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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

CF 1/64.

THE PUBLIC SECURITY ORDINANCE (CHAPTER 40)

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

MAHINDA RAJAPAKSA,
President.

Colombo,
May 02, 2010.

Regulation

The Emergency (Miscellaneous Provisions and Powers) Regulations, No. 1 of 2005 published in *Gazette Extraordinary* No. 1405/14 of August 13, 2005 as amended from time to time and deemed to be in force by virtue of the provisions of Section 2A of the Public Security Ordinance, are hereby amended as follows :-

- (1) by the repeal of regulation 8 of those regulations ;
- (2) by the repeal of regulations 12, 13, 14, 15 and 16, of those regulations ;
- (3) In regulation 18 of those regulations ,—
 - (a) by the repeal of sub-paragraph (b) thereof, and the substitution therefore of the following sub-paragraph :-

“(b) from acting in any manner contrary to the provisions of sub-paragraph (a) or (b) of paragraph (2) of regulation 40 or paragraph (3) of regulation 71 of these regulations. ” ;

(b) by the insertion immediately after paragraph (1) of those regulations of the following new paragraph :-

“(1A) Every Order made under paragraph (1) shall be in operation for a period not exceeding three months.” ;

(4) in paragraph (1) of regulation 19 of those regulations, as follows :-

(a) by the repeal of sub-paragraph (b) thereof, and the substitution therefor of the following sub-paragraph :-

“(b) from acting in any manner contrary to the provisions of the Prevention of Terrorism Act, No. 48 of 1979.” ;

(b) by the substitution of the words “for a period exceeding one year” appearing in the proviso to that regulation, of the words “for a period exceeding three months.” ;

(c) by the substitution for the proviso to paragraph (1A) thereof, of the following :-

“Provided that where any person has been detained under the provisions of paragraph (1) such detention shall be notified to a Magistrate within seventy two hours from the time of such detention, and the suspect shall be produced before a Magistrate not later than one month from the date of such detention.” ;

(d) by the substitution for the second proviso to paragraph (1A) thereof, of the following :-

“Provided further that the Magistrate shall not release any person on bail unless the prior written sanction of the Attorney-General has been obtained.” ;

^:

(e) by the repeal of paragraph (1C) thereof ; and

(f) by the repeal of paragraph (4), (5), (6), (7), (8) and (9) thereof ;

(5) in paragraph (1) of regulation 20 of those regulations, by the substitution for the words “the commission of the offence.” of the words “the commission of the offence :

Provided that where it becomes necessary to search a residence, it shall be done in the presence of an officer not below the rank of a Sub-Inspector of Police.” ;

(6) by the repeal of regulation 21 of those regulations (inserted by Regulation published in *Gazette Extraordinary* No. 1561/11 of August 13, 2008) and the substitution therefor, of the following :-

“special
Provisions
regarding persons
arrested and
detained under
regulation 19.

21. The provisions of Section 36, 37 and 38 of the Code of Criminal Procedure Act, No. 15 of 1979 shall not apply in relation to persons arrested under regulation 19 :

Provided that, where any person had been arrested and detained under the provisions of regulation 19 of these regulations, such person shall be produced before a Magistrate within a reasonable time, having regard to the circumstances of each case and in any case not later than thirty days after such arrest :

Provided further, the Magistrate shall not release any person on bail unless the prior written sanction of the Attorney-General has been obtained :

Provided that, the production of any person in conformity with the provisions of this regulation shall not affect the detention of such person under paragraph (2).

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

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

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

Shall apply to such person as though he was a civil prisoner within the meaning of that Ordinance

:

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

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

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

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

(4) In this regulation “Inspector-General of Police” shall include any Deputy Inspector-General of Police or any Superintendent of Police or any Assistant Superintendent of Police.” ;

(7) by the repeal of regulation 23 of those regulations ;

(8) by the repeal of regulations 25, 26 and 27, of those regulations ;

(9) by the repeal of regulations 28, 29, 30, 31, 32 and 33 of those regulations ;

(10) by the repeal of regulation 34 of those regulations and the substitution therefore of the following regulation :-

34. (1) Whoever, collects, transports or causes the transportation of, or has unauthorized possession of arms, ammunition, explosives or offensive weapons and other dangerous articles or substances or who prepares, trains or prepares to train any person in the manufacture or use of such arms, ammunition, explosives, offensive weapons or dangerous articles or substances shall be guilty of an offence and shall upon conviction be liable to rigorous imprisonment for a term not exceeding fifteen years.

Collection of
arms, offensive
weapons and guns
& c.,.

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

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

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

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

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

(4) any property forfeited to the State under paragraph (3) shall—

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

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

In this paragraph “relevant conviction” means the conviction in consequence of which, any property is forfeited to the State under paragraph (3).

(5) The provisions of Section 303 and 306 of the Code of Criminal Procedure Act, No. 15 of 1979 shall not apply in relation to any conviction under this section.

(6) In this regulation —

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

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

(11) by the repeal of regulations 35 and 36 of those regulations ;

(12) by the repeal of regulations 37, 38 and 39, of those regulations ;

(13) by the repeal of regulation 41 of those regulations ;

(14) by the repeal of regulations 46, 47, 48 and 49 of those regulations ;

(15) by the repeal of regulations 54, 55, 56, 57 and 58 of those regulations ;

(16) by the repeal of regulations 63, 64 and 65 of those regulations ;

(17) by the repeal of regulation 67 of those regulations ;

(18) by the repeal of regulation 70 of those regulations ;

(19) in regulation 71 of those regulations, by the repeal of paragraph (b) thereof and the substitution thereof of the following paragraph :-

“(b) for any of the purposes referred to in sub-paragraph (b) of paragraph (2) of regulation 40 and the provisions of the Prevention of Terrorism Act, No. 48 of 1979.” ;

(20) Nothing contained in the provisions of these Regulations, shall be construed as affecting the arrest, detention or conviction of any person in pursuance of the provisions of the Emergency (Miscellaneous Regulation) No. 1 of 2005 published in *Gazette Extraordinary* No. 1405/14 of August 13, 2005 as amended from time to time, or the vesting or confiscation of property in pursuance of the aforesaid regulation, or any order made in pursuance of the provisions of the aforesaid regulation, or any thing done for the purpose of giving effect to the provisions of the aforesaid regulation.

(21) For the avoidance of doubt, it is hereby stated that nothing contained in this regulation shall affect any restriction order made under regulation 18 or detention order made under regulation 19 prior to the coming into force of this regulation, and that the provisions of Regulation No. 1 of 2005 published in *Gazette Extraordinary* No. 1405/14 of August 13, 2005 shall continue to be in force in respect of such persons, notwithstanding the amendments made herein to such regulation.