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THE EMERGENCY POWERS ACT

THE EMERGENCY POWERS (No. 2) REGULATIONS, 2019

In exercise of the powers conferred upon the Governor-General by section 3 of the Emergency Powers Act the following Regulations are hereby made:—

- Citation. 1. These Regulations may be cited as the Emergency Powers (No. 2) Regulations, 2019.
- Interpretation. 2.—(1) In these Regulations, unless the context otherwise requires—
“authorized person” means any competent authority, any member of the Jamaica Defence Force, any constable, any member of any fire brigade or any person authorized by any competent authority to do the act in relation to which the expression is used;

“competent authority”—

- (a) in relation to all the provisions of these Regulations that confer any powers upon a competent authority, means the Governor-General, the Minister responsible for national security, the Chief of Defence Staff, the Commissioner of Police, each Deputy Commissioner of Police or the Senior Officer of Police in each parish; and
- (b) in relation to any particular regulation which confers any power upon any competent authority, means such person as may be appointed by the Governor-General as the competent authority for the purposes of such regulation;

“constable” means any member of the Jamaica Constabulary Force, the Rural Police (district constables), any military district constable and any parish special constable;

“correctional officer” has the same meaning as in the *Corrections Act*;

“essential service” means any service established, maintained or operated by the Government of Jamaica, or by any public or private enterprise, or otherwise, for the—

- (a) collection, storage, purification or distribution of water for use by the public or any class of the public;
- (b) collection, storage, treatment and disposal of sewage or garbage or refuse;
- (c) manufacture, storage or distribution of gas for use by the public or any class of the public;
- (d) generation, storage or distribution of electricity for use by the public or any class of the public;
- (e) transportation of members of the public or of any class of the public, or of goods, by railway, road, sea or other waterway or air;
- (f) maintenance of—
 - (i) telegraphic, telephonic, wireless telegraphic and wireless telephonic or postal communications; and
 - (ii) broadcasting by radio and television, between any places in Jamaica; or between any place in Jamaica and any place outside Jamaica;

- (g) prevention, control and extinguishing of fires;
- (h) maintenance of public health;
- (i) distribution of food or drink of any description;
- (j) transportation to or from, or the reception, examination, accommodation, care, treatment or isolation at any hospital, dispensary, first aid station, infirmary, health centre or almshouse or other institution of aged, destitute or infirm persons or persons who are suffering from any injury or who are believed to be suffering from any mental or physical disability or disease or who have been or are likely to have been exposed to infection with or are believed to be carriers of any infection or contagious disease;
- (k) disposal of the bodies of deceased persons; or
- (l) the provision of civil aviation;

“fire brigade” means the Jamaica Fire Brigade or any fire brigade constituted under any enactment for the time being in force;

“Minister” means the Minister responsible for national security;

“public authority” means a Local Authority within the meaning of the *Local Governance Act*, or other statutory body or authority or any Government company, that is to say, a company registered under the *Companies Act*, being a company in which the Government or an agency of the Government, by the holding of shares, is in a position to direct the policy of that company;

“senior authorized person” means any—

- (a) competent authority;
- (b) commissioned officer in the Jamaica Defence Force or in any of the armed forces of any specified country;
- (c) warrant officer or non-commissioned officer not below the rank of sergeant in the Jamaica Defence Force; or
- (d) officer or sub-officer not below the rank of sergeant in the Jamaica Constabulary Force and in any fire brigade;

“specified country” means any country declared for the purposes of these Regulations to be a specified country by the Minister by notice published in the *Gazette*;

“statutory purpose” means the preservation of the peace and the securing and regulating of the supply and distribution of food, water, fuel,

electric light and power and other necessities and the maintaining of the means of transportation or locomotion and any other purpose essential to the public safety and the life of the community, including the provision of emergency shelters; and

“vehicle” includes any description of carriage or other artificial contrivance used, or capable of being used, as transportation on land.

(2) For the purposes of these Regulations, the “doing of work on land” means the doing of any work on, over or below the surface of the land, and, in particular, includes the making of any erection or excavation, the placement of anything, and the maintenance, removal, demolition, pulling down, destruction or rendering useless of anything, on, over or below that surface.

Protection of
public
property.

3. A person shall not, without lawful authority, destroy, damage, remove, tamper with, interfere with, or in any way, whether similar to the foregoing or not, impair the utility or efficiency of, any building, structure, works, plant, machinery, equipment, apparatus, appliance, stores, vehicle, craft, animal or article (whether similar to any of the foregoing or not) vested in, belonging to, or vested in any person in trust for, or used or occupied by or on behalf of Government or any department of Government or any public authority or any department of any public authority.

Protection of
essential
services, *etc.*

4.—(1) No person shall, without lawful authority, destroy, damage, remove, tamper with, interfere with, or in any way, whether similar to the foregoing or not, impair the utility or efficiency of, any building, structure, works, plant, machinery, equipment, apparatus, appliance, stores, vehicle, craft, animal or article, whether similar to any of the foregoing or not, used or intended to be used for the maintenance, extension or operation of any essential service or for any purpose ancillary to the maintenance, extension or operation of any such service.

(2) Every person who is responsible for providing or maintain a service referred to in paragraph (3) shall continue to provide or maintain the service during the period of emergency.

(3) The services are—

- (a) water services;
- (b) electricity services;
- (c) health services;
- (d) hospital services;
- (e) sanitary services;
- (f) police services;
- (g) fire-fighting services;

- (h) correctional services;
- (i) telecommunications services;
- (j) services connected with the loading and unloading of ships and with the storage and delivery of goods at, or from, docks, wharves and warehouses operated in connection with docks or wharves;
- (k) services connected with oil refining and with the loading, distribution, transportation or retailing of petroleum fuel for engines or motor vehicles or aircraft;
- (l) civil aviation services.

Prevention
of trespass to
public
premises.

5. No person shall, without lawful authority, enter, remain or be upon or obstruct or impede access to or egress from any building, structure or works to which regulation 3 applies.

Prevention
of trespass to
essential
services.

6. No person shall, without lawful authority, remain or be upon, obstruct or impede access to, or egress from, any building, structure, or works to which regulation 4 applies.

Protection of
public roads.

7. No person shall, without lawful authority, damage or obstruct or do any act which is likely to prevent or interfere with the use of any road or path.

Power to
block roads
and set up
cordons.

8.—(1) A competent authority may, if the competent authority considers it necessary or expedient so to do for any statutory purpose, by order, for such time as may be specified in the order or, where no time is specified, for as long as the order remains in force, divert any user of the road or stop up any road or pathway or cause a cordon to be set up to surround any area, place or premises so as to prohibit or regulate access to or egress from the area, place or premises.

(2) Where an order is made pursuant to paragraph (1)—

- (a) notice of the order shall be given in such manner as the competent authority making the order may consider best adapted for informing the public; and
- (b) if any road or pathway is stopped up by means of any physical obstruction, the competent authority making the order shall cause lights, sufficient for the warning of users of the road, to be set up every night while the road or pathway is so stopped up.

(3) Where any senior authorized person is satisfied that for any statutory purpose it is urgently necessary or expedient so to do, he may—

- (a) for such period, not exceeding three days, as he may think fit—
 - (i) prohibit the use of any road or pathway by persons or vehicles in general or by any particular category of persons or vehicles; or

(ii) cause a cordon to be set up to surround any area, place or premises so as to prohibit or regulate access to or egress from the area, place or premises; or

(b) prohibit the use of any road or pathway by any particular person or any particular vehicle.

(4) A senior authorized person by whom action is taken under paragraph (3)(a), shall forthwith take steps, by the posting up of notice or by the stationing of guards at appropriate points, to notify members of the public of the effect of the action taken and of the time when any prohibition or regulation implicit in such action will, pursuant to the provisions of this regulation, expire.

(5) Where the use of any road or pathway is prohibited to any particular person or any particular vehicle under paragraph (3)(b), the senior authorized person by whom the prohibition is issued shall take such steps as may be necessary to inform the persons or the driver of the vehicle, as the case may be, of the prohibition.

(6) If a cordon is set up around any area, place or premises under this regulation, any person who, without the permission (whether oral or written) of an authorized officer after being challenged, enters or departs from that area, place or premises or attempts to enter or depart from that area, place or premises, commits an offence.

Power to
require
removal of
vehicles, *etc.*

9.—(1) A competent authority may, if the competent authority considers it necessary or expedient so to do, for any statutory purpose, by order, direct the removal of any vehicle or article of any description within any area specified in the order to some point outside that area within such period as may be so specified.

(2) Where any senior authorized person is satisfied that for any statutory purpose there is urgent necessity so to do, he may direct (either orally or in writing) any person having or appearing to have control of any craft, vehicle, firearm, ammunition, explosive or inflammable substance, liquid or gas, detonator, petroleum product, dangerous drug or intoxicating liquor, forthwith to remove the thing to such place, being a place within a radius of ten miles of the place at which such thing is at the time of the direction, as may be specified by the person by whom the direction is given.

(3) Any direction under paragraph (2) may be given by any authorized person acting under the instructions of a senior authorized person.

Right of
access *etc.* to
land or
building.

10. A competent authority and any person authorized by the competent authority shall have the right of access to any land or building and the right to do or cause to be done on any land or to any buildings any work of any description which, in the opinion of the competent authority, may be necessary or expedient to be done for any statutory purpose, and for any statutory

purpose to enter into and remain in occupation of any land or building for such period as the competent authority may think fit.

Power to
requisition
any ship, *etc.*

11.—(1) Where a competent authority is satisfied that it is necessary or expedient for any statutory purpose so to do, the competent authority may give notice, in writing, to the person having control of any ship registered in Jamaica, or of any aircraft or article of any description in Jamaica, requisitioning the ship, aircraft or article.

(2) Where a competent authority requisitions any ship, aircraft or article under paragraph (1) the competent authority may, by itself, its servants or agents, take possession of the ship, aircraft or article and do, to or in relation to such ship, aircraft or article, anything which might lawfully have been done by the owner of such ship, aircraft or article as if such ship, aircraft or article had not been requisitioned under these Regulations, and may use such ship, aircraft or article for any purpose for which such ship, aircraft or article might lawfully have been used if it had not been so requisitioned.

Power to
requisition
services.

12.—(1) Where the Governor-General is satisfied that it is necessary or expedient so to do, he may give notice in writing to the person having the management or control of any essential service requisitioning such service with effect from such date as may be specified in such notice.

(2) Where any essential service is requisitioned under paragraph (1), the Governor-General shall by instrument in writing appoint some person as controller of the service requisitioned.

(3) Upon the appointment of some person as controller of any essential service, such person shall be entitled to take possession of all premises and assets of every description (other than money or securities for money) which, immediately before the giving of the notice by which such service was requisitioned, were used or intended to be used for the purposes of such service and, in relation to any premises and assets so taken possession of, and in relation to the service so requisitioned, to do or cause to be done any act or thing which might lawfully have been done by the person having control of such service if the service had not been so requisitioned.

Power to
require
returns.

13.—(1) Where a competent authority is satisfied that it is necessary or expedient for any statutory purpose so to do, the competent authority may by order, require persons, of such category as may be specified in such order, to make such returns, in such form, to such person, in respect of such matters, relating to premises, animals or articles under their control, as may be so specified.

(2) Where a competent authority is satisfied that it is necessary or expedient for any statutory purpose so to do, the competent authority may give notice in writing to any person requiring such person to make, to the competent authority or to such other person as may be specified in such

notice, a return, in such form, within such time and containing such particulars as may be so specified in relation to such premises, animals or articles under the control of such person, as may be so specified.

Power to
require
information
or articles.

14.—(1) Subject to paragraph (2), and without prejudice to any special provisions contained in these Regulations, a person shall, on being requested by a competent authority to do so, furnish or produce to such authority or persons 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 competent authority considers it necessary or expedient for any statutory purpose to obtain or examine, 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 commits an offence against these Regulations.

(2) No prosecution shall be instituted in respect of any offence against this regulation, except by or with the consent of the Director of Public Prosecutions.

Prohibition
of intimidat-
ion.

15. No person shall abuse, insult, threaten or assault any other person with of a view to—

- (a) deterring such other person from doing any act which such other person is lawfully entitled to do; or
- (b) causing or inducing such other person to do any act which such other person is lawfully entitled to abstain from doing.

Prohibition
of incitement
to disaffec-
tion.

16. No person shall attempt to influence any member of the Jamaica Defence Force, any constable, any member of any fire brigade or any correctional officer to do any act in contravention of his duty as such, or to refuse to do or to abstain from doing, any act properly to be done by him in the course of his duty as such, or to cease during the continuance of the emergency which was the occasion of making of these Regulations to be a member of the Jamaica Defence Force or a constable or a member of a fire brigade or a correctional officer.

Obstruction.

17. No person shall obstruct any public officer, any member of the Jamaica Defence Force, any constable, any member of any fire brigade or any correctional officer, acting in the course of his duty as such, or any person exercising any powers or performing any duties conferred or imposed on him by or under any of these Regulations, or otherwise discharging any lawful functions in connection with the performance of any statutory purpose.

Power to
prohibit
assemblies.

18. A competent authority, may, by order, prohibit in any area, the assembly of any persons who are suspected of acting or of having acted or of being about to act in a manner prejudicial to the public safety.

- Prohibition against discharging firearms, *etc.* 19. A person who by the discharge of firearms, ammunition or explosives or the use of stones, sticks or other implements or missiles, or otherwise, endangers the safety of any person commits an offence.
- Prohibition against the carrying of firearms, *etc.* 20. A competent authority may, by order, prohibit the carrying by any person of any firearm, component part of a firearm, ammunition, explosive, machete, cutlass, stick, stone or other implement or missile, in any such area as may be specified in such order.
- Curfew. 21. A competent authority may, by order, require every person within any area specified in the order to remain within doors between such hours as may be specified in the order, and any person who within any area so specified is or remains outdoors between such hours without a permit in writing from the competent authority, or some person duly authorized by the competent authority, commits an offence.
- Power to restrict access to any area. 22. Where a person is suspected of acting, or of having acted, or of being about to act, in a manner prejudicial to the public safety, the supply or distribution of any necessity of life or the preservation of the peace, and a competent authority is satisfied that it is desirable that that person should be prohibited from residing in or entering any particular area, the competent authority may, by order, prohibit him from residing or entering any such area or areas as may be specified in the order; and upon the making of such order the person to whom the order relates shall, if he resides in any area so specified, leave that area within such time as may be specified in the order, and shall not subsequently reside in or enter any area so specified during such time as may be specified in the order.
- Prohibition of unauthorized wearing of certain uniforms. 23. No person not being a member of the Jamaica Defence Force, a constable, or a member of any fire brigade shall wear the uniform appropriate to be worn by a member of the Jamaica Defence Force, a constable or a member of any fire brigade, as the case may be, or any dress having the appearance or bearing the distinctive marks of any such uniform.
- Emergency Fire Services. 24.—(1) Where the Governor-General is satisfied that it is necessary or expedient so to do he may, by order, establish an Emergency Fire Brigade for any Brigade area in such order.
- (2) Every order under paragraph (1) may contain such provision as, in the opinion of the Governor-General, is necessary or expedient in relation to the organization, numbers, ranks and discipline of the brigade constituted thereunder.
- (3) The provisions of the *Fire Brigade Act* shall apply to every area for which an Emergency Fire Brigade is constituted under this regulation, with such modifications as may be necessary, and to every member of such Emergency Fire Brigade as they apply to members of the Jamaica Fire Brigade under that Act, with the substitution in that Act for references to officers or

members of the Jamaica Fire Brigade of references to officers or members of such Emergency Fire Brigade.

Forging and
imperson-
ation.

25. Every person who forges, alters, or tampers with any naval, military, or police pass, permit or other document, or uses or has in his possession any such forged, altered or irregular naval, military, or police pass, permit or other document or impersonates any person to whom such a naval, military, or police pass, permit or other document has been duly issued, commits an offence.

Duty of
disclosing
contraven-
tion of
Regulations.

26. Every person who knows, or has reasonable cause to suspect, that some other person is acting in contravention of any provision of these Regulations shall, so soon as may be, inform some authorized person.

Power to
search
premises, etc.

27. An authorized person may—

- (a) enter and search any vehicle, land or premises suspected of harbouring or containing any person suspected of having committed or being about to commit any offence against these Regulations; and
- (b) confiscate any literature, article or thing found therein that is capable of being used in a manner prejudicial to the public safety or likely to lead to a breach of the peace or any contravention of these Regulations.

Search of
vehicle.

28.—(1) An authorized person may stop any vehicle on any road or street and, if he has reason to suspect that the vehicle is being used, or has been used, for any purpose or in any way prejudicial to the public safety, search the vehicle and, where it is necessary for further investigation or enquiry, seize the vehicle and anything found in the vehicle which he has reason to suspect is being used or intended to be used for any purpose, or in any way, prejudicial to the public safety.

(2) In this regulation, “road or street” includes every public highway, street, road, thoroughfare, square, court, alley, lane, bridleway, footway, parade, passage, piazza, or open place used or frequented by the public, or to which the public have or are permitted to have access.

Powers of
questioning.

29. Every person, if so required by an authorized person, shall stop and answer, to the best of his ability and knowledge, any questions which may be reasonably addressed to him by the authorized person.

Powers of
arrest and
detention.

30.—(1) An authorized person may arrest, without a warrant, and detain, pending enquiries, any person whose behaviour is of such a nature as to give reasonable grounds for suspecting that he has—

- (a) acted or is acting in a manner prejudicial to the public safety; or

- (b) has committed, is committing, or is about to commit an offence against these Regulations.

(2) Subject to paragraph (3), a person shall not be detained under paragraph (1) for a period exceeding 7 days, except with the authority of a police officer not below the rank of Deputy Superintendent on whose directions such person may be detained for a further period not exceeding seven days.

(3) Where a police officer not below the rank of Senior Superintendent is satisfied that any necessary enquiries, pursuant to these Regulations, cannot be completed within the further period of seven days mentioned in paragraph (2), he may direct that the person be detained for a further period not exceeding the emergency period.

(4) Any person detained under paragraph (1), shall be deemed to be in lawful custody and may be detained in any prison or any lockup or in any other place authorized generally or specially by the Minister (whether within or outside of the community), and an authorized person may, during such detention take photographs, descriptions, measurements and fingerprints of any person so detained and any information so obtained may, after the release of such person, be preserved.

(5) Where a person is detained under this regulation for a period of three months without a charge being proffered against that person, the person shall be released or shall be brought before a Judge of the Parish Courts to be entered into a recognizance and find sureties to keep the peace, or to be of good behavior.

Power to
stop, detain,
search and
seize.

31.—(1) An authorized person may—

- (a) stop, detain and search any person and may seize anything found on such person which he has reason to suspect is or was being used or is intended to be used for any purpose, or in any way, prejudicial to the public safety or public order; and
- (b) take such steps and use such force as may appear to him to be reasonably necessary to stop, detain or search any person under the provisions of this regulation.

(2) Every person who assaults, obstructs, hinders or resists or uses any threatening, abusive or calumnious language or aids or incites any other person to assault, obstruct, hinder or resist any authorized person in the execution of his duty under this regulation, commits an offence.

Confinement
to place of
residence.

32. The Minister, on the written advice of the Chief of Defence Staff and the Commissioner of Police, if satisfied that it is necessary so to do in order to prevent any person from acting in a manner prejudicial to public safety or public order, may make an order requiring that person, subject to such

conditions as may be specified in the order, to stay in the house or place where that person resides or resides principally or, where the person has no fixed place of abode, at a place specified by the Minister.

Detention
Orders.

33.—(1) The Minister, on the written advice of the Chief of Defence Staff and the Commissioner of Police, if satisfied that any person has been concerned in acts prejudicial to public safety or public order or in the preparation or instigation of such acts and that for any reason thereof it is necessary to exercise control over that person, may make an order (hereinafter referred to as a “detention order”) against that person directing that he be detained.

(2) Any person detained under a detention order shall be deemed to be in lawful custody and shall be detained in such place (whether within or outside of the community) as may be authorized by the Minister and in accordance with such instructions as shall be issued by the Minister.

(3) At any time after a detention order has been made against any person, the Minister may, on the written advice of the Commissioner of Police, by a further order, revoke or vary the detention order or may direct that the duration of the detention order be suspended, subject to any of the following conditions, as the Minister thinks fit—

- (a) imposing upon such person such restrictions as may be specified in the direction in respect of—
 - (i) his place of residence: and
 - (ii) his association or communication with other persons;
- (b) prohibiting such person from being out of doors between such hours as may be so specified except with the authority of a written permit granted by such authority or person as may be so specified;
- (c) prohibiting or restricting the possession or use by such person of any articles so specified;
- (d) requiring such person to notify of his movements in such manner, at such times and to such authority or person as may be so specified;
- (e) prohibiting such person from proceeding beyond such distance from his place of residence as may be so specified except with the authority of a written permit granted by such authority or person as may be so specified,

and the Minister may by order revoke or vary any such direction whenever he thinks fit.

(4) Every person who fails to comply with a condition attached to or restriction imposed by, a direction given by the Minister under paragraph (3), whether or not the direction is revoked in consequences of the failure, commits an offence.

(5) For the avoidance of doubt, the powers exercisable under these Regulations shall be exercisable in respect of a person detained at a place outside of the community, and while being transported to or from any such place, pursuant to paragraph (2), as if the person were located in the community.

(6) In selecting a place of detention for the purposes of paragraph (2), the matters to which the Minister may have regard include—

- (a) the physical accommodations, for such detention, available in the community; and
- (b) the likelihood of further prejudice to public safety or public order if the person is detained in the community.

Powers in respect of person who leaves the community during emergency period.

34. The powers exercisable under these Regulations during the emergency period in respect of a person who could have been arrested or detained in the community but who has fled the community, or in respect of a person who was arrested or detained in the community but has absconded, shall be exercisable in respect of that person wherever in Jamaica that person is arrested or detained, as if the person were located in the community at the time of the arrest or detention.

Closing of premises.

35.—(1) If it appears to an authorized person that any premises are being used, have been used or are intended to be used for any purpose or in any manner prejudicial to the interest of public safety or public order, the authorized person may by order require them to be closed and remain closed until further order or for such period as may be specified in the order.

(2) An order made under this regulation shall be published by posting a copy of the order on the premises affected by the order and after it is posted, the order shall remain in full force and effect until revoked or until the period specified in the order has expired, notwithstanding that the copy of the order has been destroyed, obliterated or defaced.

(3) A certificate under the hand of such authorized person to the effect that he is satisfied that a copy of the order has been duly posted in accordance with paragraph (2) shall be admitted in evidence as conclusive proof of the posting of the copy on those premises.

(4) When an order has been made under this regulation any authorized person may, without prejudice to any proceedings which may be taken against

any person for contravening the order, take such steps and use such force as may be reasonably necessary to ensure compliance with the order.

(5) Any person, other than an authorized person, who, while an order under this regulation is in force, enters or attempts to enter or is found upon any premises affected by the order commits an offence.

(6) For the purposes of these Regulations, "premises" includes a dwelling house:

Provided that in the case of a dwelling house, an order shall not be made under this regulation—

- (a) except with the approval of the Minister; and
- (b) unless an enquiry into the fact and circumstances giving rise to such order has been held by the authorized person who proposes to make the order.

(7) In holding an enquiry under paragraph (6), the authorized person shall satisfy himself that the persons living in the dwelling house concerned are given adequate opportunity to understand the subject matter of the enquiry and of making representations thereon, and subject thereto, such enquiry shall be conducted in such manner as the authorized person thinks fit.

(8) A written report of any enquiry under this regulation shall be submitted to the Minister as soon as possible after the completion thereof and shall contain a certificate by the authorized person that the requirements of this regulation have been complied with.

Firearms,
ammunitions
and
explosives.

36.—(1) A competent authority may, by order, provide for prohibiting (either absolutely or conditionally) the possession of any firearm or component part of a firearm or any ammunition or explosive, within the community or any part thereof.

(2) Every person who has in his possession or under his control any firearm or component part of a firearm or any ammunition or explosive shall comply with such directions for securing the safe custody thereof as may be given by an authorized person and any such directions may require the removal of the firearm or component part of the firearm or ammunition or explosive to such place as may be specified in the directions.

(3) If any directions given under paragraph (2) by an authorized person are not complied with, then (without prejudice to any proceedings which may be taken in respect of the offence) the authorized person may cause the articles to which the directions relate to be dealt with in such manner as may be necessary for securing compliance with the directions.

Control of
places of
public resort
and
entertain-
ment.

37.—(1) An authorized person may, by order, require any establishment situated within any part of the community specified in the order to be closed and remain closed, except during such hours and for such purposes as may be specified in the order.

(2) Any person who contravenes the provisions of an order made under paragraph (1) commits an offence.

(3) If the provisions of any order made under paragraph (1) are contravened by any person in any establishment, the manager or the person in charge of that establishment shall be deemed to have also contravened the provisions of such order unless he proves to the satisfaction of the Court that he took all reasonable means and precaution to prevent such contravention.

(4) Any order made under paragraph (1) may, in addition to any other penalty provided by these Regulations, make provision for the cancellation of any licences issued in respect of the establishment concerned under any enactment, including licences relating to the sale of intoxicating liquor by retail, upon the conviction by any court of the manager or the person in charge of the establishment for a contravention of such order.

(5) In this regulation, “establishment” means any bar whether within a hotel or not, any night club, any cinematograph theatre, any club, tea shop, confectioner’s shop, restaurant, theatre, or any other place of public resort or entertainment whatsoever.

Establish-
ment of
Tribunal for
review of
cases of
detention or
restriction.

38.—(1) For the purpose of these Regulations, there shall be established a Tribunal for the review of cases of detention or restriction to be called the Emergency Powers Review Tribunal.

(2) The Tribunal shall consist of—

- (a) one member appointed by the Chief Justice of Jamaica from among persons qualified to be appointed as a Judge of the Supreme Court, who shall be chairman of the Tribunal; and
- (b) two other persons appointed by the Governor-General.

(3) The Chief Justice shall notify the Governor-General of the appointment under paragraph (2)(a) and the Governor-General shall cause to be published in the *Gazette* a notice of the appointment of the members under paragraph (2)(a) and (b).

(4) Subject to paragraph (5), prior to the commencement of the proceedings of the Tribunal, the Permanent Secretary in the Ministry responsible for national security shall—

- (a) enter into an agreement in writing, with the members of the Tribunal, for the remuneration of the members and any other person employed in or about the Tribunal; and

- (b) make arrangements for the expenses attendant upon the carrying out of the functions of the Tribunal under these Regulations.

(5) Where an agreement under paragraph (4)(a) provides for the payment of remuneration based on time-based charges or fees, the agreement shall also stipulate the maximum sum that may be paid in satisfaction of the agreement between the parties, which sum shall not be exceeded, unless the Permanent Secretary is satisfied that circumstances have arisen which were not within the contemplation of the parties at the time of entering into the agreement and which justify an amount being paid in excess of the agreed maximum sum.

(6) In the case of the temporary absence or inability to act of—

- (a) the chairman of the Tribunal, the Chief Justice may appoint another person from among persons qualified as specified in paragraph (2)(a) to act as chairman of the Tribunal;
- (b) any other member of the Tribunal the Governor-General may appoint another person to act for that member.

(7) Subject to paragraphs (4) and (5), the appointment of any person as a member of the Tribunal shall be for such term and shall be subject to such conditions as may be determined by the Chief Justice or the Governor-General, as the case may require, and a person who ceases to hold office as a member of the Tribunal shall be eligible for re-appointment thereto.

(8) Subject to section 13(10) and (11) of the Constitution of Jamaica and to the provisions of this regulation, the Tribunal may regulate its own proceedings.

(9) Any person who is detained or whose freedom of movement has been restricted by virtue only of these Regulations (including any person against whom an order is made under regulation 22, 32 or 33 of these Regulations) may make objection to the Tribunal aforesaid.

(10) Any meeting of the Tribunal held to consider any such objection as aforesaid shall be presided over by the chairman and it shall be the duty of the chairman to inform the objector of the grounds on which the order has been made against him and to furnish him with such particulars as are in the opinion of the chairman, sufficient to enable the objector to present his case.

(11) In respect of the findings of the Tribunal on an objection under paragraph (9), the chairman shall issue such directions as the Tribunal thinks fit to—

- (a) the competent authority concerned, in the case of an order under regulation 22;
- (b) the Minister, in the case of an order under regulation 32 or 33; or

- (c) in any other case, the competent authority by whom such detention or restriction was authorized,

in including any recommendations concerning the necessity or expediency of continuing the detention or restriction of freedom of movement (as the case may be).

(12) In keeping with the findings of the Tribunal—

- (a) in the case of an order under regulation 22 the competent authority, or in the case of an order under regulation 32 or 33 the Minister, shall—

- (i) direct that the order remain in force;
- (ii) vary the order (including imposing conditions thereunder); or
- (iii) revoke the order.

- (b) in any other case, the competent authority shall comply with the directions of the Tribunal.

(13) The competent authority shall cause to be issued to a person who is detained, or whose freedom of movement is restricted, by virtue of these Regulations, a notice informing the person of—

- (a) the grounds therefor; and
- (b) The person's right to make his objections to the Tribunal aforesaid.

(14) The competent authority shall cause a person who is detained, or whose freedom of movement is restricted, by virtue of these Regulations, to be furnished as soon as practicable after the detention or restriction (as the case may be) with the necessary particulars to enable that person to present his case to the Tribunal.

Notices.

39.—(1) The competent authority, or any other person by whom an order is made in pursuance of these Regulations, shall publish notice of the order in such manner as he may consider best adapted for informing persons affected by the order.

(2) A person shall not, without lawful authority, deface or otherwise tamper with any notice posted up in pursuance of paragraph (1).

Provisions as to permit.

40. Any person claiming to act under any permit or permission granted under or for the purposes of these Regulations shall, if at any time, he is required to do so by any authorized person, produce the permit or permission for inspection.

Savings of other powers.

41. The powers conferred by these Regulations are in addition and not in derogation of any powers exercisable by any person to take such steps as may be necessary for securing the public safety, and nothing in these

Regulations shall affect the liability of any person to trial and punishment for any offence otherwise than in accordance with these Regulations.

Offences.

42.—(1) Every person who contravenes the provisions of any of these Regulations or any order made or notice given thereunder or incites or attempts to incite any other person to contravene any of these Regulations or any order made or notice given thereunder, commits an offence.

(2) Any person who commits an offence against these Regulations, is liable, upon summary conviction, before a Judge of a Parish Court, to imprisonment for a term not exceeding three months.

Restrictions
in granting
bail.

43. Any person in custody upon a charge of having contravened any of the provisions of these Regulations, shall not be admitted to bail by any Judge of a Parish Court or by any Justice of the Peace, if the Judge of a Parish Court or Justice of the Peace is satisfied that there is reasonable cause for believing that such person, if released upon bail, would be likely to commit a similar offence or any other offence against these Regulations.

Compensa-
tion.

44.—(1) Where, pursuant to these Regulations—

- (a) possession of any land has been taken on behalf of the Government;
- (b) any property other than land has been requisitioned or acquired on behalf of the Government; or
- (c) any work has been done on any land on behalf of the Government otherwise than by way of measures taken to avoid the spreading of the consequences of damage not caused by Government during the emergency period,

Schedule.

then, subject to the provisions of the Schedule, compensation assessed in accordance with those provisions shall be paid out of monies provided by Parliament, in respect of the taking of the land, the requisition or acquisition of the property, or the doing of the work, as the case may be.

(2) For the purposes of this regulation, a requirement that any space or accommodation in a ship or aircraft be placed at the disposal of any authority shall be deemed to be a requisition of property.

(3) Any dispute as to whether any compensation is payable under these Regulations or as to the amount of any compensation so payable shall, in default of agreement, be referred to and determined by the Supreme Court.

Protection of
the Security
Forces.

45.—(1) Subject to paragraph (2), no action, suit, prosecution or other proceeding shall be brought or instituted against any member of the security forces, in respect of any act done in good faith, during the emergency period in the exercise or purported exercise of his functions or for the public safety or restoration of order or the preservation of the peace in any place or places within the Island, or otherwise in the public interest.

(2) Paragraph (1) shall not prevent institution or prosecution of proceedings—

(a) for compensation pursuant to regulation 44;

(b) in respect of any rights for alleged breaches of contract,

if the proceedings are instituted within one year from the date when the cause of action arose.

(3) For the purposes of this regulation, a certificate by the Minister that any act of a member of the security forces was done in the exercise or purported exercise of his functions or for the public safety or for the restoration of order or the preservation of the peace or otherwise in the public interest shall be sufficient evidence that such member was so acting and any such act shall be deemed to have been done in good faith unless the contrary is proved.

(4) In this regulation and regulations 30, 34 and 44—

“the emergency period” means the period of public emergency (which commenced with the Proclamation of the Governor-General published in the Jamaica Gazette Supplement Proclamation, Rules and Regulations on the 7th day of July, 2019).

(5) In this regulation—

“member of the security forces” means any authorized person or senior authorized person and any other person acting under the authority of the authorized person or senior authorized person.

(6) For the avoidance of doubt, the powers of the Minister under paragraph (3) may be exercised notwithstanding the expiration of these Regulations.

SCHEDULE

(Regulation 44)

ARTICLE I.

Compensation in Respect of taking Possession of Land

1. The compensation payable under these Regulations in respect of the taking possession of any land shall be the aggregate of the following sums, that is to say—

- (a) a sum equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the land, during the period for which possession of the land is retained in the exercise of emergency powers, under a lease granted immediately before the beginning of the period, whereby the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent; and
- (b) a sum equal to the cost of making good any damage to the land which may have occurred during the period for which possession thereof is so retained (except in so far as the damage had been made good during that period by a person acting on behalf of the Government), no account being taken of fair wear and tear; and
- (c) in a case where the land is agricultural land, a sum equal to the amount (if any) which might reasonably have been expected to be payable in addition to rent by an incoming tenant, in respect of things previously done for the purpose of the cultivation of the land, and in respect of seeds, tillages, growing crops and other similar matters, under a lease of the land granted immediately before possession thereof was taken in the exercise of emergency powers; and
- (d) a sum equal to the amount of any expenses reasonably incurred otherwise than on behalf of the Government, for the purpose of compliance with any directions given on behalf of the Government in connection with the taking possession of the land:

Provided that—

- (i) in computing for the purposes of sub-paragraph (a) the rent which might reasonably be expected to be payable in respect of any land, and in computing for the purposes of sub-paragraph (c) any amount which might reasonably have been expected to be payable in addition to rent by an incoming tenant, no account shall be taken of any appreciation of values due to the emergency; and
- (ii) there shall not, by virtue of sub-paragraph (b) be payable in respect of damage to any land a sum greater than the value

SCHEDULE, *contd.*

of the land at the time when possession thereof was taken in the exercise of emergency powers, no account being taken of any appreciation in the value thereof due to the emergency.

2. Any compensation under paragraph 1(a) shall be considered as accruing due from day to day during the period for which the possession of the land is taken in the exercise of emergency powers, and be apportionable in respect of time accordingly, and shall be paid to the person who for the time being would be entitled to occupy the land but for the fact that possession thereof is retained in the exercise of such powers; but this paragraph shall not operate so as to require the making of payments at intervals of less than three months. For the purposes of the enactments relating to income tax and the enactments relating to land tax, any compensation under paragraph 1(a) shall be deemed to be rent payable for the land, the Government shall be deemed to pay it as tenant occupier, and the person receiving it shall be deemed to receive it as landlord.

3. Any compensation under paragraph 1(b) shall accrue due at the end of the period for which possession of the land is retained in the exercise of emergency powers, and shall be paid to the person who is then the owner of the land.

4. Any compensation under paragraph 1(c) shall accrue due at the time when possession of the land is taken in the exercise of emergency powers, and shall be paid to the person who immediately before that time was the occupier of the land.

5. Any compensation under paragraph 1(d) shall accrue due at the time when expenses in respect of which the compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf these expenses were incurred.

ARTICLE 2.

Compensation in respect of the doing of work on land

1. Compensation under these Regulations in respect of the doing of any work on any land shall be payable only if the annual value of the land is diminished by reason of the doing of the work.

2.—(1) The compensation payable under this article in respect of the doing of any work on any land shall, in the first instance, be a sum calculated by reference to the diminution of the annual value of the land ascribable to the doing of the work, and shall be paid in instalments, quarterly in arrears, to the person who for the time being is entitled to occupy the land.

(2) Any compensation under this paragraph shall be considered as accruing due from day to day, and shall be apportionable in respect of time accordingly.

3. If, at any time after compensation under the preceding paragraph has become payable by reason of the doing of any work on any land, a person acting on behalf of the Government—

- (a) causes the land to be restored, so far as practicable, to the condition in which it would be but for the doing of the work; or

SCHEDULE, *contd.*

- (b) serves on the person for the time being entitled to occupy the land a written notice of intention to discharge the liability for the compensation by making, not earlier than a date specified in the notice, payment of a lump sum in accordance with the following provisions of this article,

the period in respect of which compensation is payable under the preceding paragraph by reason of the doing of the work shall end with the date immediately preceding the date on which the restoration is completed or, as the case may be the date specified in the notice.

4. Where, by virtue of the operation of the last preceding paragraph in relation to any work done on any land, the period in respect of which compensation under paragraph 1 of this article is payable by reason of the doing of the work comes to an end, then if, at the expiration of that period, the value of any estate or interest which a person then has in the land is less than it would be but for the doing of the work, there shall be paid to him by way of compensation under these Regulations, a sum equal to the amount of the said depreciation in the value of the estate or interest; and that compensation shall be taken to accrue due at the expiration of the said period.

5. As soon as may be after effecting any restoration or serving any notice in pursuance of paragraph 3 of this article, the person by whom the restoration was effected or the notice served, shall cause the fact of the restoration or the contents of the notice, as the case may be, to be published in such manner as he thinks best, adapted for informing persons affected.

6. In determining for the purposes of this article whether the annual value of any land is diminished by reason of the doing of any work thereon, and in assessing any compensation under this article in respect of the doing of any work on any land, it shall be assumed that the land cannot be restored to the condition in which it would be, but for the doing of the work.

7. For the purposes of this article, no account shall be taken of any diminution or depreciation in value ascribable only to loss of pleasure or amenity.

8. No compensation under this article shall, in relation to any land, be payable in respect of any period for which possession of that land is taken on behalf of the Government in the exercise of emergency powers.

9. In this Article—

- (a) “annual value” means, in relation to any land, the rent at which the land might reasonably be expected to be let from year to year, if the tenant undertook to pay all usual tenant’s rates and taxes and to bear the costs of the repairs and insurance and other expenses, if any, necessary to maintain the land in a state to command that rent; and
- (b) “diminution of the annual value” means, in relation to the doing of any work on any land, the amount by which the annual value of the land is less than it would be if the work had not been done.

SCHEDULE, *contd.*

ARTICLE 3

Compensation in respect of Requisition or Acquisition of Vessels, Vehicles, Aircraft and Special Equipment

1. The compensation payable under these Regulations in respect of the requisition of any vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery shall be the aggregate of the following sums, that is to say—

- (a) a sum equal to the amount which might reasonably be expected to be payable by a person for the use of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery during the period of the requisition, under a charter or contract of hiring whereby he undertook to bear the cost of insuring, maintaining and running the vessel, vehicle or aircraft excavator, crane or agricultural implement or agricultural, mining or quarrying machinery; and
- (b) if an agreement is made on behalf of the Government for the running of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery during the said period by the person who, but for the requisition, would be entitled to possession of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery, or who is owner thereof, a sum equal to the amount of any or who is the owner thereof, a sum equal to the amount of any expenses reasonably incurred by that person in connection with maintenance and running of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery during that period, not being expenses taken into account for the purposes of sub-paragraph (a); and
- (c) a sum equal to the cost of making good any damage to the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery not resulting in a total loss thereof, which may have occurred during the said period (except in so far as the damage has been made good during that period by a person acting on behalf of the Government), no account being taken of fair wear and tear; and
- (d) in a case where, during the period of the requisition, a total loss of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery occurs, a sum equal to the value of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery immediately before the occurrence of the damage which caused the loss; and
- (e) a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of the Government, for the purpose of

SCHEDULE, *contd.*

compliance with any directions given on behalf of the Government in connection with the requisition:

Provided that—

- (i) in computing for the purposes of sub-paragraph (a) the amount which might reasonably be expected to be payable for the use of any vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery, no account shall be taken of any appreciation in the value thereof due to the emergency; and
- (ii) no compensation shall by virtue of this paragraph be payable in respect of any loss of, or damage to, any vehicle or aircraft arising in consequence of the emergency, unless it is shown that, at the time when the loss or damage occurred, the risk of the vehicle or aircraft being lost or damaged in consequence of the emergency was materially increased by reason of the requisition thereof in the exercise of emergency power; and
- (iii) no compensation shall by virtue of sub-paragraph (a) of this paragraph be payable in respect of any damage, if compensation in respect of expenses incurred for the purpose of making good that damage has accrued due by virtue of sub-paragraph (b) of this paragraph.

2. Any compensation under paragraph 1(a) shall be considered as accruing due from day to day during the period for which the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery is requisitioned in the exercise of emergency powers, and be apportioned in respect of time accordingly, and shall be paid to the person who, at the time when the compensation accrues due, is the owner of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery; but this paragraph shall not operate so as to require the making of payments at intervals of less than one month.

3. Where, on the day on which any compensation accrues due by virtue of paragraph 1(a), a person other than the owner of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery is by virtue of a subsisting charter or contract of hiring the person who would be entitled to possession of, or to use, the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery but for the requisition, the person to whom the compensation is paid shall be deemed to receive it as a trustee for the first mentioned person.

SCHEDULE, *contd.*

4. Any compensation under sub-paragraph 1(b) or (e) shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred; but this paragraph shall not operate so as to require the making of payment at intervals of less than one month.

5. Any compensation under paragraph 1(c) or (d) shall accrue due at the end of the period of requisition, and shall, subject to the following provisions of these Articles, be paid to the person who is then the owner of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery.

6. For the purposes of paragraph 1 of this article, the expression "total loss" shall have the same meaning as it has for the purposes of the law relating to insurance, and accordingly shall be construed as including constructive total loss; and upon the payment to any person of compensation which has become payable by virtue of paragraph 1(d) in respect of any loss, the Government shall have the same right to take over an interest in whatever remains of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery, and the same rights and remedies in and in respect of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery as it would have if the payment had been made by the Government as the insurer under a contract insuring that person against the loss.

7. The compensation payable under these Regulations in respect of the acquisition of any vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery shall be a sum equal to the value of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery immediately before the acquisition, no account being taken of any appreciation due to the emergency, and shall, subject to the following provisions of these Regulations, be paid to the person who is then the owner of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery.

For the purpose of assessing any compensation under this paragraph in respect of the acquisition of any vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery, no account shall be taken of any compensation under paragraph (1)(a) or (c) which may have become payable in respect of the requisition of that vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery.

8. Where, at any time during the period for which a vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery is requisitioned on behalf of the Government in the exercise of emergency powers—

- (a) a written notice stating that the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery is to be treated as acquired on behalf of the Government is served on the owner thereof by a person acting on behalf of the Government; or

SCHEDULE, *contd.*

- (b) the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery is sold on behalf of the Government,

then, for the purpose of this article, the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery shall be deemed to have been acquired on behalf of the Government in the exercise of emergency powers on the date specified in that behalf in the written notice aforesaid or, if no date is so specified, on the date on which the written notice is so served or, in the case of a sale on behalf of the Government, immediately before the day on which the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery was so sold, and the period of requisition shall be deemed to have ended at the time when the acquisition of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery as aforesaid is deemed by virtue of this paragraph to have been effected.

9. Where there is effected such a sale of any vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery as is referred to in paragraph (8)(b), the person by whom the sale was effected shall, as soon as may be thereafter, serve a written notice of the sale on the person who for the time being would be the owner of the vessel, vehicle or aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery but for the sale thereof as aforesaid.

ARTICLE 4

*Compensation in Respect of Taking Space or Accommodation
in Ships and Aircraft*

1. The compensation payable under these Regulations in respect of any requirement that any space or accommodation in a ship or an aircraft be placed at the disposal of any authority shall be the aggregate of the following sums, that is to say—

- (a) a sum equal to the amount which might reasonably be expected to be payable for the use of that space or accommodation during the period for which it is at the disposal of the authority by virtue of that requirement, no account being taken of any appreciation of values due to the emergency; and
- (b) a sum equal to the amount of any expenses reasonably incurred otherwise than on behalf of the Government, for the purpose of compliance with any directions given on behalf of the Government in connection with the said requirement.

2. Any compensation under paragraph (1)(a) shall be considered as accruing due from day to day during the period for which the space or accommodation remains at the disposal of the authority at whose disposal it was required to be placed, and be

SCHEDULE, *contd.*

apportionable in respect of time accordingly, and shall be paid to the person who, at the time when the compensation accrues due, is the owner of the ship or aircraft; but this paragraph shall not operate so as to require the making of any payment before the end of the said period.

3. Where, on the day on which any compensation accrues due by virtue of paragraph 1(a), a person other than the owner of the ship or aircraft is, by virtue of a subsisting charter or contract of hiring, entitled to possession of, or to use of, the ship or aircraft or is, by virtue of a subsisting contract, the person who would be entitled to use the space or accommodation but for the requirement in respect of which the compensation is payable, the person to whom the compensation is paid shall be deemed to receive it as a trustee for the first mentioned person.

4. Any compensation under paragraph 1(b) shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf those expenses were incurred.

ARTICLE 5

*Compensation in Respect of Requisition or Acquisition of
Goods other than Vessels, Vehicles, Aircraft and
Specified Equipment*

1. Subject to the provisions of paragraph 2, the compensation payable under these Regulations in respect of the requisition or acquisition of any goods shall be a sum equal to the price which the person who, immediately before the requisition or acquisition, was the owner of the goods, might reasonably have been expected to obtain upon a sale of the goods then effected by him, regard being had to the condition of the goods at the time and no account taken of any appreciation in the value of the goods due to the emergency.

2. Any compensation under paragraph 1 shall not—

- (a) in a case where the owner of the goods, immediately before the requisition or acquisition, was a person who had produced the goods with a view to the sale thereof, exceed the aggregate of—
 - (i) the cost reasonably incurred by that person in producing the goods; and
 - (ii) the profit which he might reasonably have been expected to make on a sale of the goods reflected by him immediately before the requisition or acquisition;
- (b) in a case where the owner of the goods, immediately before the requisition or acquisition, was some person other than the producer of the goods,

SCHEDULE, contd.

and the goods had been bought by that person with a view to the sale thereof, exceed the aggregate of—

- (i) the price which it was reasonable for him to pay for the goods when they were so bought by him; and
- (ii) the profit which he might reasonably have been expected to make on a sale of the goods effected by him immediately before the requisition or acquisition;

and, in assessing such compensation in any other case, no account shall be taken of any profit which might be expected to be made on a sale of the goods:

Provided that if, at the time when any goods are requisitioned or acquired on behalf of the Government in the exercise of emergency powers, the price or maximum price at which such goods may be sold is fixed by law, this paragraph shall not be taken to authorize the assessment, by way of compensation under the preceding paragraph in respect of the requisition or acquisition, of a sum exceeding that price or maximum price, as the case may be.

3. In paragraph 2, the reference to a person who had produced the goods with a view to the sale thereof, and the reference to the producer of the goods, shall be construed as including a reference to his personal representative or any person carrying on business in succession to him by virtue of any assignment or transmission by operation of law.

4. The compensation payable under these Regulations in respect of the requisition or acquisition of any goods shall include a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of the Government, for the purpose of compliance with any directions given on behalf of the Government in connection with the requisition or acquisition.

5. Any compensation under paragraph 1 shall accrue due at the time of the requisition or acquisition of the goods, and shall, subject to the following provisions of these Regulations, be paid to the person who is then the owner of the goods.

6. Any compensation under paragraph 4 shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred and shall be paid to the person by whom or on whose behalf those expenses were incurred.

ARTICLE 6

Limitation of Time for Claiming Compensation

No claim for any compensation under these Regulations shall be entertained unless notice of the claim has been given to the Attorney-General within the period of six months, or such longer period as the Minister may, either generally or in relation to any particular claim or class of claim, allow, beginning in either case with the date on which the compensation accrues due or the date of commencement of these Regulations, whichever is the later.

SCHEDULE, *contd.*

ARTICLE 7

Exclusion of Compensation in Certain Cases

No compensation shall, by virtue of these Regulations, be payable to any person in respect of any loss of, or damage to, property, if and so far as that person has become entitled, apart from the provisions of these Regulations, to recover any sum by way of damages or indemnity in respect of that loss or damage or is, at the time of the occurrence of the loss or damage, required under any contract with the Government to be insured in respect thereof.

ARTICLE 8

Provisions as to Property Subject to Hire Purchase Agreements

In a case where any property in respect of the requisition or acquisition of which compensation is required by these Regulations to be paid to the person who is the owner of the property immediately before the requisition or acquisition, is then in the possession of some other person by virtue of hire purchase agreement, that person may, by a notice given to the Attorney-General within the period limited by these Regulations, in relation to the making of any claim by the owner for payment of the compensation, make a claim to have apportioned to him such part of the compensation as may be specified in his claim; and in default of agreement between the parties, the last mentioned claim shall be referred to the Supreme Court, and thereupon that Court may apportion the compensation between the owner and the other person in such manner as appears to it to be just.

ARTICLE 9

Provisions as to Property Subject to Mortgages, Pledges, etc.

Where any sum by way of compensation is paid in accordance with any provisions of these Regulations requiring compensation to be paid to the owner of any property, then, if at the time when the compensation accrues due, the property is subject to any mortgage, pledge, lien or other similar obligation, the sum so paid shall be deemed to be comprised in that mortgage, pledge, lien or other obligation.

ARTICLE 10

Compensation Payable Apart from these Regulations

The provision of these Regulations shall be without prejudice to any agreement for the making of any payment (whether by way of compensation or otherwise) in respect of doing of anything on behalf of the Government in the exercise of emergency powers; but, where compensation in respect of doing of anything as aforesaid, would, apart from this article, be payable both under these Regulations and under some other enactment or rule of law, then, subject to any such agreement as aforesaid, the compensation shall be payable in accordance with these Regulations and not otherwise.

SCHEDULE, *contd.*

ARTICLE 11

Interpretation of this Schedule

In this Schedule the following expressions have the meanings hereby respectively assigned to them—

“agricultural land” means any land used as arable, meadow or pasture land, land used for a plantation or wood or for the growth of saleable underwood, or land used for the purpose of poultry farming, market gardens, nursery grounds, orchards or allotments;

“aircraft” means any flying machine, glider or airship or any balloon (whether fixed or free);

“the emergency” means the emergency that was the occasion of the making of the Proclamation of Emergency issued the 7th day of July, 2019;

“emergency powers” means any power conferred by these Regulations;

“exercise” includes purported exercise;

“fair wear and tear”, in relation to any property possession of which is taken on behalf of the Government or which is requisitioned on behalf of the Government, means such fair wear and tear as might have been expected to occur but for the fact that possession of the property was so taken or that the property was so requisitioned, as the case may be;

“goods” means chattels other than vessels, vehicles and aircraft or excavator, crane or agricultural implement or agricultural, mining or quarrying machinery;

“hire purchase agreement” has the same meaning as in the *Hire Purchase Act*;

“land” includes (without prejudice to any of the provisions of section 3 of the *Interpretation Act*) land covered with water, and parts of houses or building;

“owner” means—

- (a) in relation to land, the person who is receiving the rack-rent of the land, whether on his own account or as agent or trustee for any other person, or who would so receive the rack-rent of the land if it were let at rack-rent: or
- (b) in relation to any property other than land, the person entitled to sell the property, it being assumed not to be subject to any mortgage, pledge, lien or other similar obligation;

“rack-rent” in relation to any property means a rent which is not less than two-thirds of the rent at which the property might reasonably be expected to let from year to year free from all usual tenants’ rates and taxes, and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the same in a state to command the rent.

Made at King’s House this 7th day of July, 2019.

PATRICK L. ALLEN
Governor-General.

