



ST CHRISTOPHER AND NEVIS

CHAPTER 19.02

EMERGENCY POWERS ACT

and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2002

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Emergency Powers Act

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Act 9 of 1986

Emergency Powers Regulations – Section 5 – SRO 34 of 1967

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SRO 41 of 1967

SRO 44 of 1967

CHAPTER 19.02

EMERGENCY POWERS ACT

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CHAPTER 19.02

EMERGENCY POWERS ACT

AN ACT to provide for Emergency Powers in time of war, public calamity or public disturbance.

1. Short title.

This Act may be cited as the Emergency Powers Act.

2. Interpretation.

In this Act,

“Constitution” means the Saint Christopher and Nevis Constitution Order, 1983 (Statutory Instrument 1983, No. 881);

“law” includes any law, regulation, rule, order, proclamation or bye-law in force in Saint Christopher and Nevis;

“Legislature” means the Legislature established under section 25 of the Constitution;

“Proclamation” means a proclamation made pursuant to section 19 of the Constitution;

“period of public emergency” means any period during which

- (a) the Crown is at war; or
- (b) a declaration of emergency is in-force under section 19 of the Constitution of Saint Christopher and Nevis.

[Amended by Act 6/1976]

3. Declaration of Emergency.

(1) The Governor-General, in the event of Her Majesty being at war or whenever it appears to him or her

- (a) that a public emergency has arisen as a result of the imminence of a state of war between Her Majesty and any Foreign State or as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or any other calamity; or
- (b) that action has been taken or is immediately threatened by any person or body of persons of such a nature as to be likely to endanger the public safety or public order or to deprive the community or any substantial portion of the community of supplies and services essential to life,

may, by Proclamation which shall be published in the *Official Gazette*, declare that a state of Emergency exists.

(2) A Proclamation made by the Governor-General under this section shall declare that the Governor-General is satisfied

- (a) that a public emergency has arisen as a result of any of the events set out in sub-paragraphs (a) and (b) of subsection (1) of this section; and
- (b) that the declaration is reasonably justifiable in the interests of defence, public safety, public order or public health.

4. Proclamation to be communicated to National Assembly.

(1) Every declaration of emergency shall lapse,

- (a) in the case of a declaration made when the Legislature is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and
- (b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration, unless it has in the meantime been approved by a resolution of the Legislature supported by the votes of two-thirds of all the members of the House Assembly.

(2) Subject to the provisions of subsections (3) and (4) of this section, a declaration of a state of emergency may at any time be revoked by the Governor-General by Proclamation which shall be published in the *Official Gazette*.

(3) A declaration of a state of emergency may be made so as to apply only to such part or area or parts or areas of the State as may be specified in the Proclamation (in this subsection called “the emergency area”) in which case regulations made under section 5 of this Act shall, except as otherwise expressly provided in such regulations, have effect only in relation to the emergency area.

(4) Where a Proclamation is in force in respect of the whole State of Saint Christopher and Nevis and it appears to the Governor-General that the circumstances have so changed in respect to a part or area or to parts or areas of the State as to warrant the determination of the state of emergency in respect of such part or area or parts or areas the Governor-General may, by another Proclamation, determine the state of emergency in such part or area or parts or areas, as the case may be, but the original Proclamation shall remain in full force and effect in respect of any part or area or parts or areas not included in a Proclamation made under this subsection.

5. Emergency Regulations.

(1) During a period of public emergency it shall be lawful for the Governor-General to make regulations which are reasonably justifiable for dealing with the situation that exists in the State and those regulations may confer or impose on a Minister or on any Government Department or on any other person or persons in Her Majesty’s service or acting on Her Majesty’s behalf such powers and duties as are reasonably justifiable for dealing with the situation that exists in the State and may make such provisions incidental to the powers aforesaid as may be reasonably justifiable for dealing with the situation that exists in the State.

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(2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, the Governor-General may, in such regulations,

- (a) make provision for the detention of persons and the deportation and exclusion of persons from the State;
- (b) authorise on behalf of Her Majesty
 - (i) the taking of possession or control of any property or undertaking or the arranging and carrying on of any undertaking;
 - (ii) the acquisition of any property other than land;
- (c) authorise the entering and search of any premises;
- (d) provide for charging in respect of the grant or issue of any licence, permit, certificate or document for the purposes of the regulations, such fee as may be prescribed by or under the regulations;
- (e) provide for the payment of compensation and remuneration to persons affected by the regulations.

(3) Any regulations so made shall be signed by the Governor-General and shall come into operation upon publication in the *Official Gazette*.

(4) The Governor-General may, in the regulations, provide for the summary trial of persons charged with offences against the regulations so however that the maximum penalty which may be imposed for any offence against the regulations shall be imprisonment for a term not exceeding twelve months or a fine not exceeding five thousand dollars or both, together with the forfeiture of any goods, money or property in respect of which the offence has been committed.

[Amended by Act 9/1986]

(5) The regulations so made shall have effect as if enacted in this Act, but may be added to, altered or revoked by the National Assembly or by regulations made in like manner and subject to the like provisions as the original regulations.

(6) The expiry or revocation of any regulations so made shall not affect the previous operation thereof, or the validity of any action taken thereunder, or any penalty or punishment incurred in respect of any contravention or failure to comply therewith, or any proceeding or remedy in respect of any such punishment or penalty.

SCHEDULE

(Section 5)

EMERGENCY POWERS REGULATIONS**1. Short title.**

These regulations may be cited as the Emergency Powers Regulations.

2. Interpretation.

In these regulations,

“authorised person” means any competent authority, any member of the Defence Force, any constable, any member of any fire brigade, or any person authorised by any competent authority to do the act in relation to which the expression is used;

“competent authority”,

- (a) in relation to all the provisions of these regulations which confer any powers upon a competent authority means the Governor-General, the Minister of National Security, the Secretary to the Cabinet, the Commanding Officer of the Defence Force, the Chief of Police or the Officer in charge of a Police Division;
- (b) in relation to any particular regulation which confers any power upon any competent authority includes such persons as may be appointed by the Governor-General as a competent authority for the purposes of such regulation;

“constable” means any member of the Police Force, any local constable or special constable;

“constitution” means the Saint Christopher and Nevis Constitution Order 1983.

“emergency area” means an area specified in any Proclamation declaring that a state of emergency exists;

“essential service” means any service established, maintained or operated by the Government of St. Christopher and Nevis and or any public authority, or by private enterprise for

- (a) the collection, storage, purification and distribution of water for use by the public or any part of the public;
- (b) the collection, storage, treatment and disposal of sewage, garbage or refuse;
- (c) the manufacture, storage and distribution of gas for use by the public or any part of the public;
- (d) the generation, storage and distribution of electricity for use by the public or any part of the public;

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- (e) the transportation of members of the public or of any class of the public, or of goods by railway, road, sea or air;
- (f) the maintenance of telegraphic, telephonic, wireless telegraphic and wireless telephonic communication and postal communication between any place in or any place outside St. Christopher and Nevis;
- (g) the prevention, control and extinguishing of fires;
- (h) the maintenance of public health;
- (i) the storage and distribution of food, drink or fuel of any description;
- (j) the transportation to and from, or the reception, examination, accommodation, care, treatment or isolation at any hospital, dispensary, clinic, infirmary, health centre or other institution of aged, destitute or infirm persons, or of persons who are suffering from any injury, or who are believed to be suffering from any mental, infectious or physical disease or who have been or are likely to be exposed to infection with or are believed to be carriers of any infectious or contagious disease;
or
- (k) the disposal of bodies of deceased persons;

“fire” means any fire and rescue services constituted under any law for the time being in force, and any fire and rescue services constituted under the provisions of these regulations;

“period of public emergency” means any period during which Her Majesty is at war or a declaration of emergency is in force under section 19 of the Constitution;

“proclamation” means any proclamation made pursuant to section 19 of the Constitution;

“prison staff” has the same meaning as in the Prisons Act, Cap. 19.08;

“public authority” includes the Water Board and any other body corporate the whole or any portion of the funds of which are derived from the Consolidated Fund;

“statutory purpose” means the preservation of the peace, and the securing and regulating of the supply and distribution of food, water, fuel, light and other necessities and the maintaining of the means of transportation and locomotion and any other purposes essential to the public safety and the life of the community;

“vehicle” includes any wheeled or other contrivance (whether mechanically propelled or otherwise) designed or adapted to travel on any road, railway, tramway track or line.

(2) For the purposes of these regulations, the doing of work on land means the doing of work on, over, or below the surface of the land, and, in particular, includes the making of any erection or excavation, the placing of anything on the land, and the maintenance, removal, demolition, pulling down, destruction or rendering useless of anything on, over or below the surface.

3. Power to restrict access to any area.

When a person is suspected of acting or of having acted or of being about to act in a manner prejudicial to the public safety, the supply or distribution of any necessity of life or the preservation of the peace and it is reasonably justifiable that such person should be prohibited from residing in or entering any particular area, the Governor-General may, by Order, prohibit him or her from residing in or entering any such area or areas as may be specified in the Order, and upon the making of the Order the person to whom the Order relates shall, if he or she resides in any area so specified, leave such area within such time as may be specified in the Order, and shall not subsequently reside in or enter any area or areas so specified during the period in which the order remains in force.

[Inserted by SRO 44/1967]

4. Control of certain person by Order of Governor-General.

- (1) When a person is suspected of
- (a) having acted or of being about to act in a manner prejudicial to the public safety, the supply or distribution of any necessity of life or the preservation of the peace;
 - (b) having been concerned in acts prejudicial to the public safety or to public order;
 - (c) being likely to incite or provoke any person to commit a breach of the peace;
 - (d) being concerned in the preparation or instigation of such acts, or in impending the maintenance of supplies and services essential to the life of the community;

and if it is reasonably justifiable for the preservation of the peace and the safety and welfare of the community to exercise control over such person, the Governor-General may make an order against that person in order to prohibit or restrict that person as provided in paragraphs (2) and (3) of this regulation.

- (2) The Order may prohibit or restrict
- (a) the possession or use by such person of any articles specified in the order;
 - (b) any such person in respect of his or her employment, business, place of residence, or his or her association or communication with other persons as may be specified in the order;
 - (c) any such person from being out of doors between such hours as may be specified in the order, except under the authority of a written permit granted by such authority or person as may be specified in the order;

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- (d) any such person from travelling except in accordance with permission given to him or her by such authority or person as may be specified in the order;
- (3) The Order may order or require
 - (a) any such person to notify his or her movements in such manner, at such times and to such authority or person as may be specified in the order;
 - (b) any such person to quit any place or area or not to visit any designated places or areas as may be specified in the order;
 - (c) any such person who may be the editor, printer, publisher or agent of any newspaper, pamphlet, newsletter or circular printed, published or circulated in the State to cease the printing, publishing or circulation of any such newspaper, pamphlet, newsletter or circular in the State for the period prescribed in the Order.

[Inserted by SRO 44/1967]

5. Power of detention and or deportation.

(1) If the Governor-General is satisfied that any person has recently been concerned in acts prejudicial to the public safety or to public order or in the preparation or instigation of such acts, or in impeding the maintenance of supplies and services essential to the life of the community and if it is reasonably justifiable for the preservation of the peace and the safety and welfare of the community to exercise control over such person, the Governor-General may make an order against that person directing that he or she be detained.

(2) Any person detained in pursuance of this regulation shall be deemed to be in lawful custody and shall be detained in such place as shall be authorised by the Governor-General.

- (3) Such an order of detention shall cease to operate
 - (a) if it is suspended or revoked by the Governor-General; or
 - (b) if the declaration of emergency lapses or ceases to be in force.

(4) If the Governor-General is satisfied that any person is suspected of acting or of having acted or of being about to act in a manner prejudicial to the public safety, the supply or distribution of any necessity of life or the preservation of the peace, or has been conducting himself or herself so as to be dangerous to peace, order and good government, and it is reasonably justifiable for the preservation of the peace or the safety and welfare of the community to deport such person from the State, the Governor-General may, notwithstanding the provisions of the Immigration Act, Cap. 6.02 or of any other Act to the contrary, make an order (hereinafter referred to as a "Deportation Order") directing that such person shall be deported from the State.

(5) Any person against whom a Deportation Order has been made under sub-regulation (4) may be arrested by any police officer by virtue of a warrant under the hand of the Governor-General who may cause him or her to be detained in such place as may be specified in the warrant, pending his or her deportation from the State; and any person so

arrested and detained in pursuance of such warrant shall be deemed to be in lawful custody.

[Inserted by SRO 40/1967]

6. Protection of public property.

No person shall without lawful authority destroy, damage, remove, tamper with or in any way impair the utility or efficiency of any building, structure, plant, works, machinery, equipment, apparatus, appliance, stores, vehicle, craft, animal or article (whether similar to any of the foregoing or not) vested in, belonging to or vested in any person in trust for, or used and occupied by or on behalf of the Crown or Her Majesty's Government in St. Christopher and Nevis, or any government department or any public authority.

7. Protection of essential services.

No person shall without lawful authority destroy, damage, remove, tamper with, or in any way impair the utility or efficiency of any building, structure, works, plant, machinery, equipment, apparatus, appliance, stores, vehicle, craft, animal or article (whether similar to any of the foregoing or not) used or intended to be used for the maintenance, extension, or operation of any essential service or for any purpose ancillary to the maintenance, extension or operation of any essential service.

8. Prevention of trespass.

No person shall without lawful authority enter, remain on or be upon, or obstruct or impede access to or egress from any building, structure or works to which the provisions of regulations 6 and 7 of these regulations apply.

9. Protection of public roads.

No person shall without lawful authority damage or obstruct or do any act which is likely to prevent or interfere with the use of any public road or path.

10. Power to block roads.

(1) Any competent authority may, by order, stop up, block or divert any road or path for as long as the order remains in force:

Provided that where any such road or path is so stopped up, blocked or diverted such competent authority shall publish notice thereof in such manner as he or she considers best adapted for informing the public.

(2) When any competent authority is satisfied that for any statutory purpose it is urgently necessary or expedient so to do he or she may prohibit the use of any road or path by persons or vehicles or by any particular category of persons or vehicles for such period as he or she may think fit.

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11. Power to require removal of vehicles.

Any competent authority may, by order, direct the removal of any animal, vehicle or article on a road, path or area specified in the order to some point outside the specified road, path or area within such period as may be specified.

12. Power to work land.

Any competent authority and any person authorised by him or her shall have the right of access to any land or buildings and to do or cause to be done on any lands or buildings any work of any description and to enter and remain in occupation of any land or building for such period as may be necessary.

13. Acquisition of article.

The Governor-General or the Minister of National Security may give notice to any person having control of any article requisitioning such article, and may by himself or herself his or her servants or agents take possession of such article and use it for any purpose for which it might have been lawfully used if it had not been requisitioned.

14. Power to requisition essential services.

(1) The Governor-General may give notice in writing to any person having the management or control of any essential service requisitioning such service with effect from such date as may be specified in such notice.

(2) Where any essential service is requisitioned under paragraph (1) of this regulation, the Governor-General shall by instrument in writing appoint some person as controller of the service so requisitioned.

(3) Upon the appointment of any person as controller of any essential service such person shall be entitled to take possession of all premises and assets of every description (other than money or securities for money) which immediately before the giving of the notice by which such service was requisitioned were used or intended to be used for the purposes of such service, and in relation to any premises and assets so taken possession of by him or her and in relation to the service so requisitioned to do or cause to be done any act or thing which might lawfully have been done by the person having control of such service if such service had not been so requisitioned.

15. Power to require returns.

(1) Any competent authority may by order require persons of such category as may be specified in such order to make such returns in such form to such person in respect of such matters relating to premises, animals or articles under their control as may be specified.

(2) Any competent authority may give notice in writing to any person requiring such person to make to the competent authority or to such other person or persons as may be specified in such notice a return in such form, within such time and requiring such particulars as may be so specified in relation to such premises, animals or articles under the control of such person.

16. Power to require information.

Without prejudice to any special provisions contained in these regulations, any person shall, on being requested by a competent authority so to do, furnish or produce to such authority or person as may be specified in the request any such information or article in his or her possession as may be so specified, and if any person fails to furnish or produce any information or article in his or her possession in pursuance of a request duly made to him or her under this regulation he or she commits an offence under these regulations.

17. Restriction on publication of prejudicial matter.

No person shall publish either orally or in writing any report or statement (whether true or false) or exhibit any effigy or caricature which report, statement, effigy or caricature is intended or is of such a nature as to be likely to be prejudicial to the public safety, or to incite or provoke any person to commit a breach of the peace or contravene any provision of these regulations or any order made or notice given thereunder.

18. Prohibition of intimidation.

No person shall abuse, insult, threaten, assault or intimidate any other person with a view to

- (a) deterring such other person from doing any act which such other person is lawfully entitled to do; or
- (b) causing or inducing any such other person to do any act which any such other person is lawfully entitled to abstain from doing.

19. Prohibition of incitement to disaffection.

No person shall attempt to influence any member of the Defence Force, the Police Force or any constable or any member of the Fire and Rescue Services or any member of the prison staff to do any act in contravention of his or her duty or to refuse to do or abstain from doing any act proper to be done by him or her in the course of his or her duty or to cease during any period of emergency to be a member of the armed forces of the Crown or a constable or a member of the Fire and Rescue Services or a member of the prison staff.

20. Obstruction.

No person shall obstruct any servant of Her Majesty or a constable acting in the course of his or her duty, or any person exercising any powers or performing any duties conferred or imposed on him or her by or under any of these regulations, or otherwise discharging any lawful functions.

21. Power to prohibit assemblies.

Any competent authority may by order prohibit in any area the assembly of any persons who are suspected of acting or of having acted or of being about to act in a manner prejudicial to the defence, public safety, public order, public morality or public health.

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22. Prohibition against discharging fire-arms.

Any person who by discharging any fire-arm or by the use of sticks, stones or other missiles, or otherwise, endangers the safety of any person commits an offence against these regulations.

23. Prohibition of carrying weapons.

Any competent authority may by order prohibit the carrying by any person of any fire-arm, machete, cutlass, stick, stone or other implement or missile or explosive or gunpowder in any area as may be specified in the order.

24. Curfew.

Any competent authority may by order require every person within any area specified in the order to remain within doors between such hours as may be specified in the order, and any person who within any area so specified is or remains out of doors between such hours without a permit in writing from the competent authority commits an offence against these regulations.

25. Prohibition of wearing of certain uniforms.

No person not being a member of the armed forces of the Crown or a constable or a member of the Fire and Rescue Services shall wear the uniform appropriate to be worn by a member of the armed forces of the Crown or a constable or a member of the Fire and Rescue Services, as the case may be, or any dress having the appearance or bearing any of the distinctive marks of any such uniform.

26. Emergency Fire and Rescue Services.

The Governor-General may order the establishment of an Emergency Fire and Rescue Services for any area specified in the order, and every such order may contain directions as to the organization, numbers, ranks and discipline of the Fire and Rescue Services constituted thereunder.

27. Forging and Personation.

If any person forges, alters or tampers with any naval, military or police pass, permit or other document, or uses or has in his or her possession any such forged, altered or irregular naval, military or police pass, permit or document or personates any person to whom such a pass, permit or document has been duly issued, he or she commits an offence against these regulations.

28. Duty of disclosing contravention of Regulations.

Every person who knows or has reasonable cause to suspect that some other person is acting in contravention of any provision of these regulations shall so soon as may be practicable inform some authorised person.

29. Power to search premises.

Any authorised person may enter and search any vehicle, land or premises suspected of harbouring any person suspected of having committed or being about to commit any offence against these regulations or suspected of having thereon any explosive, firearm, literature, article or any other thing capable of being used in a manner prejudicial to the public safety or likely to lead to a breach of the peace, or to any contravention of these regulations and may take away such explosive, firearm, literature, article or any other thing capable of being used in a manner prejudicial to the public safety or likely to lead to a breach of the peace, or to any contravention of these regulations.

30. Power to stop and search vehicles.

Any authorised person may stop any vehicle on a public highway, road or path if he or she has reason to suspect that the vehicle is being used for any purpose or in any way prejudicial to the public safety and search such vehicle and any occupant thereof, and may seize the vehicle and anything contained therein which he or she suspects is being used or intended to be used for any such purpose aforesaid.

31. Power to question.

(1) Every person, if so required by an authorised person, shall stop and answer to the best of his or her ability and knowledge any questions which may reasonably be addressed to him or her by such authorised person.

(2) It shall be lawful for the Police to hold a person in custody for questioning for a period up to forty-eight hours after the commencement of such custody.

32. Powers of Arrest.

Any authorised person may arrest without warrant any person who is suspected of having acted or of acting in a manner prejudicial to defence, public safety, public order, public morality or public health, or who is suspected of having committed an offence against these regulations.

33. Notices.

(1) The competent authority, or any other person by whom an order is made in pursuance of these regulations shall publish notice of the order in such manner as he or she may consider best adapted for informing persons affected by the order.

(2) No person shall without lawful authority deface or otherwise tamper with any notice posted up in pursuance of paragraph (1) of this regulation.

34. Provisions as to permits.

Any person claiming to act under any permit or permission granted under or for the purposes of these regulations shall, if at any time he or she is required to do so by any authorised person, produce the permit or permission for inspection.

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35. Saving of other powers.

The powers conferred by these regulations are in addition to and not in derogation of any powers exercisable by any person to take such steps as may be necessary for securing the public safety under the Constitution or any law in force in Saint Christopher and Nevis.

36. Offences.

(1) Every person who contravenes or fails to comply with the provisions of any of these regulations or any order made or notice given thereunder or incites or attempts to incite or counsels, abets, aids or procures any other person to contravene or fail to comply with any of these regulations or any order made or notice given thereunder commits an offence.

(2) Any person found guilty of an offence under these regulations shall upon summary conviction be liable to a fine not exceeding five thousand dollars or to imprisonment for any term not exceeding twelve months or both.

[Amended by Act 9/1986]

37. Restriction on granting bail.

(1) Any person in custody upon a charge of having contravened or failed to comply with any of the provisions of these regulations shall not be admitted to bail if the Court is satisfied that there is reasonable cause for believing that such person, if released upon bail, would be likely to commit a similar or other offence against these regulations.

(2) Notwithstanding the foregoing subsection, the Common Law principles applicable to the grant of bail shall apply where any person is in custody upon a charge of having contravened or having failed to comply with any of the provisions of these regulations.

38. Indemnity and *ex gratia* compensation.

No person shall be liable to any suit or action in respect of any act done under any direction or authority pursuant to the provisions of these regulations, but the Governor-General may order that compensation shall be paid out of the public funds of St. Christopher and Nevis.

39. Application of the Magistrate's Code of Procedure Act, Cap. 3.17.

The provisions of Part VIII of the Magistrate's Code of Procedure Act, Cap. 3.17 (relating to appeals from the decisions of Magistrates) shall apply to these regulations as if they formed part of these regulations.

40. Delegation.

By virtue of the powers vested in the Governor-General under the Emergency Powers Act, Section 5, enabling the Governor-General to confer on a Minister such powers and duties as are reasonably justifiable for dealing with the situation that exists in the State, the Governor-General hereby confers on the Minister of the Cabinet of the State of Saint Christopher and Nevis charged with the responsibility for the subject of National Security

the power and duty to sign in his capacity as Minister of National Security any Orders to be made and any Warrants to be issued under regulations 3, 4(1), (2), (3), (4) and (5) of the Emergency Powers Regulations.

[Inserted by SRO 41 of 1967]