



Tuvalu

PUBLIC ORDER ACT

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Tuvalu

PUBLIC ORDER ACT

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Tuvalu

PUBLIC ORDER ACT

AN ACT TO CONSOLIDATE, AMEND AND EXTEND THE LAW RELATING TO AND TO MAKE PROVISION FOR THE MAINTENANCE OF PUBLIC ORDER, THE PROSCRIPTION OF UNLAWFUL SOCIETIES, THE CONTROL OF MEETINGS, PLACES, VESSELS AND AIRCRAFT, UNLAWFUL ASSEMBLIES AND RIOTS AND MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH¹

Commencement [1st December 1973²]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Public Order Act.

2 Interpretation

In this Act unless the context otherwise requires —

“**closed area**” means any island or other place declared to be a closed area under section 37;

“**designated area**” means every island or other place designated by the Minister by order under section 12(3);

“**meeting**” means —

- (a) any gathering or assembly of persons convened or organised for any purpose; and

- (b) any gathering or assembly of persons whether or not previously convened or organised at which any person assumes or attempts to assume control or leadership thereof,

but does not include any gathering or assembly of persons convened or organised exclusively —

- (i) for the purposes of any public body; or
- (ii) for the purpose of carrying out any duty or exercising any power imposed or conferred by any Act;

“offensive weapon” means any article made or adapted for use for causing injury to the person or intended by the person having it in his possession or under his control for such use by him or by some other person;

“officer in charge” bears the meaning assigned to that expression by the Police Service Act;³

“political organisation” means any organisation which has among its objects any political object or pursues any political purpose;

“public gathering” means a public meeting, a public procession and any other meeting, gathering or assembly of 10 or more persons in any public place;

“public meeting” means any meeting held or to be held in a public place;

“public place” means any place to which for the time being the public or any section of the public are entitled or permitted to have access whether on payment or otherwise, and in relation to any meeting includes any place which is or will be on the occasion and for the purposes of such meeting a public place;

“public procession” means any procession in, to or from a public place;

“society” includes —

- (a) any club, company, partnership, association or body of persons; and
- (b) any combination of 10 or more persons, whether the society be known by any name or not;

“unlawful society” means —

- (a) a society formed for any of the following purposes —
 - (i) levying war or encouraging or assisting any person to levy war on the Government or on the inhabitants of any part of Tuvalu; or
 - (ii) killing or injuring or inciting to the killing or injuring of any person; or
 - (iii) destroying or injuring or inciting to the destruction or injuring of any property; or
 - (iv) subverting or promoting the subversion of the Government or of its officials; or

- (v) committing or inciting to acts of violence or intimidation; or
 - (vi) interfering with or resisting or inciting to interference with or resistance to the administration of the law; or
 - (vii) disturbing or inciting to the disturbance of peace and order in any part of Tuvalu; or
- (b) a society declared by order of the Minister to be a society dangerous to the good government of Tuvalu.

PART II - CONTROL OF ORGANISATIONS

3 Power to prohibit flags, etc.

- (1) Any police officer may in a designated area —
- (a) prohibit the display at a public gathering of any flag, banner or other emblem;
 - (b) prohibit the owner, tenant, occupier or person in charge of any premises or place and the owner or person in charge of any vehicle or vessel from permitting the display of any flag, banner or other emblem on or at the premises, place, vehicle or vessel,

if the police officer reasonably believes that the display of any flag, banner or emblem is likely to cause or lead to a breach of the peace.

- (2) A prohibition under paragraph (a) of subsection (1) shall be issued by such means as are in the opinion of the police officer concerned reasonably required in all the circumstances to bring it to the notice of the persons constituting the public gathering:

Provided that where such means are not immediately available and in the opinion of the police officer it is necessary in the interests of public order for the prohibition to be issued forthwith it may be issued by all reasonable means immediately available.

- (3) A prohibition under paragraph (b) of subsection (1) may be issued either orally or in writing to the owner, tenant, occupier or person in charge as the case may be.
- (4) Where a prohibition is issued under this section any police officer may seize and detain any flag, banner or emblem and may if reasonably necessary —
- (a) enter any premises or place; and
 - (b) stop and board any vehicle or vessel,
- using such force as may be reasonable and necessary for these purposes.

- (5) Any person who displays or permits the display of any flag, banner or other emblem in contravention of a prohibition issued under this section shall be liable to a fine of \$100 and to imprisonment for 1 year.
- (6) No prosecution for an offence under this section shall be instituted without the consent of the Attorney-General.

4 Prohibition of uniforms in connection with political objects

- (1) Any person in a designated area who in any public place or at any public gathering wears any uniform signifying his association with any political organisation or with the promotion of any political object, save under and in accordance with written permission given under subsection (2), shall be liable to a fine of \$100 and to imprisonment for 1 year.
- (2) The Commissioner of Police or an officer in charge of police may, if he is satisfied that the wearing of any such uniform as aforesaid on any ceremonial, anniversary or other special occasion will not be likely to involve risk of public disorder, give written permission for the wearing of such uniform on that occasion either absolutely or subject to such conditions as he may specify.
- (3) Any person who contravenes any condition imposed under subsection (2) shall be liable to a fine of \$100 and to imprisonment for 1 year.

5 Managing unlawful society

Any person who manages or assists in the management of an unlawful society shall be liable to imprisonment for 7 years.

6 Being member of an unlawful society

Any person who —

- (a) is a member of an unlawful society; or
- (b) knowingly allows a meeting of an unlawful society or of members of an unlawful society to be held in any house, building or place belonging to or occupied by him or over which he has control,

shall be liable to imprisonment for 3 years.

7 Prosecutions under sections 5 and 6

- (1) No prosecution for an offence under section 5 or 6 shall be instituted without the consent of the Attorney-General.
- (2) In any prosecution for an offence under section 5 or 6 it shall not be necessary to prove that the society consisted of 10 or more persons; but it shall be

sufficient to prove the existence of a combination of persons and the onus shall then rest with the accused person to prove that the number of members of the combination did not amount to 10.

- (3) Any person who attends a meeting of an unlawful society shall be deemed to be a member of the society unless the contrary is proved.
- (4) Any person who has in his possession or custody or under his control any of the insignia, banners, arms, books, papers, documents or other property belonging to an unlawful society or wears any of the insignia or is marked with any mark of the society shall be deemed to be a member of the society unless the contrary is proved.

8 Power of entry, arrest, search, etc.

Any magistrate or police officer may enter with or without assistance any house, building or place in which he has reason to believe that a meeting of an unlawful society or of persons who are members of an unlawful society is being held, and to arrest or cause to be arrested all persons found therein and to search such house, building or place and seize or cause to be seized all insignia, banners, arms, books, papers, documents and other property which he may have reasonable cause to believe to belong to any unlawful society or to be in any way connected with the purpose of the meeting.

9 Declaration by Minister

- (1) When a society is declared to be an unlawful society by an order of the Minister the following consequences shall ensue —
 - (a) the property of the society within Tuvalu shall forthwith vest in an officer appointed by the Minister;
 - (b) the officer appointed by the Minister shall proceed to wind up the affairs of the society and after satisfying and providing for all debts and liabilities of the society and the cost of the winding up if there shall then be any surplus assets shall prepare and submit to the Minister a scheme for the application of those surplus assets;
 - (c) such scheme when submitted for approval may be amended by the Minister in such way as he shall think proper in the circumstances of the case;
 - (d) the approval of the Minister to such a scheme shall be denoted by the endorsement thereon of a memorandum of such approval signed by the Minister and upon this being done the surplus assets, the subject of the scheme, shall be held by such officer upon the terms and to the purposes thereby prescribed;
 - (e) for the purpose of the winding up, the officer appointed by the Minister shall have all the powers vested in a receiver in bankruptcy for the

purpose of the discovering of the property of a debtor and the realisation thereof.

- (2) The Minister may for the purpose of enabling a society to wind up its own affairs suspend the operation of this section for such period as shall seem to him expedient.
- (3) Subsection (1) shall not apply to any property seized under section 8.

10 Forfeiture of insignia, etc.

Subject to section 9 the insignia, banners, arms, books, papers, documents and other property belonging to an unlawful society shall be forfeited and shall be dealt with in such manner as the Minister may direct.

PART III - CONTROL OF PUBLIC MEETINGS AND PROCESSIONS

11 Control of public gatherings

The Commissioner of Police or an officer in charge of police may, if it appears to him to be necessary or expedient in the interests of public order to do so, in such manner as he may think fit —

- (a) control and direct the extent to which music may be played or to which music or human speech or any other sound may be amplified, broadcast, relayed or otherwise reproduced by artificial means in public places;
- (b) control and direct the conduct of all public gatherings and specify the route by which and the time at which any public procession may pass;
- (c) for any of the purposes aforesaid give or issue such orders as he may consider necessary or expedient.

12 Police to be informed of meetings in designated area

- (1) No public meeting or public procession shall take place in a designated area unless the Commissioner of Police or the officer in charge of police in the area concerned has first been informed in accordance with this section of the day on which and the time and place at which the meeting or procession is to take place.
- (2) Any person intending to hold, convene, organise or form a public meeting or a public procession in a designated area shall inform the Commissioner of Police or the officer in charge of police in the area concerned in writing of his intention to do so and of the matters specified in subsection (1) not less than 3

clear days before the public meeting or public procession (or 24 hours before a public meeting or public procession solely for the purposes of a funeral) is to be held, convened, organised or formed.

- (3) The Minister may by order designate any island or other place a designated area for the purposes of this Act where he is satisfied that it is in the interests of public order to do so.
- (4) An order under subsection (3) shall remain in force for such period not exceeding 3 months as may be therein specified:

Provided that the Minister shall forthwith revoke such an order where he is satisfied that the order is no longer necessary in the interests of public order.

13 Police powers over meetings, processions and gatherings

- (1) Any police officer may prevent the holding of, stop or disperse any public meeting or public procession which takes place or is about to take place in contravention of section 12(1).
- (2) Any police officer may —
 - (a) prevent the holding of, stop, disperse or vary the place or route of any public gathering; or
 - (b) stop or disperse any meeting convened or held in any premises or place which is not a public place or any gathering or procession of persons whatsoever or wheresoever,if he reasonably believes that the same is likely to cause or lead to a breach of the peace.
- (3) For the purpose of exercising the powers conferred by subsection (1) or (2) a police officer may give or issue such orders as he may consider necessary or expedient and such police officer and any other police officer may —
 - (a) use such force as may be reasonable and necessary to prevent the holding of, stop or disperse, as the case may be, the public meeting, public procession, public gathering or other meeting, gathering or procession of persons; and
 - (b) enter any premises or place whatsoever in which any meeting is taking place or any persons are gathered.
- (4) If any police officer has reason to believe that a public meeting or public procession is likely to take place in contravention of section 12(1) in any public place he may cause access to that public place and to any other public place adjacent thereto to be barred and to be closed to the public or to any person or class of persons for such time as may be necessary to prevent the public meeting or public procession taking place.
- (5) The closure of any public place under subsection (4) shall be notified by means of notices exhibited or physical barriers erected at the places of access

thereto or by oral public announcement in the vicinity thereof or in such other manner as the police officer aforesaid may think fit.

- (6) Any police officer may use such force as may be reasonable and necessary to prevent any person from entering or remaining in any public place to which access has been closed to him under this section.

14 Offences in relation to sections 11, 12 and 13

- (1) Any person who —
- (a) neglects or refuses to obey any order given or issued under section 11 or section 13(3); or
 - (b) without the permission of any police officer on duty there, enters or remains in a public place to which access has been closed to him under section 13(4),

shall be liable to a fine of \$100 and to imprisonment for 1 year.

- (2) Where —
- (a) any public meeting or public procession takes place in contravention of section 12(1);
 - (b) 3 or more persons taking part in or forming part of a public gathering neglect or refuse to obey an order given or issued under section 11;
 - (c) 3 or more persons taking part in or forming part of a public meeting, public procession or public gathering or other meeting, procession or gathering of persons neglect or refuse to obey an order given or issued under section 13(3),

the public meeting, public procession or public gathering or other meeting, procession or gathering of persons, as the case may be, shall be deemed to be an unlawful assembly.

- (3) Where any public meeting, public procession or public gathering or other meeting, procession or gathering of persons is deemed to be an unlawful assembly by virtue of subsection (2) —
- (a) every person who without lawful authority or reasonable excuse takes or continues to take part in or forms or continues to form part of any such unlawful assembly; and
 - (b) every person who —
 - (i) holds, convenes, organises, forms or collects or assists or is concerned in the holding, convening, organising, forming or collecting of any public meeting or public procession such as is referred to in paragraph (a) of subsection (2); or
 - (ii) continues or attempts to continue to hold or conduct or to direct otherwise than for the purpose of securing obedience to an order given or issued under section 11 or section 13(3), any public

gathering such as is referred to in paragraph (b) of subsection (2) or any public meeting, public procession or public gathering or other meeting, procession or gathering of persons such as is referred to in paragraph (c) of subsection (2),

after the same has become an unlawful assembly as aforesaid shall be liable to a fine of \$200 and to imprisonment for 2 years.

15 Disorder in public places

- (1) Any person who at any public gathering acts in a disorderly manner for the purpose of preventing the transaction of the business for which the public gathering was called together or incites others so to act shall be liable to a fine of \$100 and to imprisonment for 1 year.
- (2) Any person who behaves in a noisy or disorderly manner or uses or distributes or displays any writing containing threatening, abusive or insulting words with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be caused shall be liable to a fine of \$100 and to imprisonment for 1 year.

16 Prohibition of offensive weapons at public meetings and processions

- (1) Any person who while present at or making his way towards any public meeting or on the occasion of any public procession has with him any offensive weapon without lawful authority or reasonable excuse shall be liable to a fine of \$200 and to imprisonment for 2 years.
- (2) In this section “offensive weapon” includes any article suitable for causing injury to the person.
- (3) For the purposes of this section a person shall not be deemed to be acting in pursuance of lawful authority unless he is on duty as —
 - (a) a police officer;
 - (b) a special constable;
 - (c) a police or constabulary officer of another territory present in Tuvalu in response to an application by the Minister;
 - (d) a public officer;
 - (e) a member of His Majesty’s forces for Tuvalu.
- (4) Where any person is convicted of an offence under subsection (1) the court may make an order for the forfeiture of any offensive weapon in respect of which the offence was committed.

17 Power of Commissioner of Police to prohibit public gatherings

- (1) The Commissioner of Police or an officer in charge of police may, if it appears to him to be necessary or expedient in the interests of public order, prohibit the holding or the continuance of a particular public gathering in any area, premises or place or on any particular day.
- (2) Notice of a prohibition under subsection (1) shall be given —
 - (a) either orally or in writing to the person or to one of the persons promoting, directing, organising or managing the public gathering; or
 - (b) by publication, either orally or in writing, in such manner or by posting a notice thereof in such place as the Commissioner of Police or the officer in charge of police, as the case may be, may think fit.
- (3) Any person who, after notice of a prohibition under subsection (1) has been given, takes part in the promotion, direction, organisation or management of a public gathering which is held or continued in contravention of a prohibition under subsection (1) shall be liable to a fine of \$200 and to imprisonment for 2 years.
- (4) Any police officer may give or issue such orders and use such force as may be reasonable and necessary to prevent the holding or continuance of a public gathering the holding or continuance of which has been prohibited under subsection (1) and to disperse any gathering of persons thereat.
- (5) Any person who neglects or refuses to obey any order given or issued under subsection (4) shall be liable to a fine of \$100 and to imprisonment for 1 year.

18 Power of Minister to prohibit public gatherings

- (1) The Minister may, if he is satisfied that by reason of particular circumstances existing in Tuvalu or in any part thereof it is necessary for the prevention of serious public disorder to prohibit the holding of public gatherings throughout Tuvalu or in any part thereof, by order prohibit the holding in Tuvalu or in any part thereof of all public gatherings or of any class of public gatherings.
- (2) An order under subsection (1) shall remain in force for such period not exceeding 3 months as may be therein specified:

Provided that the Minister shall forthwith revoke such an order where he is satisfied that the order is no longer necessary for the prevention of serious public disorder.

- (3) Any person who —
 - (a) takes part in the promotion, direction, organisation or management of a public gathering which is held or intended to be held in contravention of an order under subsection (1); or
 - (b) takes part in or attends or incites any other person to take part in or attend any such public gathering,

shall be liable to a fine of \$200 and to imprisonment for 2 years.

19 Proof of certain matters

A certificate purporting to be under the hand of the Commissioner of Police or an officer in charge of police specifying —

- (a) the terms and date of any order given or issued under section 11;
- (b) the terms, date and method of giving notice of any prohibition or order given or issued under section 17(1) or 17(4),

shall be prima facie evidence of such matter contained in such certificate in all legal proceedings.

PART IV - UNLAWFUL ASSEMBLIES, RIOTS AND SIMILAR OFFENCES

20 Unlawful assembly

- (1) When 3 or more persons —
 - (a) assemble or are assembled with intent to commit an offence; or
 - (b) being assembled conduct themselves in a manner intended or likely to cause any person reasonably to fear that the persons so assembled will commit a breach of the peace or will by such conduct provoke other persons to commit a breach of the peace,they are an unlawful assembly.
- (2) It is immaterial that the original assembly was lawful if being assembled the persons concerned —
 - (a) remain assembled with intent to commit an offence; or
 - (b) conduct themselves in the manner described in paragraph (b) of subsection (1).
- (3) Any person who takes part in an assembly which is an unlawful assembly by virtue of subsection (1) shall be liable to a fine of \$100 and to imprisonment for 1 year.

21 Riot

- (1) When any person taking part in an assembly which is an unlawful assembly by virtue of section 20(1) commits a breach of the peace the assembly is a riot.

- (2) Any person who takes part in a riot shall be liable to a fine of \$200 and to imprisonment for 2 years.

22 Rioters demolishing buildings, etc.

- (1) Any person taking part in a riot who unlawfully pulls down or destroys or begins to pull down or destroy any building, machinery, structure, vehicle, vessel or aircraft shall be liable to imprisonment for 14 years.
- (2) A person may be convicted of an offence under this section whether or not he has been charged with or convicted of any other offence under this Part.

23 Rioters damaging buildings, etc.

- (1) Any person taking part in a riot who unlawfully damages any of the things specified in section 22 shall be liable to imprisonment for 7 years.
- (2) A person may be convicted of an offence under this section whether or not he has been charged with or convicted of any other offence under this Part.

24 Riotously interfering with vehicles, etc.

- (1) Any person taking part in a riot who unlawfully and with force prevents, hinders or obstructs the loading or unloading or the movement of any vehicle, vessel or aircraft or unlawfully and with force boards any vehicle, vessel or aircraft with intent to do so shall be liable to a fine of \$200 and to imprisonment for 2 years.
- (2) A person may be convicted of an offence under this section whether or not he has been charged with or convicted of any other offence under this Part.

25 Going armed in public

- (1) Any person who goes armed in public without lawful authority or reasonable excuse in such a manner as to cause terror to any person shall be liable to a fine of \$200 and to imprisonment for 2 years.
- (2) For the purposes of this section a person shall not be deemed to be acting in pursuance of lawful authority unless he is on duty in one of the capacities specified in section 16(3).
- (3) Where any person is convicted of an offence under subsection (1) the court may make an order for the forfeiture of any weapon in respect of which the offence was committed.

26 Forcible entry

- (1) Any person who enters on any land or premises in a violent manner, whether or not he is entitled to enter thereon and whether such violence consists in actual force applied to any other person or in threats or in breaking open any building or in collecting an unusual number of people, shall be liable to a fine of \$200 and to imprisonment for 2 years.
- (2) Nothing in this section shall make it an offence for a person to enter upon his own land or premises if they are in his possession or in the custody of his servant or agent.

27 Forcible detainer

Any person who, being in unlawful possession of land or premises, holds possession of them against a person entitled by law to the possession of them in a manner likely to cause a breach of the peace or to cause any person reasonably to fear that a breach of the peace may occur shall be liable to a fine of \$200 and to imprisonment for 2 years.

28 Fighting

Any person who takes part in an unlawful fight shall be liable to a fine of \$100 and to imprisonment for 1 year.

29 Proposing violence at public gatherings

Any person who without lawful authority at any public gathering makes any statement or behaves in a manner indicating or implying that it is or might be desirable to do an act calculated —

- (a) to kill or cause physical injury to any person or to any class or community of persons;
- (b) to destroy or cause damage to any property; or
- (c) to deprive any person by force or fear of the possession or use of any property either permanently or temporarily,

shall be liable to a fine of \$200 and to imprisonment for 2 years.

PART V - INTIMIDATION

30 Intimidation

Any person who without lawful authority or reasonable excuse does or says anything or behaves in a manner or utters or distributes any publication which is likely to make some other person apprehensive as to what may happen —

- (a) to such other person or to any member of the family or any dependant of such other person;
- (b) to any property, business, undertaking or interest of such other person or of any member of the family or any dependant of such other person;
- (c) to any building or place occupied by such other person or by any member of the family or any dependant of such other person; or
- (d) to any business or undertaking in which such other person or any member of the family or any dependant of such other person is employed,

shall be liable to a fine of \$200 and to imprisonment for 2 years.

31 Directing, organising, etc., intimidation

Any person who directs, organises, arranges, encourages, counsels, causes, procures or commands any intimidation which is an offence under section 30 shall be liable to a fine of \$300 and to imprisonment for 3 years.

PART VI - CONTROL OF PLACES, VESSELS, OFFENSIVE WEAPONS, ETC.

32 Curfew orders

(1) The Minister may, if he is satisfied that it is necessary in the interests of public order to do so, by order (hereinafter referred to as a curfew order) direct that within such area and during such hours as may be specified in the curfew order every person or, as the case may be, every member of any class of persons specified in the curfew order shall, save under and in accordance with a written permit issued under subsection (3), be and remain inside a building or enclosed premises.

(2) A curfew order shall remain in force for such period not exceeding 1 month as may be therein specified:

Provided that the Minister shall forthwith revoke a curfew order where he is satisfied that the order is no longer necessary in the interests of public order.

- (3) The Commissioner of Police or an officer in charge of police may issue to any person a written permit for the purposes of subsection (1).
- (4) A permit issued under subsection (3) shall be subject to such terms and conditions as the Commissioner of Police or the officer in charge of police, as the case may be, thinks fit and may be revoked by the Commissioner of Police or the officer in charge of police at any time.
- (5) Upon revocation of a permit under subsection (4) the Commissioner of Police or the officer in charge of police, as the case may be, shall serve on the permit holder either personally or by post notice in writing of the revocation and upon receipt of the notice the permit holder shall forthwith surrender his permit.
- (6) Any person who contravenes —
 - (a) any of the provisions of a curfew order; or
 - (b) any term or condition to which a permit issued under subsection (3) is subject,shall be liable to a fine of \$200 and to imprisonment for 2 years.
- (7) Notwithstanding the provisions of this section the following persons shall not be subject to or obliged to comply with any of the provisions of a curfew order when on duty or proceeding to or from duty —
 - (a) a police officer;
 - (b) a special constable;
 - (c) a police or constabulary officer of another territory present in Tuvalu in response to an application by the Minister;
 - (d) a member of His Majesty's forces for Tuvalu;
 - (e) a member of the Medical Staff;
 - (f) a member of any Government service or department or of any other class of persons designated by the Minister by notice for the purposes of a particular curfew order.
- (8) Whenever the Minister considers it necessary a curfew order may provide that subsection (7) shall not apply in the case of that curfew order with respect to such of the persons specified in that subsection as may be prescribed by the curfew order.

33 Carrying offensive weapons during a curfew

- (1) Any person who without lawful authority or reasonable excuse carries or has in his possession in any area in which a curfew order is in force and during the hours during which the curfew imposed thereby is operative any offensive weapon shall be liable to a fine of \$300 and to imprisonment for 3 years.

- (2) For the purposes of this section a person shall not be deemed to be acting in pursuance of lawful authority unless he is on duty in one of the capacities specified in section 16(3).
- (3) A person shall not be convicted of an offence under this section if he proves to the satisfaction of the court that he carried or had in his possession the offensive weapon solely for domestic or defensive purposes within a building or enclosed premises which he was lawfully occupying or in which he was lawfully present.
- (4) Where any person is convicted of an offence under subsection (1) the court may make an order for the forfeiture of any offensive weapon in respect of which the offence was committed.

34 Prohibition of offensive weapons in public places

- (1) Any person who without lawful authority or reasonable excuse has with him in any public place any offensive weapon shall be liable to a fine of \$100 and to imprisonment for 1 year.
- (2) For the purposes of this section a person shall not be deemed to be acting in pursuance of lawful authority unless he is on duty in one of the capacities specified in section 16(3).
- (3) Where any person is convicted of an offence under subsection (1) the court may make an order for the forfeiture of any offensive weapon in respect of which the offence was committed.

35 Power of Minister to prohibit the movement of vessels or aircraft

- (1) The Minister may, if he is satisfied that it is necessary in the interests of public order to do so, by order prohibit or control the landing, taking off or movement of any aircraft or class of aircraft or the movement or anchorage of any vessel or the use of any waters in Tuvalu by all vessels or any vessel or class of vessel during such hours and for such a period and subject to such conditions as may be specified in the order.
- (2) Any person who contravenes an order under subsection (1) shall be liable to a fine of \$200 and to imprisonment for 2 years.
- (3) Any police officer or other public officer may take such steps and use such force as may be reasonable and necessary to secure compliance with any order under subsection (1).

36 Detention of vessels and aircraft

- (1) The Minister may, if he is satisfied that it is necessary in the interests of public order to do so, give such orders as may appear to him to be necessary

for the detention of any vessel or aircraft or any class of vessel or aircraft and for the detention of any of the persons on board the vessel or aircraft so far as this may be necessary to ensure the detention of the vessel or aircraft.

- (2) Any person detained under subsection (1) shall be deemed to be in lawful custody.
- (3) Any police officer or other public officer may in relation to any vessel or aircraft or any persons on board take such steps and use such force as may be reasonable and necessary to secure compliance with any order under subsection (1).
- (4) The Minister may give orders for the release of any vessel, aircraft or person detained under this section and for the departure thereof from Tuvalu.
- (5) In this section “**person on board**” means any person who is or was on board the vessel or aircraft —
 - (a) at the time of its arrival in Tuvalu; or
 - (b) at the time of its detention under this section; or
 - (c) at any time between the time of its arrival or detention and its final departure from Tuvalu.
- (6) This section shall be in addition to and not in derogation of any other law in relation to the deportation, removal or expulsion of persons from Tuvalu.

PART VII - CLOSED AREAS

37 Closed areas

- (1) The Minister may, if he is satisfied that by reason of particular circumstances existing in Tuvalu or in any other part thereof it is necessary for the prevention of serious public disorder to do so, by order declare any island or other place to be a closed area.
- (2) An order under subsection (1) shall remain in force for such period not exceeding 3 months as may be therein specified:

Provided that the Minister shall forthwith revoke such an order where he is satisfied that the order is no longer necessary for the prevention of serious public disorder.
- (3) The Commissioner of Police or an officer in charge of police and such other person as may be designated in any order under subsection (1) may cause a closed area to be closed by the erection of barriers or otherwise.

38 Permits to enter and leave closed areas

- (1) In the case of any closed area a written permit may be issued —
 - (a) by the Commissioner of Police or an officer in charge of police; or
 - (b) by such authority or person as may be designated for that purpose by the Minister in any order under section 37,to any person permitting that person to enter or leave the closed area.
- (2) A permit issued under subsection (1) shall be subject to such terms and conditions as the person by whom it is issued thinks fit and may be revoked by such person at any time.
- (3) Upon revocation of a permit under this section the person revoking the permit shall serve on the permit holder either personally or by post notice in writing of the revocation and upon receipt of the notice the permit holder shall forthwith surrender his permit.

39 Prohibition on entering or leaving closed area without permit

- (1) Any person who —
 - (a) enters or leaves a closed area save under and in accordance with a permit issued under section 38(1); or
 - (b) contravenes any term or condition to which any such permit is subject,shall be liable to a fine of \$200 and to imprisonment for 2 years.
- (2) No offence shall be committed under subsection (1) if the person entering or leaving a closed area is a police officer or other public officer acting in the course of his duty.

40 Power of arrest

- (1) Without prejudice to the provisions of this Act or of any other law any police officer or guard may without warrant arrest —
 - (a) any person whom he finds in a closed area if he has reason to suspect that such person has committed or is about to commit any offence;
 - (b) any person whom he finds committing an offence in a closed area;
 - (c) any person whom he finds attempting to enter a closed area if he has reason to suspect that such person has not been issued with a permit under section 38(1) and is not a police officer or other public officer acting in the course of his duty,and may use such force as may be reasonable and necessary for the purpose.
- (2) Any person arrested under subsection (1) by a guard shall be delivered into the custody of a police officer as soon as practicable.

- (3) Any police officer may —
- (a) detain any person found in a closed area who has entered the closed area in contravention of section 39, or has contravened any term or condition to which a permit issued to him under section 38(1) is subject, for such time as may be necessary to ensure his orderly removal therefrom; and
 - (b) remove from a closed area any person such as is referred to in paragraph (a).
- (4) In this section “**guard**” means —
- (a) any person appointed to guard a closed area by the Minister; and
 - (b) any person appointed to guard a closed area by such authority or person as may be designated for that purpose by the Minister in any order under section 37.

PART VIII - GENERAL

41 Procedure where consent of Attorney-General to prosecution required

Where in this Act it is provided that no prosecution for an offence shall be instituted without the consent of the Attorney-General a person may be arrested or a warrant of arrest may be issued and executed for such offence and any such person may be remanded in custody or on bail notwithstanding that the consent of the Attorney-General to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken unless that consent has been obtained.

42 Police powers of arrest

Any police officer may without warrant arrest any person committing or reasonably suspected of being about to commit or of having committed any offence under this Act.

43 Use of force

Without prejudice to any other powers conferred by this Act any police officer may use such force as may be both reasonable and necessary —

- (a) to prevent the commission or continuance of any offence under this Act;
- (b) to effect an arrest in accordance with section 42;
- (c) to overcome any resistance to the exercise of any of the powers conferred by this Act.

44 Offences by societies, etc.

Where any offence under this Act is committed by any society, every person charged with or concerned or acting in the control or management of the affairs or activities of such society shall be guilty of that offence and liable to be punished accordingly unless it is proved by such person that through no act or omission on his part he was not aware that the offence was being or was intended or was about to be committed, or that he took all reasonable steps to prevent its commission.

45 Power of entry and search

- (1) Without prejudice to any other provision of this Act any officer in charge of police and any police officer of or above the rank of Sergeant with the assistance of such other police officers as may be necessary may —
 - (a) enter and search any premises or place whatsoever if he knows or has reason to suspect that an offence under this Act is being or has been committed therein or that there is therein any evidence of the commission of an offence under this Act;
 - (b) search any person found in any premises or place which he may enter and search under paragraph (a) ;
 - (c) stop, board and search any vessel or stop and search any vehicle if he knows or has reason to suspect that there is therein any evidence of the commission of an offence under this Act;
 - (d) seize, remove and detain anything which is or contains or appears to him to be or to contain or to be likely to be or to contain evidence of the commission of an offence under this Act.
- (2) Any police officer may use such force as may be reasonable and necessary for the exercise of the powers conferred by subsection (1) and any person found in any premises or place or in any vessel or vehicle may be detained by any police officer until that person has been searched under subsection (1).
- (3) Any police officer may, using such force as may be reasonable and necessary, enter any premises or place whatsoever if he knows or has reason to suspect that —
 - (a) any person who has lately been in an unlawful assembly or a riot or engaged in any unlawful purpose has escaped into such premises or place; or
 - (b) persons about to commit a breach of the peace are assembled therein.
- (4) A woman shall not be searched under this section except by a woman.

46 Proof of lawful authority or reasonable excuse

In any proceedings for an offence under this Act the proof of lawful authority or reasonable excuse shall lie on the person charged with the offence.

47 Power to require identifications

Any police officer may, for the purpose of preventing or detecting an offence under this Act, require any person to give his correct name and address and to produce any document in his possession by which he can be identified and any person failing to comply with such a requirement shall be liable to a fine of \$50 and to imprisonment for 6 months.

48 Obstruction

- (1) Any person who obstructs a police officer or any other person exercising any power or performing any duty conferred or imposed on him by or under this Act shall be liable to a fine of \$50 and to imprisonment for 6 months.
- (2) This section shall be without prejudice to section 117 of the Penal Code.⁴

49 Power of Minister to give directions

- (1) The Minister may give such directions as he thinks fit with respect to the exercise or performance by the Commissioner of Police, an officer in charge of police or any police officer of the powers, functions or duties conferred or imposed on him by or under this Act, either generally or in any particular case.
- (2) The Commissioner of Police, an officer in charge of police and any police officer shall in the exercise or performance of the powers, functions or duties referred to in subsection (1) comply with any directions given by the Minister under that subsection.

50 Delegation of powers

The Commissioner of Police may —

- (a) delegate to any police officer of or above the rank of Sergeant any of the powers conferred on him by section 4, 11, 32 or 38; and
- (b) delegate to any police officer of or above the rank of Inspector the power conferred on him by section 17.

51 Indemnity to persons acting under Act

- (1) Any person who uses such force as may be both reasonable and necessary for any purpose in accordance with this Act shall not be liable in any criminal or civil proceedings for having by the use of such force caused injury or death to any person or damage to or loss of any property.
- (2) Without prejudice to subsection (1) no police officer or other public officer or special constable or guard as defined by section 40(4) or other person shall be

liable in damages or otherwise for any act done by him in the performance or exercise of any obligation, duty or power imposed or conferred on him by this Act.

ENDNOTES

¹ 1990 Revised Edition, Cap. 20.36 – Acts 8 of 1973, 23 of 1974

Amended by Act 12 of 2009, commencement 3 December 2009

² LN 28/1973

³ Amended by Act 12 of 2009; Cap. 20.24

⁴ Cap. 10.20