



BRITISH INDIAN OCEAN TERRITORY

**REVISED ORDINANCES OF THE
BRITISH INDIAN OCEAN TERRITORY**

**THE EMERGENCY POWERS
ORDINANCE 1984**

CHAPTER A.4

Revised Edition

Showing the law as at 1 September 2020

Published by Authority

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This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Ordinance 2015 and contains a consolidation of the following laws:

The Emergency Powers Ordinance 1984 - Ordinance No.5 of 1984

As amended by:

Ordinance No.4 of 2016

Ordinance No.4 of 2018

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CHAPTER A.4

An Ordinance to make provision in relation to Public Emergencies.

Citation.

1. This Ordinance may be cited as the Emergency Powers Ordinance 1984, ROBIOT c.A.4.

Issue of proclamation of emergency.

2. (1) If at any time it appears to the Commissioner or the Commissioner's Representative that a public emergency has arisen as a result of the occurrence of any hurricane, flood, fire, outbreak of infectious disease, or other similar or dissimilar calamity, or that any action has been taken or is immediately threatened by a person or body of persons of such nature as to be likely to endanger the public safety, or to deprive the community or any substantial portion of the community of supplies or services essential to life, or to threaten the security of the Territory, the Commissioner or the Commissioner's Representative may by proclamation (referred to in this Ordinance as a **proclamation of emergency**) declare that a state of emergency exists.

(2) Where a proclamation of emergency has been made by the Commissioner's Representative otherwise than in pursuance of instructions from the Commissioner, the Commissioner's Representative shall immediately upon making the proclamation inform the Commissioner of the action taken and the reason therefor, and the proclamation of emergency shall cease to be in force after the expiry of seven days from the date on which it was made, unless before the expiry of that period the Commissioner shall have approved the proclamation of emergency and such approval shall have been published in the Territory.

(3) The Commissioner or the Commissioner's Representative may at any time by proclamation revoke a proclamation of emergency, and from the date when such revocation takes effect the proclamation of emergency shall cease to be in force except as respects things previously done or omitted to be done.

(4) No proclamation of emergency shall be in force for more than one month, without prejudice to the issue of another proclamation at or before the end of that period.

Emergency regulations.

3. (1) Where a proclamation of emergency has been made, and so long as the proclamation is in force, the Commissioner or the Commissioner's Representative may make such Regulations as appear to either of them necessary or expedient for securing the public safety, the defence of the Territory, the maintenance of public order, the suppression of mutiny, rebellion and riot, for maintaining supplies and services essential to the life of the community, and for any other purposes essential to the public safety and the life of the community.

(2) Without prejudice to the generality of the powers conferred by subsection (1), Regulations made under this Ordinance may –

(a) confer or impose on any person in Her Majesty's service or acting on Her Majesty's behalf, such powers and duties as the Commissioner or the Commissioner's Representative may deem necessary;

(b) make provision for the detention of persons and the deportation and exclusion of persons from the Territory or any part of the Territory;

(c) authorise on behalf of Her Majesty –

(i) the taking of possession or control or the managing or carrying on, as the case may be, of any property or undertakings;

(ii) the acquisition of any property other than land;

(d) authorise the entering and search of any premises;

(e) authorise the use of Her Majesty's Forces;

(f) provide for amending any enactment, for suspending the operation of any enactment, for applying any enactment with or without modification;

(g) 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;

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

(i) make such provision incidental to any powers conferred in pursuance of subsection (a) above as may appear to the Commissioner or Commissioner's Representative to be required for making the exercise of those powers effective;

(j) provide for the apprehension and for the trial by courts of summary jurisdiction of persons guilty of offences against the Regulations, so however that the maximum penalty which may be inflicted for any offence against any such Regulations shall be imprisonment for six months or a fine of £5,000, together with the forfeiture of any goods or money in respect of which the offence has been committed:

Provided that no such Regulation shall alter any existing procedure in criminal cases or confer any right to punish by fine or imprisonment without trial.

(3) All Regulations made under this Ordinance by the Commissioner's Representative shall be transmitted as soon as may be after the making thereof to the Commissioner and shall not continue in force after the expiration of seven days from the date when they are received by the Commissioner unless before the expiry of that period the Commissioner shall have approved the continuance thereof and such approval shall have been published in the Territory, and in default of such approval so published of the continuance of such Regulations they shall cease to have force and effect.

(4) Regulations made under this Ordinance shall have effect despite anything inconsistent therewith contained in any enactment, and any provision of any enactment which may be inconsistent with such Regulations shall, to the extent of such inconsistency, have no effect so long as such Regulations remain in force.

(5) Every document purporting to be an instrument made or issued by the Commissioner or the Commissioner's Representative or other authority or person in pursuance of this Ordinance or of any Regulation made under this Ordinance, and to be signed by or on behalf of the Commissioner or the Commissioner's Representative or such 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 Commissioner or the Commissioner's Representative or that authority or person.

Exercise of power in good faith not actionable.

4. No proceeding shall be brought against any person for anything done or omitted to be done in good faith in the exercise of any powers conferred by any Regulations made under this Ordinance.

Revocation or amendment of regulations.

5. (1) Any Regulations made under this Ordinance shall have effect as if enacted in this Ordinance, but may be added to, altered or revoked by Regulations made in like manner and subject to the like provisions as the original Regulations.

(2) The expiry or revocation of any Regulations made under this Ordinance shall not be deemed to have affected the previous operation thereof or the validity of any action thereunder or any punishment or penalty incurred in respect of any contravention or failure to comply therewith, or any proceeding or remedy in respect of any such punishment or penalty, and any proceedings in respect of an offence under such Regulations may be instituted or carried on despite the revocation of such Regulations.

Saving for other laws.

6. Nothing in this Ordinance shall be construed as in any way derogating from the provisions of the Emergency Powers (Overseas Territories) Order 2017.
