

CHAPTER XXIII

PUBLIC SECURITY

Public Security.

219. (1) The Public Security Ordinance in force at the commencement of the Constitution shall be deemed to be a law enacted by Parliament.

(2) The power to make emergency regulations under the Public Security Ordinance or the law for the time being in force relating to public security, shall include the power to make regulations –

(a) on any matter in List I of the Second Schedule ; and

(b) to the extent strictly required in the interests of public security and the preservation of public order or for the maintenance of supplies and services essential to the life of the community, on any matter in List II of the Second Schedule,

having the legal effect of over-riding, amending or suspending the operation, of the provisions of any written law except the provisions of the Constitution.

(3) Subject to the provisions of this Chapter, the provisions of any law relating to public security empowering the President to make emergency regulations shall not come into operation, except upon the making of a Proclamation under such law, bringing such provisions into operation.

(4) The provisions of paragraphs (1), (2), (3), (4), (5) and (6) of Article 222 shall, *mutatis mutandis*, apply to a Proclamation referred to in paragraph (3) of this Article.

State of emergency within a Region.

220. (1) Where the President, upon being advised by the Prime Minister, is of opinion that the security or public order in a Region is threatened by armed insurrection, grave internal disturbances or by any act or omission of the Regional Administration which presents a clear and present danger to the unity and sovereignty of the Republic, the President may make a Proclamation bringing the provisions of the law relating to public security into force in the Region.

(2) Upon the making of a Proclamation pursuant to paragraph (1) of this Article, the President may-

(a) by order deploy in aid of the civil power, the armed forces or any unit of the National Police Service for the purpose of restoring public order; and

- (b) make regulations having the legal effect of over-riding, amending or suspending the operation of any written law, except the provisions of the Constitution, relating to any matter in List I of the Second Schedule or any matter provided for in Chapter XXII.

(3) Every Proclamation made pursuant to paragraph (1) of this Article shall be revoked, as soon as the President is satisfied that public order has been restored in the Region.

221. (1) (a) Where the Governor of a Region, upon being advised by the Chief Minister of the Region is of opinion that a situation has arisen in the Region or part thereof wherein the preservation of public order or the maintenance of supplies and services essential to the life of the community is threatened, the Governor may request the President to make a Proclamation bringing the provisions of the law for the time being in force relating to public security into force in the Region or part thereof.

Proclamation of emergency on the request of the Governor.

(b) Where the President makes a Proclamation pursuant to sub-paragraph (a) of this paragraph, it shall be lawful-

(i) for the Central Government, its representatives or agencies, to exercise authority in respect of any subject or function contained in List II of the Second Schedule as may be specified by the Governor acting on the advice of the Chief Minister of the Region;

(ii) for the President to make regulations under the law for the time being in force relating to public security having the legal effect of over-riding, amending or suspending the operation of the provisions of any written law, except the provisions of the Constitution, relating to any matter as may be specified by the Governor acting on the advice of the Chief Minister of the Region, in List II of the Second Schedule.

(2) The regulations under sub-paragraph (b) (ii) of paragraph (1) of this Article, shall as far as is practicable be made in consultation with the Governor acting on the advice of the Chief Minister of the Region and the Regional Advocate-General of the relevant Region.

Communication
of Proclamation
to Parliament and
Regional
Councils.

222. (1) Upon the making of a Proclamation pursuant to Articles 220 and 221, the occasion thereof shall, subject to the other provisions of this Article, be forthwith communicated to Parliament and, accordingly -

- (a) if such Proclamation is issued after the dissolution of Parliament such Proclamation shall operate as a summoning of Parliament to meet on the tenth day after such Proclamation, unless the Proclamation appoints an earlier date for the meeting which shall not be less than three days from the date of the Proclamation and the Parliament so summoned shall be kept in session until the expiration or revocation of such or any further Proclamation or until the conclusion of the General Election, whichever event occurs earlier, and shall thereupon stand dissolved;
- (b) if Parliament is at the date of the making of such Proclamation separated by any such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days.

(2) Where the provisions of the law relating to public security have been brought into operation in a Region by the making of a Proclamation under such law, such Proclamation shall, subject to the succeeding provisions of this Article, be in operation for a period of one month from the date of the making thereof, but without prejudice to the earlier revocation of such Proclamation or to the making of a further Proclamation at or before the end of that period.

(3) (a) A Proclamation made pursuant to Articles 220 and 221 shall, subject to sub-paragraph (b) of this paragraph, expire after a period of fourteen days from the date on which such Proclamation has been made, unless such Proclamation is approved by a resolution of Parliament.

(b) Where Parliament -

- (i) stands dissolved at the date of the making of such Proclamation ; or
- (ii) is at such date separated by any such adjournment or prorogation as is referred to in sub-paragraph (1) (b) of this Article ; or
- (iii) does not meet when summoned to meet as provided in sub-paragraph (a) or (b) of paragraph (1) of this Article,

then such Proclamation shall expire at the end of ten days after the date on which Parliament shall next meet and sit, unless approved by a resolution at such meeting of Parliament.

(4) Upon the revocation by the President of a Proclamation made pursuant to Articles 220 or 221 within a period of fourteen days from the date on which the Proclamation was made or upon the expiration of such a Proclamation in accordance with the provisions of paragraph (3) of this Article, a Proclamation made pursuant to Articles 220 and 221 made within thirty days next ensuing shall not come into operation until the making thereof shall have been approved by a resolution of Parliament.

(5) If Parliament does not approve any Proclamation made pursuant to Articles 220 and 221 such Proclamation shall, immediately upon such disapproval, cease to be valid and of any force in law but without prejudice to anything lawfully done thereunder.

(6) If the making of a Proclamation cannot be communicated to and approved by Parliament by reason of the fact that Parliament does not meet when summoned, nothing contained in paragraph (3) or (4) of this Article shall affect the validity or operation of such Proclamation and in such event, Parliament shall again be summoned to meet as early as possible thereafter.

(7) Notwithstanding anything in the preceding provisions of this Article, a Proclamation made pursuant to Articles 220 and 221 shall be communicated forthwith to the Regional Council of the Region in respect of which the Proclamation is made and –

- (a) in the case of a Proclamation made pursuant to Article 220, and which has been in operation in the Region for a period of ninety consecutive days shall cease to be in force in that Region unless approved by the Regional Council thereof within ten days of the expiration of that period or, if the Regional Council stands adjourned, prorogued or dissolved at the expiration of such period, unless approved at the first meeting of the Regional Council held thereafter;
- (b) in the case of a Proclamation made pursuant to Article 221, shall cease to be in force in that Region unless approved by the Regional Council thereof within a period of fourteen days of such communication or, if the Regional Council stands adjourned, prorogued or dissolved at the expiration of such period, unless approved at the first meeting of the Regional Council held thereafter.

223. (1) Where the President, upon being advised by the Prime Minister, is of opinion that a situation has arisen in which a Regional Administration is promoting armed rebellion or insurrection or engaging in an intentional violation of Article 1 or 2 or 3, or the provisions of Chapter XV or Chapter XXII of the Constitution which constitutes a clear and present danger to the unity and sovereignty of the Republic, the President may, by Proclamation—

Assumption of powers by the President.

- (a) assume to the President, all or any of the functions of the administration of the Region and all or any of the powers vested in, or exercisable by, the Governor, the Chief Minister, the Board of Ministers or any body or authority in the Region; and
 - (b) where it is necessary for the effectual exercise of the powers under sub-paragraph (a) of this paragraph, dissolve the Regional Council.
- (2) Every Proclamation made pursuant to paragraph (1) of this Article shall be forthwith laid before Parliament.
- (3) Any Proclamation made pursuant to paragraph (1) of this Article, may be revoked or varied by a subsequent Proclamation.
- (4) (a) The President shall, within fourteen days of making a Proclamation pursuant to paragraph (1) of this Article, for the purpose of ascertaining the continued existence of the situation which necessitated the making of such Proclamation and any other relevant matter, direct that a tribunal be constituted in the manner provided in paragraph (5) of this Article, to inquire into and report upon such matters within a period of sixty days from the date of such Proclamation.
- (b) Upon receipt of the report of such tribunal, the President shall—
- (i) cause the report to be laid before Parliament within a period of thirty days; and
 - (ii) if the tribunal reports that the situation necessitating a Proclamation made pursuant to paragraph (1) of this Article has ceased to exist, revoke the Proclamation, and in any case where the Regional Council has been dissolved, re-summon such Regional Council.
- (5) The tribunal referred to in paragraph (4) of this Article shall consist of a member appointed by the President, a member appointed by the Chief Minister of the relevant Region, and where the Regional Council for that Region has been dissolved, by the person who held office as Chief Minister at the time of such dissolution, and a Chairperson nominated by the members so appointed and, where there is no agreement on the nomination of a Chairperson, the Chairperson shall be nominated by the Constitutional Council.
- (6) A court or tribunal shall not have the power or jurisdiction to inquire into, pronounce upon, or in any manner call in question, a report of a tribunal referred to in paragraph (4) of this Article.

224. Every Proclamation referred to in this Chapter shall be conclusive for all purposes and shall not be questioned in any court, tribunal, save and except a tribunal constituted in accordance with Article 223, or other institution shall not inquire into, or pronounce on, or in any manner call in question, such Proclamation or the grounds for making thereof.

Proclamations not to be called in question in any court or tribunal.