

CHAPTER 11:04

EMERGENCY POWERS ACT

Acts 48/1960, 24/1962 (s. 2), 14/1966, 22/1967, 2/1968,4/1968, 25/1969, 2/1986; R.G.Ns. 498/1962, 217/1970, 698/1970; S.I. 542/1979.

AN ACT to make exceptional provision for the protection of the community in cases where a declaration in terms of subsection (1), or a resolution in terms of subsection (6), of section 31J of the Constitution is in force; and to provide for matters incidental thereto or connected therewith.

[Date of commencement: 2nd December, 1960.]

1 Short title

This Act may be cited as the Emergency Powers Act [*Chapter 11:04*].

2 Interpretation

In this Act—

“essential service” includes—

- (a) any hospital service;
- (b) any transport service;
- (c) any service relating to the generation, supply or distribution of electricity;
- (d) any service relating to the supply and distribution of water;
- (e) any sewerage or sanitary service;
- (f) any service relating to the production, supply, delivery or distribution of food, fuel or coal;
- (g) any fire brigade;
- (h) coal mining;
- (i) communications;

and any other service declared by the President, by statutory instrument, to be an essential service for the purposes of this Act;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act.

3 President may make emergency regulations

(1) Where a declaration in terms of subsection (1) of section 31J of the Constitution has been made and so long as that declaration is in force, it shall be lawful for the President to make such regulations as appear to him to be necessary or expedient for all or any of the following—

- (a) the public safety;
- (b) the maintenance of public order;
- (c) the maintenance of any essential service;
- (d) the preservation of the peace;
- (e) making adequate provision for dealing with any circumstances which—
 - (i) have arisen or, in his opinion, are likely to arise, whether such circumstances relate to the maintenance of any essential or other service or otherwise; and
 - (ii) in his opinion, will interfere with the peace, order and good government;
- (f) making adequate provision for terminating the state of emergency;

in Zimbabwe or any part of Zimbabwe, as the case may be.

(2) Regulations made in terms of subsection (1) may make provision for—

- (a) the summary arrest, detention or restriction of the movement of any person whose arrest, detention or restriction of movement, as the case may be, appears to the Minister to be expedient in the public interest;
- (b) the deportation and exclusion from Zimbabwe of any person who is not a citizen of Zimbabwe;
- (c) the removal from one part of Zimbabwe to some other part of Zimbabwe of any person whose removal appears to the Minister to be expedient in the public interest;
- (d) the regulation and control of persons employed or engaged in any trade, business, occupation, profession, calling or industry in Zimbabwe;
- (e) the taking of possession or control on behalf of the State of any property or undertaking;
- (f) the regulation and control of companies registered in or persons carrying on business in Zimbabwe, including the suspension or discharge of persons employed by any such company or other person or, in the case of a company or association, concerned with the management thereof;
- (g) the acquisition on behalf of the State of any property other than land;
- (h) the entering and search of any premises;

- (i) the assistance to be afforded to persons affected by a natural disaster;
 - (j) the payment of compensation and remuneration to persons affected by any regulations or order made in terms of this section;
 - (k) the arrest of any person contravening or offending against any regulations or order made in terms of this section;
 - (l) the penalties to be imposed for any contravention of or failure to comply with any regulations or order made in terms of this section.
- (3) Regulations made in terms of subsection (1) may—
- (a) be published in the same *Gazette* as the declaration in terms of subsection (1) of section 31J of the Constitution;
 - (b) provide for empowering such authorities or persons as may be specified in the regulations to make orders for any of the purposes for which such regulations are authorized by this section to be made and may contain such incidental and supplementary provisions as appear to the President to be necessary or expedient for the purposes of the regulations.
- (4) It is declared that, notwithstanding anything contained in any law—
- (a) section 21 of the Interpretation Act [*Chapter 1:01*] shall apply in relation to this section;
 - (b) notwithstanding the enumeration of the specific powers in subsection (2), the President may make such regulations in terms of subsection (1) as appear to him to be necessary or expedient, whether or not such regulations relate to any of the matters specified in subsection (2) and whether or not such regulations are inconsistent with subsection (2).

(5) Regulations made in terms of subsection (1) may provide for the continuation in force thereunder of any notice, order, direction, permit, licence or other thing whatsoever, including, for the removal of doubt, the detention or restriction of movement of any person, which was issued, authorized, done or continued in force under regulations in force immediately before the publication of those regulations.

(6) Every regulation made in terms of subsection (1) by the President shall be laid before Parliament as soon as may be after it is made.

(7) If Parliament, within the next twenty-eight days on which it has sat after any regulation made in terms of subsection (1) is laid before it, resolves that the regulation be annulled, the regulation shall thereupon cease to have effect except in regard to things previously done or omitted to be done, without prejudice, however, to the making of another regulation.

4 Effect of other laws

(1) Any regulation made in terms of subsection (1) of section *three* shall have effect, notwithstanding anything inconsistent therewith in any law.

(2) So far as appears to the President to be necessary for the purposes of the regulations, regulations may provide for amending any law, for suspending the operation of any law, and for applying any law, with or without modification.

5 Revival of laws

Where any law has been amended, suspended or modified by a regulation made in terms of subsection (1) of section *three*, then, notwithstanding section 17 of the Interpretation Act [*Chapter 1:01*], such law shall, with effect from the expiry or repeal of such regulation, have effect as if such amendment, suspension or modification had never been made.

6 President may make regulations for preventive detention

(1) Where a resolution in terms of subsection (6) of section 31J of the Constitution has been passed and so long as that resolution is in effect it shall be lawful for the President to make such regulations as appear to him to be necessary or expedient for—

- (a) the preventive detention of any person in the interests of defence, public safety or public order;
- (b) empowering any Minister designated in the regulations to issue orders for the preventive detention of any person;
- (c) empowering any police officer or other person in the employment of the State to arrest and detain any person for a period not exceeding fourteen days, pending the issue of an order referred to in paragraph (b);
- (d) the procedure for the review of cases of detained persons by a tribunal established in accordance with paragraph 2 of Schedule 2 to the Constitution to review such cases;
- (e) the treatment and discipline of detained persons and the places where they may be detained;
- (f) the penalties that may be imposed for any contravention of the regulations.

(2) Subsections (3), (4), (5), (6) and (7) of section *three* and sections *four* and *five* shall apply, *mutatis mutandis*, in relation to regulations made in terms of subsection (1).

7 Continuation of regulations in certain circumstances

(1) When a resolution passed in terms of subsection (6) of section 31J of the Constitution becomes or is effective upon the expiry or revocation of a declaration in terms of subsection (1) of that section, any regulations that were made in terms of section *three* and were in force immediately before the revocation or expiry of the declaration shall, to the extent that they relate to the matters referred to in subsection (1) of section *six*, continue in force as if they had been made while a resolution in terms of subsection (6) of section 31J of the Constitution was in effect.

(2) Whenever a declaration in terms of subsection (1) of section 31J of the Constitution becomes or is effective upon the expiry or revocation of a resolution passed in terms of subsection (6) of that section, any regulations that were made in terms of section *six* and were in force immediately before the expiry or revocation of the resolution shall continue in force as if they had been made whilst a declaration in terms of subsection (1) of section 31J of the Constitution was in effect.