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THE EMERGENCY POWERS ACT

THE EMERGENCY POWERS (PARISH OF ST. CATHERINE)

REGULATIONS, 2022

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 (Parish of St. Catherine) Regulations, 2022.

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, each Assistant 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 assigned to it in section 2 of 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, or any electronic communication system (as defined in the Electronic Transactions Act); 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) 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, 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 maintaining 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. A person shall not, 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. A person shall not, 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. A person shall not, 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, the senior authorized person 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, the Governor-General 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 intimidation.

15. A person shall not 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. A person shall not 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. A person shall not 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. A person shall 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, the Governor-General 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—

- (i) in accordance with a warrant issued by a Justice of the Peace, any vehicle, land or premises in or on which the authorized person has reasonable cause to suspect is located any person suspected of having committed any offence against these Regulations; or
- (ii) without a warrant, any vehicle, land or premises in or on which the authorized person has reasonable cause to suspect is located any person suspected of being in the process of committing, or about to commit, any offence against these Regulations; and

(b) confiscate any 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 the authorized person 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 has 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—

- (a) where it is reasonably necessary to prevent the person from committing an offence; or
- (b) where there are reasonable grounds for suspecting that the person has committed, or is committing, an offence against these Regulations.

(2) Subject to paragraph (3), a person shall not be detained under—

- (a) paragraph (1)(a) for a period exceeding 7 days; or
- (b) paragraph (1)(b) 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)(b), he may direct that the person be detained for a further period, not exceeding the emergency period.

(4) Any person detained under paragraph (1) 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 paragraph (1)(b) 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 a Parish Court 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. An authorized person may—

- (a) stop, detain and search any person and may seize anything found on such person which the authorized person 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.

Assault, etc.

32. 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 regulation 31, commits an offence.

Detention Orders.

33.—(1) An authorized person may, 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, detain that person.

(2) Any person detained under paragraph (1) shall be detained in such place (whether within or outside of the community) as may be authorized by a police officer not below the rank of Senior Superintendent of Police and in accordance with such instructions as shall be issued by the police officer not below the rank of Senior Superintendent of Police.

(3) At any time after a person has been detained under paragraph (1), a Senior Superintendent of Police may release the person from detention, subject to any of the following conditions, as the Senior Superintendent of Police thinks fit, being conditions issued in written directions to that person—

- (a) imposing upon such person such restrictions as may be specified 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 Senior Superintendent of Police may in writing issued to the person revoke or vary any such direction whenever the Senior Superintendent of Police thinks fit.

(4) Every person who fails to comply with a condition attached to or restriction imposed by, a direction given under paragraph (3), whether or not the direction is revoked in consequence 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 police officer, not below the rank of Senior Superintendent of Police, 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 the premises 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
entertainment.

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.

Establishment
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

(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) Where a person is detained or that person's freedom of movement has been restricted by virtue only of these Regulations (including any person against whom an order is made under regulation 22 or who is detained under regulation 33), that person—

- (a) may make objection to the Tribunal aforesaid; and
- (b) in any event whether or not any objection is made under paragraph (a), the matter shall be reviewed by the Tribunal within seven days after the date of the detention, and thereafter at intervals of not more than six weeks after the previous review.

(10) Any meeting of the Tribunal held to consider any objection or to conduct any review under paragraph (9) 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 or review 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 or a detention under regulation 33; or
- (b) in any other case, the competent authority by whom such detention or restriction was authorized,

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 or a detention under regulation 33 the competent authority, 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.

(15) The provisions of this regulation for the consideration of objections and review of detentions shall be construed as satisfying the requirements of section 22 of the Bail Act, notwithstanding anything specifically contained in that section.

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 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.

Compensation.

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,

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 the 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 and 34—

“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 17th day of June, 2022).

(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.