

LEGAL NOTICE No. 142

REPUBLIC OF TRINIDAD AND TOBAGO

THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO,
CHAP. 1:01

REGULATIONS

MADE BY THE PRESIDENT UNDER SECTION 7 OF THE CONSTITUTION OF
THE REPUBLIC OF TRINIDAD AND TOBAGO

THE EMERGENCY POWERS REGULATIONS, 1990

Citation

1. These Regulations may be cited as the Emergency Powers Regulations, 1990.

Definitions

2. (1) In these Regulations—

“ammunition” means—

- (a) ammunition for any firearm of any kind;
- (b) every shell, cartridge case, bomb, hand grenade, bullet, or like missile, whether containing any explosive or gas or chemical or not, and whether intended to be discharged from or by any gun or other propelling or releasing instrument or mechanism or not, except missiles which can be used only for the purpose of extinguishing fires;
- (c) every part of any such shell, cartridge case, bomb, hand grenade, bullet, or missile whether such shell, cartridge case, bomb, hand grenade, bullet or missile may have been completely formed at any time or not;
- (d) every fuse, percussion cap or priming cap, adapted or prepared for the purpose of exploding any shell, bomb, hand grenade, bullet or other projectile;
- (e) every bullet clip or cartridge clip;
- (f) an explosive when enclosed in any case or contrivance adapted or prepared so as to form a cartridge, charge or complete round for any firearm or any other weapon, or to form any tube for firing explosives, or to form a detonator, or a projectile, which can be used (whether singly or in suitable combinations) as, or in connection with, a missile;

- (g) everything declared by Order of the Minister to be ammunition;
- “explosive” has the meaning assigned by section 2 of the Explosives Act; Chap. 16:02
- “firearm” has the meaning assigned by section 2 of the Firearms Act; Chap. 16:01
- “meeting” means any assembly or gathering of persons called together or held for the purpose of the transaction of matters of public interest or for the discussion of such matters or for the purpose of the expression of views on such matters;
- “public march” means any march or procession in a public place comprising (whether wholly or partly) pedestrians, vehicles (however propelled or drawn), or bicycles (however propelled), except, subject to regulation 7(3), a march or procession—
- (a) by police officers or members of the Fire Service;
- (b) by members of the Defence Force;
- (c) which takes place as a component part of any religious ceremony, including a wedding or funeral, not being in any way connected with any political demonstration or celebration; or
- (d) by members of any youth organisation or of any other body approved by the Minister, being an organisation or body which is not in any way connected with any political organisation;
- “public meeting” means any meeting held out of doors;
- “public place” means any highway, street, public park or garden, any beach and any public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not; and includes any open or enclosed space to which, for the time being, the public have or are permitted to have access whether on payment or otherwise;
- “police officer” has the same meaning as in the Police Service Act, and includes a member of the Special Reserve Police established under the Special Reserve Police Act or a member of the Police Force of any Municipality; or any person to whom a precept has been issued under the Supplemental Police Act; Chap. 15:01
- “the Proclamation” means the Proclamation made by the President under section 8 of the Constitution Chap. 15:03
- Chap. 15:02

declaring that a state of public emergency exists in Trinidad and Tobago;

“period of public emergency” means the period during which the state of public emergency declared by the Proclamation exist, including any extensions thereof under section 10(3) of the Constitution;

“Minister” means the member of the Cabinet to whom responsibility for National Security is assigned;

“Orders” means Orders made under these Regulations.

(2) Every Order of the Minister whereby anything is declared to be ammunition or a firearm for the purposes of the definition of ammunition, explosive or firearm and of section 2 of the Firearms Act shall be subject to negative resolution.

(3) For the purposes of these Regulations a person shall be regarded as the holder of a public meeting or the organiser or leader of a public march if in any way—

(a) he holds or calls together or assists in the holding of or calling together or speaks at a public meeting;

(b) he organises, leads or conducts or assists in the organisation, leading or conduct of a public march.

(4) Without prejudice to the operation of subsection (3) of section 27 of the Interpretation Act, subsections (1) and (2) of that section shall apply to, and for the determination of, all acts and things previously done under these Regulations, when these Regulations expire, lapse or cease to have effect.

Orders by
the President

3. (1) In the exercise of the powers conferred on him by the Constitution and the Emergency Powers Act the President may make Orders for the purpose of dealing with the circumstances of any situation arising or existing during the period of public emergency.

(2) Orders made under subregulation (1) may make provision with respect to all or any of the following matters, that is to say—

(a) censorship and the control and suppression of publications, writings, maps, plans, photographs, communications and means of communication;

(b) prohibiting or restricting the possession or use by any person or body of persons of any specified articles;

(c) control of the harbours, ports and territorial waters of Trinidad and Tobago, and the movements of vessels;

- (d) the transportation by land, air or water and the control of the transport of persons and things;
- (e) trading, exportation, importation, production and manufacture;
- (f) the taking, possession and disposal of any property which is in a dangerous state or injurious to the health of human beings, animals or plants;
- (g) authorising the search of persons and premises and the seizure of anything and its detention for so long as may be necessary for the purposes of any examination, investigation, trial or inquiry;
- (h) empowering such authorities or persons as may be specified in the Orders to make orders and rules and to make or issue notices, licences, permits, certificates or other documents for the purposes of the Orders;
- (i) charging, in respect of the grant or issue of any licence, permit, certificate or other documents for the purposes of the Orders such fees as may be prescribed by the Orders;
- (j) the appropriation, or the taking of possession or control and the use of, or on behalf of the Government of any property or undertaking, save that any Orders made under this paragraph that make provision for the compulsory taking possession of, or the compulsory acquisition of any interest in or right over, property of any description shall require the payment of compensation in that behalf;
- (k) requiring persons to do work or render services;
- (l) the payment of remuneration to persons affected by the Orders and the determination of such remuneration;
- (m) the apprehension, trial and punishment of persons offending against the Orders or against any law in force in Trinidad and Tobago including the forfeiture of any property by way of penalty for such offence; and
- (n) prescribing anything by these Regulations required to be prescribed,

and any Orders made under the foregoing provisions of this regulation may contain such incidental and supplementary provisions as are regarded necessary or expedient for the purposes of the Orders.

Powers
exercisable
by
Commissioner
of Police

4. (1) Until Orders made by the President under regulation 3 otherwise provide, the Commissioner of Police is hereby authorized to exercise the following powers:

- (a) to prohibit or restrict the possession or use by any person or body of persons of any specified articles;
- (b) to impose on any person any restrictions in respect of his employment or business, in respect of his place of residence, and in respect of his association or communication with other persons;
- (c) to prohibit any person from being out of doors between such hours as may be specified, except under the authority of a written permit granted by such authority or person as may be specified;
- (d) to require any person to notify his movements in such manner, at such times, and to such authority or person as may be specified;
- (e) to prohibit any person from travelling except in accordance with permission given to him by such authority or person as may be specified;
- (f) to require any person to quit any place or area or not to visit any place or area.

(2) The powers conferred by subregulation (1) may be exercised by Order made by the Commissioner of Police.

Publication
of Orders,
Notice, etc.
under these
Regulations

5. If at any time it is impossible or impracticable to publish in the *Gazette* any notice or Order in pursuance of these Regulations, the President or the Commissioner of Police may cause the same to be published by notices thereof affixed to public buildings or distributed amongst the public or by oral public announcements.

Indemnity
and com-
pensation

6. No person shall be liable to any suit or action in respect of any act done under lawful direction and authority pursuant to the provisions of these Regulations but the President may in his discretion order that compensation shall be paid out of the public funds to any person upon being satisfied that such person has suffered loss or damage by reason of the exercise of any powers conferred by regulation 3, other than subregulation (2)(j) thereof and regulation 4.

7. (1) Except with the prior permission in writing of the Commissioner of Police, the grant of which shall be in his discretion, no person shall hold or take part in any public march or in any public meeting.

Prohibition on the holding of public meetings and marches

(2) Nothing in this regulation shall apply to any meeting of a class or description referred to in the First Schedule.

First Schedule

(3) Notwithstanding the exception of marches and processions provided for in paragraphs (c) and (d) of the definition of "public march" in regulation 2(1), the Commissioner of Police may prohibit any such march or procession in a public place if, having regard to the time at which and the circumstances in which the march or procession is held or is to be held, he has reasonable ground for apprehending that the holding of such march or procession may occasion a breach of the peace or public disorder.

(4) The grant of any permission under this regulation may be subject to such terms and conditions as the Commissioner of Police may think fit for giving effect to these Regulations.

8. (1) No person shall enter any protected place unless he is authorised by the occupier thereof or by the Senior Police Officer of the Division in which that place is situate.

Prohibition on entry on protected place

(2) Where in pursuance of these Regulations any person is granted permission to be in protected place that person shall, while acting under such permission comply with such directions for regulating his conduct as may be given by the person granting the permission; and any police officer or any person authorised in that behalf by the occupier of the protected place may search any person entering or seeking to enter or being in or upon that place and may detain any such person for the purpose of searching him.

(3) If any person is in a protected place in contravention of these Regulations, or while in such a place fails to comply with any direction given under these Regulations, then, without prejudice to any other penalty, he may be removed from that place by any police officer or any person authorised in that behalf by the occupier of the premises.

(4) In these Regulations "protected place" means a place specified by the Commissioner of Police as a protected place by a notice displayed at such place or by notice published in the *Gazette*.

9. (1) Subject to the provisions of regulation 12, any person who, without lawful authority, the burden of proof as to lawful authority lying upon him, purchases, acquires or has in his possession any firearm, ammunition or explosive is guilty of an offence.

Unlawful possession of firearms, ammunition or explosive

(2) A person who consorts with or is found in the company of another person, who, without lawful authority, has in his possession any firearm, ammunition or explosive in circumstances which raise a

reasonable presumption that he intends or is about to act or has recently acted with such other person in a manner prejudicial to public order or public safety, is guilty of an offence.

(3) In any prosecution for an offence under this regulation—

(a) a person who is proved to have had in his possession or under his control anything whatsoever in or on which is found any firearm, ammunition or explosive shall, until the contrary is proved, be deemed to have been in possession of such firearm, ammunition or explosive;

(b) where it is established to the satisfaction of the magistrate that a person accused under subregulation (2) was consorting with or in the company of any person who had in his possession any firearm, ammunition or explosive, it shall be presumed, until the contrary is proved that such last mentioned person had the same in his possession without lawful authority.

Power to stop
and search
for firearms

10. (1) Subject to the provisions of regulation 18 a police officer may stop and search any person whom he finds in any street or other public place and reasonably suspects of having any firearm, ammunition or explosive in his possession contrary to regulation 9 or of having committed or being about to commit any other offence prejudicial to public safety or order.

(2) A police officer acting under subregulation (1) may seize and detain any firearm, ammunition, explosive or other article found in the person's possession, custody or control and in respect of which or in connection with which he has reasonable grounds for suspecting any offence referred to in that subregulation has been or is about to be committed.

Forfeiture
and disposal
by court

11. Any firearm, ammunition, explosive or other article seized and detained by a police officer as mentioned in the provisions of regulation 10(2) found by him without apparent owner, may be retained for as long as is necessary for the purpose of any examination, investigations, inquiries or legal proceedings, and a magistrate may, upon application made in such proceedings, direct such firearm, ammunition or explosive to be forfeited or otherwise disposed of as he considers just.

Power to
order
amnesty

12. No person who surrenders any firearm, ammunition or explosive during any period that is prescribed, and otherwise in accordance with an Order to surrender, shall be prosecuted under the Firearms Act or regulation 9 for illegally purchasing, acquiring or possessing such firearm, ammunition or explosive prior to the time of such surrender or at that time.

13. No person shall have in his possession or under his control any document of such a nature that the dissemination of copies thereof is likely to lead to breach of the peace or to cause disaffection or discontent among persons. Possession of certain documents prohibited

14. (1) No person shall—

(a) endeavour, whether orally or otherwise to influence public opinion in a manner likely to be prejudicial to public safety and order; or

(b) do any act or have any article in his possession with a view to making or facilitating the making of any such endeavour.

Statements prejudicial to public order

(2) No person shall in any public place or in any vehicle make use of any instrument for the amplification of sound except with the permission of the Commission of Police.

(3) No person shall on any premises in his occupation or under his control make use of or cause or permit any person to make use of any instrument for the amplification of sound whereby reports or statements may be heard from or about such premises by members of the public, except with the permission of the Commissioner of Police.

15. Notwithstanding any rule of law to the contrary, a police officer may without warrant and with or without assistance and with the use of force, if necessary— Searches

(a) enter and search any premises,

(b) stop and search any vessel, vehicle or individual, whether in a public place or not,

if he suspects that any evidence of the commission of an offence against regulations 9, 13 or 14 is likely to be found on such premises, vessel, vehicle or individual and may seize any evidence so found.

16. (1) Notwithstanding any rule of law to the contrary, a police officer may arrest without warrant any person who he suspects has acted or is acting or is about to act in a manner prejudicial to public safety or to public order or to have committed or is committing or is about to commit an offence against these Regulations; and such police officer may take such steps and use such force as may appear to him to be necessary for affecting the arrest or preventing the escape of such person. Arrest

(2) Subject to these Regulations a person arrested by a police officer under subregulation (1) may be detained in custody for the purposes of inquiries.

(3) No person shall be detained under the powers conferred by this regulation for a period exceeding twenty-four hours except with the authority of a magistrate or of a police officer not below the

rank of Assistant Superintendent on either of whose direction such person may be detained for such further period, not exceeding seven days as in the opinion of such magistrate or police officer, as the case may be, is required for the completion of the necessary inquiries, except that no such direction shall be given unless such magistrate or police officer, as the case may be, is satisfied that such inquiries cannot be completed within a period of twenty-four hours.

Preventive
detention
Second
Schedule

17. The provisions of the Second Schedule shall have effect for the purpose of the preventive detention of persons.

Searching
as to
females

18. Where under these Regulations a female is searched, the search shall be made by another female.

Bail and
habeas
corpus

19. (1) Notwithstanding any rule of law to the contrary, but subject to these Regulations, no bail shall be allowed in the case of any person—

(a) in respect of whom a detention order is in force under the provision of the Second Schedule; or

(b) detained under the provisions of regulation 16; or

(c) charged with an offence, if it is shown to the satisfaction of the magistrate that it is reasonably apprehended that the person arrested is likely to engage or to incite persons to engage in the commission of breaches of the peace or of any other offence against the person or property or against these Regulations, or any Orders, instructions or directions made thereunder.

(2) The writ of *habeas corpus* shall not lie in the case of any person denied bail by or under subregulation (1) and no jurisdiction to grant bail in the case of such denial shall be exercised by any Judge of the Supreme Court under any rule of law or other authority.

(3) Upon the cessation of these Regulations nothing in this regulation shall be treated as continuing to have effect, in consequence of the continuance of any prosecution for an offence hereunder or for any other reason.

Procedure

20. Notwithstanding any other law to the contrary, any court exercising jurisdiction with respect to any offence against these Regulations may exclude the accused or any other person from the proceedings in the event of his misconducting himself by so interrupting the court as to render the continuance of the trial in his presence impracticable.

Obligation
to stop
motor
vehicles

21. The person driving or in control of any vehicle in motion on a road shall stop that vehicle on being required so to do by a police officer in uniform.

Defence Force
to assist
Chap. 14:01

22. (1) Notwithstanding any rule of law to the contrary, the Commander of the Defence Force established under the Defence Act,

shall hold his forces in readiness to assist, and if called upon by the Commissioner of Police shall co-operate with and assist, the Commissioner of Police in the performance of his duties under these Regulations.

(2) A member of the Defence Force referred to in subregulation (1) shall, for all the purposes of these Regulations, have the powers of a police officer and shall, where acting in accordance with any general or special instructions of the Commander of the Defence Force or of any superior officer of that Force given in pursuance of subregulation (1), be deemed to be acting in performance of the duties imposed on a police officer by these Regulations or by any Orders made thereunder.

(3) A request of the Commissioner of Police for assistance under subregulation (1) may be made generally or with reference to some particular occasion or for some specified purpose.

23. These Regulations shall have effect during the period of public emergency.

Duration of
Regulations

FIRST SCHEDULE

[Regulation 7(2)]

MEETINGS EXEMPTED FROM REGULATION 7(1)

1. Religious services or meetings held under the authority of the head of any religious denomination or of the Salvation Army.

2. Educational classes and recreation in schools or other educational institutions.

3. *Bona fide* cinematograph, musical and theatrical entertainments, dancing, beauty competitions or other similar cultural shows.

4. *Bona fide* horse racing, cricket, football, hockey, polo, water polo, basket ball, netball, tennis, boxing, athletics, swimming and other *bona fide* sports.

5. Meetings organised by or on behalf of any *bona fide* youth organization which is not organized for any political purpose or is not connected with any political organization

SECOND SCHEDULE

[Regulation 17]

PREVENTIVE DETENTION

Interpreta-
tion

1. In this Schedule—

- “Chairman” means the Chairman of the Tribunal;
- “detainee” means any person who is detained under paragraph 3;
- “detention order” means an order made under paragraph 2;
- “legal adviser” or “legal representative”, in relation to any person, means an adviser or representative of that person, respectively, entitled to practice in Trinidad and Tobago as an attorney-at-law;
- “Minister” means the member of the Cabinet to whom responsibility for National Security is assigned;
- “the Tribunal” means the Tribunal established by paragraph 5.

Power to
make
detention
orders

2. (1) Subject to the provisions of paragraph 4, the Minister may, if satisfied with respect to any person that, with a view to preventing him acting in any manner prejudicial to public safety or public order or the defence of Trinidad and Tobago, it is necessary to provide for his preventive detention, make an order—

- (a) directing that he be detained; and
- (b) stating concisely the grounds for such detention, so however, that no defect of any kind in such statement shall invalidate the order.

(2) Every order under subparagraph (1) shall come into force upon the making thereof, notice of which shall be published in the *Gazette* within seven days after its coming into force.

Place and
conditions of
detention

3. (1) Any person in respect of whom a detention order is in force may be arrested without warrant by any police officer and may be detained in such place and under such conditions as the Minister may from time to time direct, and shall, while so detained be deemed to be in lawful custody.

(2) A person who, being in lawful custody under this Schedule, escapes or attempts to escape from that custody, is guilty of an offence, and any person who aids, abets or assists a person being in lawful custody under this Schedule to escape from that custody, or who harbours, assists or comforts any person who has escaped such custody, is guilty of an offence.

(3) As soon as practicable after any person is arrested in pursuance of a detention order, a copy thereof certified under the hand of the Permanent Secretary to the Minister shall be served by a police officer on such person and the statement therein which is referred to

in subparagraph 2(1)(b) shall be communicated to him in a language that he understands and he shall, in such language, be informed of his right, at his own expense, to retain and instruct without delay a legal adviser of his own choice and to hold communication with such adviser without being overheard by anyone else and, in due course, to present his case, in person or by his legal representative, before the Tribunal.

(4) The Minister may give directions—

- (a) as to the internal management of and otherwise in connection with any such place as mentioned in subparagraph (1);
- (b) as to the maintenance of detainees and, in writing, for regulating the discipline and punishment for breaches of discipline of detainees;
- (c) in writing authorising the taking of a detainee to any place where the Minister is satisfied his presence is required in the interests of justice or for the purpose of any public or other inquiry or in the public interest, or in the interest of the detainee;
- (d) as to the keeping of a detainee in custody (which shall be deemed lawful) during his absence pursuant to clause (c) from the usual place of his detention;
- (e) for the supply of money, food or clothing, or the means of travelling, to detainees on their release.

4. Where a person is detained by virtue of the provisions of this Schedule, his case shall be reviewed by the Tribunal established under paragraph 5 in accordance with the following provisions, if he so requests at any time during the period of that detention not earlier than six months after he last made such a request during that period.

Review by
Tribunal at
request of
detainees

5. (1) For the purposes of paragraph 4 there shall be and there is hereby established a Tribunal.

Establish-
ment
of Tribunal

(2) The Tribunal shall consist of a Chairman and two other members who shall be appointed by the Chief Justice from among such persons as he considers fit, save that the Chairman shall be appointed from among persons entitled to practise in Trinidad and Tobago as attorneys-at-law

(3) The Minister, after consultation with the Chairman of the Public Service Commission, may designate any public officer to perform the functions of secretary to the Tribunal and may revoke any such designation.

(4) The Tribunal may regulate its own procedure.

Reference
to Tribunal

6. (1) In relation to every detention order, the Minister shall, within a period of seven days commencing with the day on which the request for review referred to in paragraph 4 was made, cause to be submitted to the Tribunal the grounds upon which the order has been made and such other particulars having a bearing on the necessity for the order as the Minister thinks fit, due regard being had to the public interest.

(2) It shall be the duty of the Secretary to the Tribunal to furnish the detainee with such particulars in support of the grounds submitted as aforesaid, and with such notice of the time and place of commencement of proceedings before the Tribunal for the purposes of paragraph 7(1) as the Tribunal considers sufficient to enable the detainee to present his case against the detention, which the Tribunal shall accordingly afford him a reasonable opportunity to present, in person or by legal representative, at such proceedings.

Duty and
procedure
of Tribunal

7. (1) As soon as reasonably practicable after there have been submitted to the Tribunal under paragraph 6(1) the grounds upon which any person is detained, the Tribunal shall consider and report to the Minister as provided in paragraph 8.

(2) For the purposes of subparagraph (1), the Tribunal may, if the Tribunal considers it relevant—

- (a) hear any person having any communication to make before the Tribunal;
- (b) put any question to any person before the Tribunal;
- (c) invite the Minister to submit further information;
- (d) have regard to anything submitted, presented or communicated to the Tribunal as hereinbefore mentioned.

(3) The Tribunal shall, from such proceedings before it as are held for the purposes of subparagraph (1), exclude any person not being the detainee, who is present at the proceedings, or his legal representative or a police officer having custody of the detainee or a person performing the functions of secretary to the Tribunal or being heard under subparagraph (2)(a) or whom the Tribunal, as the Minister's request, permits to attend such proceedings.

(4) Notwithstanding subparagraph (3) or any other law to the contrary—

- (a) the Tribunal may exclude the detainee or any other person from the said proceedings in the event of his misconducting himself by so interrupting them as to render their continuance in his presence impracticable; and
- (b) any such proceedings may be held in the detainee's absence if, in the opinion of the Tribunal, it is unreasonable to

require his presence thereat on account of his illness or for any other cause.

(5) The Tribunal may, upon the application of the detainee, at any time assign to him a legal representative if, in the opinion of the Tribunal, it appears desirable in the interest of the just execution of the Tribunal's functions under this paragraph that the detainee should have legal aid and that he has not sufficient means to enable him to obtain that aid.

(6) The expenses of any legal representative assigned to a detainee as aforesaid and the expenses of the attendance of any person before the Tribunal for the purposes of subparagraph (2)(a) at the instance of the detainee, shall be defrayed out of moneys provided by Parliament for the purpose, up to an amount allowed by the Tribunal, but subject to any limitations imposed by the Minister as to rates and scales of payments.

8. (1) The report of the Tribunal shall specify in a separate part thereof its opinion whether or not there is sufficient cause for the detention of the person against whom the order was made, and may make recommendations concerning the necessity or expediency of continuing his detention, and the Minister shall cause a copy of that part of the report to be delivered to the detainee, but the remainder thereof shall not be disclosed to any person, other than the Minister, save as may be authorised by him.

Report of
Tribunal

(2) Where there is a difference of opinion among the members of the Tribunal as to any matter, the opinion of the majority of members shall be deemed to be the opinion of the Tribunal.

9. The Minister may (without prejudice to the application of paragraph 2(2) to any order made in conformity with this paragraph) revoke a detention order at any time and in particular, may, in his discretion, do so if the Tribunal in its report under paragraph 8 specifies that, in its opinion, there is not sufficient cause for such detention.

Revocation
of detention
order

Made this 28th day of July, 1990.

J. E. CARTER
Acting President