

## LEGAL NOTICE NO. 114

## 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, 1995

1. These Regulations may be cited as the Emergency Powers Regulations, 1995.

2. (1) In these Regulations—

“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 any 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;

“the Proclamation” means the Proclamation made by the President under Section 8 of the Constitution 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 exists, 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) 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 organizes, leads or conducts or assists in the organisation, leading or conduct of a public march.

(3) 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.

3. In the exercise of the powers conferred on him by the Constitution the President may make Orders for the purpose of dealing with the circumstances of any situation arising during the period of public emergency.

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 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;
- (b) 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.

5. If at any time it is impossible or impracticable to publish in the *Gazette* by 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.

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 and regulation 4.

7. (1) Except with 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.

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

(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.

(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 Commissioner 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.

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

10. (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 in respect of whom a detention order is in force under the provisions of Section 12.

(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.

11. (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 specific purpose.

12. (1) For the purpose of regulations 12 to 18—

“Chairman” means the Chairman of the Tribunal;

“detainee” means any person who is detained under regulation 12;

“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 regulation 14.

(2) (a) Subject to the provisions of regulation 13, 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—

(i) directing that he be detained; and

(ii) stating concisely the grounds for such detention, so however, that no defect of any kind in such statement shall invalidate the order.

(b) Every order under subregulation 12(2)(a) 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.

(3) (a) Any person in respect of whom a detention order is in force may be arrested without a warrant by any police officer and may be detained in such a 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.

(b) A person who, being in lawful custody under this regulation, 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 Regulation to escape from the custody, or who harbours, assists or comforts any person who has escaped such custody, is guilty of an offence.

(c) 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 subregulation 12(2)(a) (ii) 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.

(d) The Minister may give directions—

- (i) as to the internal management of and otherwise in connection with any such place as mentioned in subregulation (1);
- (ii) as to the maintenance of detainees and, in writing, for regulating the discipline and punishment for breaches of discipline of detainees;
- (iii) 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;
- (iv) as to the keeping of a detainee in custody (which shall be deemed lawful) during his absence pursuant to subregulation 12(3)(d)(iii) from the usual place of his detention;
- (v) for the supply of money, food or clothing, or the means of travelling, to detainees on their release.

13. Where a person is detained by virtue of the provisions of regulation 12 his case shall be reviewed by the Tribunal established under regulation 14 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.

14. (1) For the purposes of regulation 13 there shall be and there is hereby established a 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.

15. (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 regulation 13 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 regulation 16(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.

16. (1) As soon as reasonably practicable after there have been submitted to the Tribunal under regulation 15(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 subregulation (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;

having 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 regulation (1), exclude any person not being the detainee, who is present at the proceeding, 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 subregulation (2)(a) or whom the Tribunal, as the Minister requests, permits to attend such proceedings.

(4) Notwithstanding subregulation (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 subregulation (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.

17. (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.

(2) Where there is a difference of opinion among 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.

18. The Minister may [without prejudice to the application of regulation 12(2)(b) 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 regulation 17 specifies that, in its opinion, there is not sufficient cause for such detention.

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

20. These Regulations shall apply within the City of Port-of-Spain only.

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, basketball, 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.

Made this 3rd day of August, 1995.

J. EMMANUEL CARTER  
*Acting President*