COLONIES, PROTECTORATES AND TRUST TERRITORIES

1952 No. 2031

The Emergency Powers (Amendment) Order in Council, 1952

Made - - - -	*25th November,* 1952
Laid before Parliament	*25th November,* 1952
Coming into Operation	*26th November,* 1952

At the Court at Buckingham Palace, the 25th day of November, 1952

Present,

The Queen's Most Excellent Majesty in Council

Whereas by the Emergency Powers Order in Council, 1939(a) (hereinafter called the "principal Order"), provision is made for the security in time of emergency of the territories mentioned in the First Schedule thereto:

And whereas it is expedient to amend the principal Order in the manner hereinafter appearing:

Now, therefore, Her Majesty, by virtue and in exercise of the powers vested in Her by the British Settlements Acts, 1887 and 1945(b), the Foreign Jurisdiction Act, 1890(c), and of all other powers enabling Her in this behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Short titles and commencement

1.—(1) This Order may be cited as the Emergency Powers (Amendment) Order in Council, 1952, and shall be read as one with the principal Order.

(2) The principal Order and this Order may be cited together as the Emergency Powers Orders in Council, 1939 and 1952.

(3) This Order shall come into operation on the 26th day of November, 1952.

Amendment of section 3 of the principal Order

2.—(1) The following subsection shall be added to section 3 of the principal Order:

"(2) A Proclamation under the preceding subsection may, if the Governor thinks fit, be made so as to apply only to such part of the territory as may be specified in the Proclamation (in this subsection called "the emergency area") in which case Regulations made under the said Part II shall, except as otherwise expressly provided in such Regulations, have effect only in the emergency area:

Provided that, for the avoidance of doubts, it is hereby declared that the expression "the territory" in the said Part II shall not be construed as referring only to the emergency area."

(a) For text of this Order, *see* appendix to S.I. 1952/2031, printed on the following page.
(b) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (c) 53 & 54 Vict. c. 37.

(2) The said section 3 as enacted in the principal Order shall become, and shall be numbered as, subsection (1) of the said section.

Powers reserved to Her Majesty

3. Her Majesty may from time to time revoke, add to, amend, or otherwise vary this Order.

F. J. Fernau.

EXPLANATORY NOTE

(This Note is not part of the Order but is intended to indicate its general purport.)

This Order amends the Emergency Powers Order in Council, 1939, in order to provide that a Proclamation made by the Governor of a territory bringing Part II of the Order into operation, may be made applicable to a part only of the territory.

APPENDIX

AT THE COURT AT BUCKINGHAM PALACE

The 9th day of March, 1939

Present,

The King's Most Excellent Majesty

Marquess of Zetland — Mr. Chancellor of the Duchy of Lancaster

Lord Chamberlain — Sir Hugh O'Neill

Whereas it is expedient to make other provision than that now existing for the security in time of emergency of the colonies and protectorates mentioned in Part I of the First Schedule to this Order, and of the territories in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty mentioned in Part II of the said Schedule:

Now, therefore, His Majesty, by virtue and in exercise of the powers vested in Him by the British Settlements Act, 1887, the Foreign Jurisdiction Act, 1890, and of all other powers enabling Him in this behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

PART I

GENERAL

1. This Order may be cited as the Emergency Powers Order in Council, 1939.

2.—(1) In this Order, unless the context otherwise requires—

"territory" means any territory mentioned in the First Schedule hereto and its dependencies, and includes the territorial waters, if any, adjacent thereto;

"Governor" includes any person administering the Government of the territory, and in the case of Zanzibar means the British Resident or the person lawfully discharging his functions;

"law" includes any Order of His Majesty in Council except this Order, and any Ordinance, order, rule, regulation, by-law, or other law for the time being in force in the territory.

(2) The Interpretation Act, 1889, shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. The provisions of Part II of this Order shall have effect in any territory in which they shall from time to time, in case of any public emergency, be brought into operation by Proclamation made by the Governor, and shall continue in operation until a further proclamation directing that they shall cease to have effect is made by the Governor, and shall then cease to have effect except as respects things previously done or omitted to be done.

4. The orders specified in the Second Schedule hereto shall be revoked as from the first day of June, 1939:

Provided that nothing in this revocation shall affect any Regulations made under any of the Orders hereby revoked and in force in any territory on the date aforesaid, but all such Regulations shall continue in force until revoked, or until amended or varied by Regulations made under Part II of this Order.

5. His Majesty may from time to time revoke, add to, amend or otherwise vary this Order.

PART II

REGULATIONS

6.—(1) The Governor may make such Regulations as appear to him to be necessary or expedient for securing the public safety, the defence of the territory, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by the preceding subsection, the Regulations may, so far as appears to the Governor to be necessary or expedient for any of the purposes mentioned in that subsection—

(*a*) make provision for the detention of persons and the deportation and exclusion of persons from the territory;

(*b*) authorise—

(i) the taking of possession or control, on behalf of His Majesty, of any property or undertakings;

(ii) the acquisition on behalf of His Majesty of any property other than land;

(*c*) authorise the entering and search of any premises;

(*d*) provide for amending any law, for suspending the operation of any law and for applying any law with or without modification;

(*e*) 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;

(*f*) provide for payment of compensation and remuneration to persons affected by the Regulations;

(*g*) provide for the apprehension, trial and punishment of persons offending against the Regulations:

Provided that nothing in this section shall authorise the making of provision for the trial of persons by Military Courts.

7. The Regulations may provide for empowering such authorities or persons as may be specified in the Regulations to make orders and rules for any of the purposes for which such Regulations are authorised by this Order to be made, and may contain such incidental and supplementary provisions as appear to the Governor to be necessary or expedient for the purposes of the Regulations.

8. A Regulation or any order or rule made in pursuance of such a Regulation shall have effect notwithstanding anything inconsistent therewith contained in any law; and any provision of a law which may be inconsistent with any Regulation or any such order or rule shall, whether that provision shall or shall not have been amended, modified or suspended in its operation under section 6 of this Order, to the extent of such inconsistency have no effect so long as such Regulation, order or rule shall remain in force.

9. Every document purporting to be an instrument made or issued by the Governor or other authority or person in pursuance of this Order, or of any Regulation, and to be signed by or on behalf of the Governor or such other authority or person, shall be received in evidence, and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Governor or that authority or person.

Rupert B. Howorth.

FIRST SCHEDULE

PART I

Colonies and Protectorates

Aden (Colony and Protectorate)
British Guiana
British Solomon Islands Protectorate
Ceylon
Cyprus
Falkland Islands and Dependencies
Fiji
Gambia (Colony and Protectorate)
Gibraltar
Gilbert and Ellice Islands Colony
Gold Coast—
(*a*) Colony
(*b*) Ashanti
(*c*) Northern Territories
Grenada
Hong Kong
Kenya (Colony and Protectorate)
Malta
Mauritius
Nigeria (Colony and Protectorate)
Northern Rhodesia
Nyasaland Protectorate
St. Helena and Ascension
St. Lucia
St. Vincent
Seychelles
Sierra Leone (Colony and Protectorate)
Somaliland Protectorate
Straits Settlements
Trinidad and Tobago
Uganda Protectorate
Zanzibar Protectorate.

PART II

Mandated Territories

Cameroons under British Mandate
Tanganyika Territory
Togoland under British Mandate.

SECOND SCHEDULE

An Order in Council made on the 26th day of October, 1896, subjecting persons in Gibraltar to military law, empowering the Governor to make Regulations, and containing other provision.

The British Protectorates (Defence) Order in Council, 1916.
The Defence (Certain British Possessions) Order in Council, 1928.
The Malta (Governor's Emergency Powers) Order in Council, 1928.