any trial under this regulation the Court or the presiding Judge thereof may give directions for the summoning arrest custody or bail of all persons charged before the Court.

(4) The trial of any person before the High Court under this regulation may commence or continue in the absence of such person if the Court is satisfied that he is evading arrest or absconding or feigning illness.

(5) Any person indicted before the High Court under these regulations may at any time which shall not extend to more than thirty days before the commencement of such trial, by application in writing to the High Court, request that he be furnished with copies of the statements made by witnesses whom the prosecution intends to call and of the documents to be relied on at the trial, and the Court may direct that copies of all such statements or documents, or of only such statements or documents as the Court in its discretion thinks fit, shall be given to such person.

(6) A trial before the High Court under these regulations, including a High Court at Bar, shall be held as speedily as possible and in the manner provided under any other written law for other trials before the High Courts, or the High Court at Bar, as the case may be, without a jury.

63. (1) At the trial of any person for an offence under any emergency regulation a statement made by such person whether or not it amounts to a confession and whether or not such person was in the custody of a police officer at the time the statement was made and whether or not such statement was made in the immediate presence of a Magistrate may be proved as against

⁴⁸ See note 43 above.

such person, if but only if, such statement is not irrelevant under Section 24 of the Evidence Ordinance⁴⁹.

Provided, however, that no such statement shall be proved against such person if such statement was made to a police officer below the rank of Assistant Superintendent of Police.

(2) In the case of an offence under any emergency regulation a statement made by any person which may be proved under paragraph (1) as against himself may be proved as against any other person jointly charged with such offence, if but only if, such statement is corroborated in material particulars by evidence other than a statement made under regulation 50⁵⁰ of these regulations.

(3) The burden of proving that any statement referred to in paragraph (1) or (2) is irrelevant under section 24 of the Evidence Ordinance shall be on the person asserting it to be irrelevant.

(4) The provisions of sections 25, 26 and 30 of the Evidence Ordinance⁵¹ shall not apply in the case of any offence under any emergency regulation.

(5) A statement made by any person may be proved under paragraph (1) or paragraph (2) notwithstanding the provisions of sub-section (3) of section 110 of the Code of Criminal Procedure Act, No. 15 of 1979⁵².

64. The provisions of Chapter XI of the Code of Criminal Procedure Act, No. 15 of 1979⁵³, shall not apply to any investigations conducted under any emergency regulation.

65. (1) In any proceedings for an offence, a certificate purporting to be under the hand of the Government Analyst, Deputy Government Analyst or Assistant Government Analyst or any other officer acting in such capacity in regard to the identity, composition or character of any thing or matter submitted to him for examination or analysis, shall be conclusive proof of the truth of the statements contained in such certificate without such person being called to testify in such proceedings.

(2) Where the Government Analyst, Deputy Government Analyst or Assistant Government Analyst or any other officer acting in such capacity is of opinion that it is not safe or practicable to keep in his custody any thing or matter submitted to him for examination or

⁴⁹ Section 24 of the Evidence Ordinance 1896 prevents confession evidence in criminal proceedings from being admitted if the confession appears to the court to have been caused by any inducement, threat or promise proceeding from a “person in authority”.

⁵⁰ It is not clear if this reference is correct as regulation 50 does not mention statements.

⁵¹ Section 25 provides that no confession made to a police officer is admissible in criminal proceedings; section 26 provides that a confession made whilst in police custody is also not admissible unless made in the immediate presence of a magistrate. Section 30 provides that a confession of one of several joint accused is not admissible against the other accused.

⁵² Section 110(3) provides that statements made to police officers during an investigation are admissible (to prove that he made a different statement at another time) but cannot be used to corroborate the accused’s testimony.

⁵³ Chapter XI deals with the general powers of police officers to investigate alleged offences and includes some procedural safeguards.

analysis in connection with any offence such officer may, after making the necessary examination or analysis, cause such thing or matter to be disposed of or destroyed.

(3) Where any thing or matter is disposed of or destroyed under the provisions of paragraph (2), a record of the thing or matter disposed of or destroyed shall be maintained by the Government Analyst, Deputy Government Analyst, Assistant Government Analyst or any other officer acting in such capacity, as the case may be; and a certificate purporting to be under the hand of any such officer containing the substance or contents of such record shall in any proceedings for any offence be conclusive proof of the truth of the statement contained in such certificate without such officer being called to testify in such proceedings.

(4) In this regulation, “offence” means any offence under any emergency regulation or under the Explosives Act, (Chapter 183) or under the Offensive Weapons Act, No. 18 of 1966, or the Firearms Ordinance or under Chapter VI or Chapter VII or Chapter VIII of the Penal Code⁵⁴.

66. No person shall resist or obstruct any other person in the exercise or discharge of any power or duty conferred or imposed on that other person by or under any emergency regulation.

PART 8

MISCELLANEOUS

67. (1) During the continuance in force of this regulation -

(a) sections 95 and 96 of the Code of Criminal Procedure Act, No. 15 of 1979 (which relate to the power to disperse unlawful assemblies)⁵⁵, shall cease to be in force ; and

(b) any police officer of a rank not below that of a Sergeant, any member of the Sri Lanka Army of a rank not below that of a Corporal, any member of the Sri Lanka Navy of a rank not below that of a Leading Seaman, or any member of the Sri Lanka Air Force of a rank not below that of a Corporal, may order any person or persons in or about any public road, railway, public park, public recreation ground or other public ground, seashore, or in or about, or in the vicinity of, the premises of any public building or Government Department, to remove himself or themselves from that place and it shall be the duty of such person, or each such person, as the case may be, to comply with such order.

(2) If, upon the issue of an order under sub-paragraph (b) of paragraph (1) of this regulation by any officer empowered to issue such order, any person does not comply with the order or

⁵⁴ See note 21 above.

⁵⁵ Section 95 permits a magistrate or police officer (of inspector rank or above) to disperse assemblies or if necessary request the armed forces to enforce the dispersal, using minimum force and causing minimum harm. Section 96 permits commissioned officers in the armed forces to disperse assemblies but if possible this should be only after consultation with a magistrate, Government Agent or police officer of superintendent rank or above.

conducts himself in such a manner as to show a determination not to comply with the order such officer with such assistance as may be necessary, may proceed to give effect to such order by force including armed force, and may cause such person to be removed or arrested and confined.

(3) During the continuance in force of this regulation, sections 306 (1), (2) and (4) of the Code of Criminal Procedure Act, No. 15 of 1979⁵⁶, shall not apply to or in relation to any person who is charged with, or is convicted of, any offence under [any?] emergency regulation, save and except an offence under regulation 13(1) hereof.

68. (1) Notwithstanding anything in any other law to the contrary, a person taken into custody and detained under any emergency regulation may, during the period of such custody and detention, be questioned by any Police officer, or any other officer authorized by the Commissioner of the Army, Commander of the Navy or Commander of the Air Force and it shall be the duty of the person so questioned to answer the question addressed to him.

(2) For the purpose of questioning any person taken into custody and detained under paragraph (1) or for any other purpose connected with such questioning, any officer referred to in paragraph (1) of this regulation may remove such person from any place of detention or custody and keep him in the temporary custody of such officer for a period not exceeding seven days at a time.

69. (1) Without prejudice to any special provisions contained in these regulations, any person shall, on being requested so do by or on behalf of a competent authority, furnish or produce to such authority or person as may be specified in the request any such information or article in his possession as may be so specified, being information or an article which the authority or person making the request is of opinion that it is necessary or expedient to obtain or examine in the interests of the national security or the maintenance of public order, or for the purposes of any emergency regulation, and if any person fails to furnish or produce any information or article in his possession in pursuance of a request duly made to him under this regulation, he shall be guilty of an offence.

(2) In this regulation, “article” includes any book, account or document.

70. A member of the Sri Lanka Army, the Sri Lanka Navy, or the Sri Lanka Air Force shall, when he is driving any motor vehicle when authorized so to do by the Competent Authority, for the purpose of the preservation of public order, be exempt from such of [the] provisions of the Motor Traffic Act, and the regulations made thereunder as are specified in Schedule A to the Motor Traffic (Exemption of Her Majesty’s Forces) Regulations, 1955, published in *Gazette* No. 10,815 of 08th July, 1955⁵⁷.

⁵⁶ See note 35 above in respect of section 306(2). Section 306(1) gives a similar discretion in respect of summary offences and section 306(4) permits a court to order restitution of stolen goods or payment of money in lieu of a conviction.

⁵⁷ It has not been possible to obtain a copy of these Regulations but they presumably exempt the security forces from matters such as the normal speed limit.

71. (1) Where the President is of opinion with respect to any organization that there is a danger of action by, or of the utilization of the organization or its members or adherents –

(a) for purposes prejudicial to national security, the maintenance of public order or the maintenance of essential services; or

(b) for any of the purposes referred to in subparagraph (a) to (g)⁵⁸ of regulation 25 of these regulations,

the President may, by Order published in the *Gazette*, declare that organization to be a proscribed organization.

(2) The Secretary to the Ministry of Defence may also in such order authorize the persons specified therein to take such steps (including the taking possession of any printing press with respect to which the order is made or of any premises in which it is contained or any part of such printing press or premises) as appear to the persons so authorized to be necessary for securing compliance with the order.

In this regulation “printing press” includes any machinery, apparatus or plant capable of being used for printing, lithography, photography, or other mode of representing or reproducing words in a visible form, or any type or other articles belonging to such machinery, apparatus or plant.

(3) No person shall -

(a) make, print, or distribute, or be in any way concerned in the making, printing, or distribution of any written or printed matter which is published or purports to be published by a proscribed organization or by any member or manager thereof; or

(b) communicate or attempt to communicate to any other person, in any manner, any order, decision, declaration or exhortation made or purpose;

(c) summon or attend any meeting of the organization or of any members or managers thereof; or

(d) invite or exhort any other person to join or support the organization; or

(e) invite or exhort any other person to join or support the organization⁵⁹; or

(f) do or attempt to do any act or thing in his capacity as a manager or member of the organization or in such circumstances as are likely to lead any other person to believe that he is acting in such capacity; or

⁵⁸ There is no sub-paragraph (g) in regulation 25 and so the reference should presumably be to sub-paragraph (f).

⁵⁹ Sub-paragraph (e) repeats sub-paragraph (d) and is presumably an error.

(g) harbour or conceal any member of the organization or any person suspected to be a member of the organization.

(4) If the Secretary to the Ministry of Defence is of opinion that any printing press under the control of any proscribed organization, has been or is likely to be used for the production of any document containing matter which is in his opinion calculated –

(a) to prejudice the interests of national security or the preservation of public order; or

(b) to prejudice the maintenance of supplies and services essential to the life of the community; or

(c) to incite or encourage persons to mutiny, riot or civil commotion.

he may by order direct that the printing press, or all or any of the printing presses under the control of that organization as are specified in such order, shall for so long as the order is in force, not be used for any purpose whatsoever or for any particular purpose as is specified in the order.

(5) If, upon application being made by the Attorney-General, or by any member or creditor of the organization, it appears to the High Court that⁶⁰ organization to which this regulation applies the Court may make such order as appears necessary to prevent any disposition without the leave of the Court of property held by or for the organization, and may direct an inquiry and report to be made as to any such property as aforesaid and as to the affairs of the organization, and make such further orders as appear to the Court to be just and equitable for the winding-up and dissolution of the organization and for the application of any such property as aforesaid in or towards any costs incurred in connection with any such inquiry and report and the winding-up and dissolution of the organization and or towards the discharge of the liabilities of the organization lawfully incurred before the date of the application or since that date [and?] with the approval of the [Court?] shall order that any such property which is not directed by the Court to be so applied shall be forfeited to the Republic.

(6) In this regulation, “manager”, in relation to any organization, means any officer of the organization and any person taking part in the management or control of the organization or holding or purporting to hold a position of management or control therein.

72. Any person who renders any medical assistance to, or from whom medical assistance is sought by, an injured person who appears to have received such injury consequent to the use of a firearm, bomb, explosive or other lethal substance or device shall record the particulars of the identity of such injured person, the details of the injury and wherever possible the circumstances under which it had been caused and forthwith furnish such information to the nearest Police station.

⁶⁰ Some words seem to be missing here. Possibly it should read “appears to the High Court that *this is an organisation* to which this regulation applies”.

73. No action or other legal proceeding, whether civil or criminal, shall be instituted in any court of law in respect of any matter or thing done or purported to be done in good faith, under any provisions of any emergency regulation or of any order or direction made or given thereunder, except by, or with the written consent of, the Attorney-General.

[SCHEDULE⁶¹]

⁶¹ The original Schedule (referring to the original definition of “essential services” in regulation 2) was repealed by Gazette 1414/22 (published on 13 October 2005). A new Schedule (referring to the then new regulation 40) was inserted by Gazette 1456/27 (published on 3 August 2006) but this was in turn repealed by Gazette 1464/26 (published on 29 September 2006) which (*inter alia*) gives the President power to designate “essential services” at a future date by an Order in the Gazette.