

ORDER NO. 4 OF 1988

EMERGENCY POWERS ORDER, 1988

ORDER

To make provision in the interests of public safety and public order, during any period when a declaration of emergency is in force, for measures that are necessary for dealing with the situation that exists during that period and to make provision for incidental and connected matters.

1. This Order may cited as the Emergency Powers Order, 1988, and shall be deemed to have come into operation on the 24th February, 1988.

Short title
and
commence-
ment

2. (1) In this Order, unless the context otherwise requires, "declaration of emergency" means a declaration of a state of emergency by proclamation, made in terms of section 3, and includes a declaration of a state of emergency in terms of section 8;

Interpreta-
tion

"Minister" means the Minister responsible for defence and internal security;

"this Order" includes any regulations made thereunder.

(2) Reference in this Order and in the regulations made thereunder to a person by the term designating his office is construed as a reference to the person for the time being lawfully discharging the functions of that office and includes a deputy to the extent that he is authorised to discharge those functions.

3. (1) The King may, by proclamation in the Gazette, declare that a state of emergency exists for the purposes of this Order.

Declaration
of emerg-
ency

(2) Every declaration of emergency shall remain in force for a period of six months or for such shorter period as may be specified in the declaration.

(3) A declaration of emergency may, at any time, be revoked by the King by proclamation in the Gazette.

(4) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.

4. (1) For so long as a declaration of emergency remains in force, the regulations made under this Order shall apply throughout Lesotho or to that part of Lesotho that is specified in the declaration of emergency.

Emergency
regulations

(2) For so long as a declaration of emergency remains in force, it shall be lawful for the Minister to make, subject to this

Order, such regulations as are in his judgement necessary or expedient for securing the public safety, the defence of Lesotho, the maintenance and restoration of public order and the suppression of mutiny, rebellion and riot, the prevention and suppression of crime, and for maintaining supplies and services essential to the life of the community.

(3) Without prejudice to the generality of the powers conferred by subsection (2), regulations may,

- (a) make provision for,
 - (i) detaining, removing and excluding persons from Lesotho;
 - (ii) giving directions with regard to anything seized under the regulations;
- (b) authorise,
 - (i) taking possession or control on behalf of Lesotho of any property or undertaking;
 - (ii) acquiring any property on behalf of Lesotho;
- (c) authorise entering and searching any premises and seizing anything therefrom;
- (d) provide for charging a fee, to be prescribed by or under the regulations, for the grant or issue of a licence, permit, certificate or other document for the purposes of such regulations;
- (e) provide for apprehending, trying and punishing persons contravening the regulations;
- (f) contain such incidental, connected and related provisions as are required for the purposes of the regulations;
- (g) provide, in respect of any law, for amending it, for suspending and reviving its operation and for applying it with or without modification or qualification;
- (h) provide, in respect of the regulations, for amending, suspending, reviving, modifying, qualifying, revoking and replacing any or all of the provisions of the regulations made under this Order;
- (i) provide for empowering such authorities or persons as may be specified in the regulations, subject to the direction and control of the Minister, to make rules for any of the purposes for which regulations are authorised by this Order to be made.

Emergency
areas

5. (1) A regulation or a rule may be made so as to apply only to such part of Lesotho as may be specified in the declaration of emergency, in this section referred to as the emergency area, in which case the regulation or rule shall, except as otherwise expressly provided therein, have effect only in the emergency area.

(2) For the avoidance of doubt, it is hereby declared that reference to Lesotho in section 4 shall not be construed as a reference only to the emergency area.

6. Every document purporting to be an instrument made or issued respectively by the King or the Minister or other authority or person in terms of this Order or of a regulation made thereunder and to be signed by the King or the Minister or that other authority or person respectively, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued respectively by the King or the Minister or that authority or person, as the case may be.

Proof of documents

7. (1) Notwithstanding anything to the contrary in the Interpretation Act, 1977, or in any rule of law, regulations or rules made under this Order shall have full force and effect,

Promulgation and effect of regulations and rules A. 19 of 1977

- (a) in the case of regulations made under this Order, as soon as a declaration of emergency is made;
- (b) in any other case, as soon as that regulation or rule is made after a declaration of emergency;

Provided that every such regulation or rule mentioned in this subsection shall be published in the gazette as soon as is reasonably possible after it is made.

(2) A regulation made under this Order shall have effect notwithstanding anything inconsistent therewith contained in any law; and any provision of any law which may be inconsistent with any regulation or rule made under this Order shall, whether or not that provision has been amended, modified, suspended, revived or qualified under section 4, to the extent of that inconsistency, have no effect for so long as that regulation or rule remains in force.

8. Notwithstanding the other provisions of this Order, it is hereby declared that a state of emergency existed from the 24th February, 1988, and shall remain in force up to the 23rd August, 1988, and anything done or purported to have been done thereunder shall be deemed to have been validly done under this Order.

Existence of state of emergency

9. (1) The Emergency Powers Act, 1982, is repealed.

Repeals and savings A. 7 of 1982

(2) Notwithstanding subsection (1), the Emergency Regulations, 1988, shall be deemed to have come into operation on the 24th February, 1988, and shall have force and effect as if made under this Order.

L.N. 92 of 1988