



Tuvalu

**EMERGENCIES AND THREATENED
EMERGENCIES (SPECIAL POWERS) ACT**

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Tuvalu

EMERGENCIES AND THREATENED EMERGENCIES (SPECIAL POWERS) ACT

Arrangement of Sections

Section

1	Short title.....	4
2	Interpretation.....	4
3	Threatened emergencies.....	4
4	Emergency regulations	5
5	Application of emergency regulations	6
6	Repugnancy with any enactment	7
7	Duration of emergency regulations.....	7
8	Indemnity	7

Supporting Documents

ENDNOTES

7



Tuvalu

EMERGENCIES AND THREATENED EMERGENCIES (SPECIAL POWERS) ACT

AN ACT TO EMPOWER THE HEAD OF STATE TO MAKE REGULATIONS TO DEAL WITH A THREATENED PUBLIC EMERGENCY; TO MAKE EMERGENCY REGULATIONS TO HAVE EFFECT DURING A PERIOD OF PUBLIC EMERGENCY AND TO SPECIFY THE MATTERS WHICH MAY BE PROVIDED FOR IN EMERGENCY REGULATIONS; AND FOR CONNECTED PURPOSES¹

Commencement [6th August 1987]

1 Short title

This Act may be cited as the Emergencies and Threatened Emergencies (Special Powers) Act.

2 Interpretation

In this Act, unless the context otherwise requires –

“**emergency regulations**” means regulations made under section 4;

“**enactment**” means a written law or any portion of a written law;

“**period of public emergency**” has the meaning given in section 34 of the Constitution.²

3 Threatened emergencies

(1) When the Head of State, acting in accordance with the advice of the Cabinet, decides that –

- (a) a public emergency is threatened; or
- (b) a situation exists which, if allowed to continue, may lead to a period of public emergency,

he may make such regulations as are reasonably justifiable for dealing with the threat or situation.

- (2) If not sooner revoked, regulations made under subsection (1) to deal with any threat or situation cease to have effect when the threat or situation has ceased.

4 Emergency regulations

- (1) The Head of State, acting in accordance with the advice of the Cabinet and subject to section 36 of the Constitution, may, in relation to a period of public emergency, make such regulations as are reasonably justifiable for dealing with the public emergency concerned or with any situation that exists or arises during that period.
- (2) Without limiting the generality of the powers conferred by subsection (1), emergency regulations may, subject to that subsection –
 - (a) provide, subject to section 37 of the Constitution, for the detention of persons or the restriction of their movements, and for the deportation and exclusion from Tuvalu of persons who are not citizens of Tuvalu;
 - (b) provide for the compulsory evacuation of islands or areas of population;
 - (c) subject to section 20(6), (7) and (8) of the Constitution, authorize —
 - (i) the taking of possession or control on behalf of the State of any property or undertaking; or
 - (ii) the acquisition on behalf of the State of any property other than land;
 - (d) provide for the regulation and control of —
 - (i) supplies and services including transport; or
 - (ii) the use or consumption of food, water, fuel or light;
 - (e) provide for the restoration of essential community services;
 - (f) provide for the provision of temporary accommodation;
 - (g) provide for emergency health measures;
 - (h) authorise the entering and search of any premises, land, vehicle, vessel or aircraft and the seizure of articles therein;
 - (i) provide for the prohibition and regulation of entry into specified areas (whether public places or otherwise);
 - (j) provide for the prohibition, restriction and control of assemblies;

- (k) provide for the prohibition of the publication and dissemination of matter prejudicial to public security and, to the extent necessary for that purpose, for the regulation and control of the production, publishing, sale, supply, distribution and possession of publications;
 - (l) provide for amending any enactment, for suspending the operation of any enactment, and for applying any enactment with or without modifications;
 - (m) 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;
 - (n) provide for the suspension or temporary cancellation of any licence, authorisation, registration, permit, certificate, right, approval or exemption granted under any written law;
 - (o) provide for payment of compensation and remuneration to persons affected by the regulations;
 - (p) provide for the apprehension and trial of persons offending against the regulations;
 - (q) prescribe penalties;
 - (r) provide for empowering persons and authorities, identified in the regulations, to make orders and rules for any of the purposes for which regulations may be made;
 - (s) provide for the delegation and transfer of powers and duties conferred and imposed by or under the regulations; and
 - (t) contain such other incidental and supplementary provisions as may be necessary or expedient for the purposes of the regulations.
- (3) Emergency regulations may be made under this section at any time, but shall only be in force —
- (a) while a period of public emergency exists; and
 - (b) in respect of the part of Tuvalu in which the public emergency exists.

5 Application of emergency regulations

Emergency regulations apply throughout Tuvalu and to the public generally, except in so far as they are expressly limited in their application —

- (a) to any part of Tuvalu; or
- (b) as the case may be, to any person or class of persons, identified in the regulations.

6 Repugnancy with any enactment

Emergency regulations, and any orders or rules of the kind referred to in section 4(2)(r), have effect notwithstanding that they are inconsistent with the provisions of any enactment; and, to the extent of the inconsistency, the provisions of the enactment have no effect during the period of public emergency concerned.

7 Duration of emergency regulations

If not sooner revoked, emergency regulations cease to have effect when the period of public emergency, in relation to which they were made, ceases.

8 Indemnity

Except —

- (a) as provided in section 20(6), (7) and (8) of the Constitution; and
- (b) for or in respect of compensation or remuneration provided in emergency regulations in terms of section 4(2)(o); and
- (c) for or in respect of compensation or remuneration provided in regulations under section 3(1),

no action shall lie against the Head of State, the Government or any public officer or police officer —

- (i) for any loss of or damage to property that is due directly or indirectly to a state of public emergency; or
- (ii) for or in respect of any act done or ordered to be done in good faith under this Act or under regulations or emergency regulations made under this Act.

ENDNOTES

¹ 1990 Revised Edition, Cap. 9A – Act 6 of 1987

² Cap. 1.02