

CHAPTER 22:04 EMERGENCY POWERS

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Interpretation
3. Emergency regulations
4. Repugnancy with other enactments
5. Duration, etc. of emergency regulations
6. Proof of documents

Law 34, 1966.

An Act to empower the President to make emergency regulations whenever an emergency proclamation is in force; to specify the matters which may be provided for in emergency regulations: to provide for the duration of emergency regulations: and to provide for matters incidental thereto or connected therewith.

[Date of Commencement: 30th September, 1966]

1. Short title

This Act may be cited as the Emergency Powers Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"emergency proclamation" means a proclamation under the Constitution, declaring that a state of public emergency exists;

"emergency regulations" means regulations made under section 3;

"enactment" means an instrument having the force of law other than the Constitution and this Act.

3. Emergency regulations

(1) Whenever an emergency proclamation is in force, the President may make such regulations as appear to him to be necessary or expedient for securing the public safety, the defence of the Republic, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by subsection (1), emergency regulations may, so far as appears to the President to be necessary or expedient for any of the purposes mentioned in that subsection-

- (a) make provision for the detention of persons or the restriction of their movements, and for the deportation and exclusion from the Republic of persons who are not citizens of Botswana;
- (b) authorize-
 - (i) the taking of possession or control on behalf of the Republic of any property or undertaking;
 - (ii) the acquisition on behalf of the Republic of any property other than land;
- (c) authorize the entering and search of any premises;
- (d) provide for amending any enactment, for suspending the operation of any enactment, and for applying any enactment with or without modification;
- (e) provide for charging in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the regulations, such fee as may be prescribed by or under the regulations;
- (f) provide for payment of compensation and remuneration to persons affected by the regulations; and
- (g) provide for the apprehension, trial and punishment of persons offending against the regulations:

Provided that nothing in this paragraph shall authorize the making of provision for the trial of persons by military courts.

(3) Emergency regulations may provide for empowering such authorities or persons as may be specified in the regulations to make orders and rules for any of the purposes for which such regulations are authorized by this Act 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) Emergency regulations shall specify the area to which they apply, and may contain provision for the exclusion of persons from the area so specified if it consists of only a part of the Republic.

4. Repugnancy with other enactments

Emergency regulations and any orders or rules made in pursuance of such regulations shall have effect notwithstanding anything inconsistent therewith contained in any enactment; and any provision of any enactment which may be inconsistent with any emergency regulation or any such order or rule shall, whether or not that provision has been amended, modified or suspended in its operation under section 3, to the extent of such inconsistency, have no effect so long as such regulation, order or rule remains in force.

5. Duration, etc. of emergency regulations

(1) All emergency regulations, if not sooner revoked, shall cease to have effect when the emergency proclamation in pursuance of which they have been made ceases to have effect.

(2) No emergency regulations shall have effect-

- (a) during a period when an emergency proclamation is in force by virtue of having been approved by a resolution of the National Assembly under the Constitution; or
- (b) during a period when an emergency proclamation is in force by virtue of having been extended by a resolution of the National Assembly under the Constitution,

unless the National Assembly has, by a like resolution, affirmed that those regulations shall have effect during that period.

6. Proof of documents

Every document purporting to be an instrument made or issued by the President or other authority or person in pursuance of this Act or of any emergency regulation, and to be signed by the President or such other authority or person, shall be received in evidence, and shall, until the contrary is proved, be deemed to be an instrument made or issued by the President or that authority or person.