

EMERGENCY LAWS - 1969

LAWS OF MALAYSIA

Ordinance 1

EMERGENCY (ESSENTIAL POWERS)

ORDINANCE, 1969

An Ordinance promulgated by the Yang di-Pertuan Agong under Article 150 (2) of the Federal Constitution.

[15th May, 1969.]

WHEREAS by reason of the existence of a grave emergency threatening the security of Malaysia, a Proclamation of Emergency has been issued by the Yang di-Pertuan Agong under Article 150 of the Constitution;

AND WHEREAS Parliament was dissolved on the Twentieth day of March, 1969, and elections to the new Dewan Ra'ayat have not been completed;

AND WHEREAS the Yang di-Pertuan Agong is satisfied that immediate action is required for securing public safety, the defence of Malaysia, the maintenance of public order and of supplies and services essential to the life of the community;

IT IS HEREBY ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong pursuant to Clause (2) of Article 150 of the Constitution as follows:

1. This Ordinance may be cited as the Emergency (Essential Powers) Ordinance, 1969, and shall have application throughout Malaysia.

2. (1) Subject to the provisions of this section, the Yang di-Pertuan Agong may make any regulations whatsoever (in this Ordinance referred to as "Essential Regulations") which he considers desirable or expedient for securing the public safety, the defence of Malaysia, the maintenance of public order and of supplies and services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by the preceding sub-section, Essential Regulations may, so far as appear to the Yang di-Pertuan Agong to be necessary or expedient for any of the purposes mentioned in that sub-section –

- (a) make provisions for the apprehension, trial and punishment of persons offending against the regulations and for the detention, exclusion and deportation of persons whose detention, exclusion or deportation appears to the Minister for Home Affairs to be expedient in the interests of the public safety or the defence of Malaysia notwithstanding that such persons are citizens;
- (b) create offences and prescribe penalties (including the death penalty) which may be imposed for any offence against any written law (including regulations made under

this Ordinance);

(c) provide for the trial by such courts as may be specified in such regulations, of persons guilty of any offence against the regulations;

(a) make special provisions in respect of procedure (including the hearing of proceedings in camera) in civil or criminal cases and of the law regulating evidence, proof and civil and criminal liability;

(e) make provisions for the control of aliens;

(f) make provisions for directing and regulating the performance of services by any persons;

(g) authorise-

(i) the taking of possession, control, forfeiture or disposition on behalf of the Government of Malaysia, of any property or undertaking;

(ii) the acquisition, on behalf of the Government of Malaysia, of any property other than land;

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

(i) prescribe fees or other payments;

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

(k) notwithstanding anything contained in the Constitution, provide for any specified grounds upon which any person may be deprived of his citizenship;

(l) make provisions for the control of the harbours, ports and territorial waters of any State in Malaysia and of the movements of vessels;

(m) make provisions for the transportation by land, or water, and the control of the transport and movement of persons, animals and things;

(n) make provisions for trading, storage, exportation, importation, production, and manufacture;

(o) make provisions for the supply and distribution of food, water, fuel, light, and other necessities;

(p) provide for any other matter in respect of which it is in the opinion of the Yang di-Pertuan Agong desirable in the public interest that regulations should be made.

(3) Essential Regulations may provide for empowering such authorities, persons or classes of persons as may be specified in the regulations to make orders, rules and by-laws for any of the purposes for which such regulations are authorised by this Ordinance to be made, and may contain such incidental and supplementary provisions as appear to the Yang di-Pertuan Agong to be necessary or expedient for the purposes of the regulations.

(4) An Essential Regulation, and any order, rule, or by-law duly made in pursuance of such a regulation shall have effect notwithstanding anything inconsistent therewith contained in any written law, including the Constitution or the Constitution of any State, other than this Ordinance or in any instrument having effect by virtue of any written law other than this Ordinance.

3. Unless the contrary intention appears therefrom any provisions contained in, or having effect under, any Essential Regulation shall-

(a) in so far as they specifically impose prohibitions, restrictions or obligations in relation to ships, vessels or aircraft, or specifically authorise the doing of anything in relation to ships, vessels or aircraft, apply to all ships, vessels or aircraft in or over Malaysia and to all ships or aircraft registered in Malaysia wherever they may be; and
(b) in so far as they impose prohibitions, restrictions or obligations on persons, apply to all persons in Malaysia and all persons on board any ship or aircraft registered in Malaysia, and to all citizens:

Provided that Essential Regulations may make provisions whereby the owner, manager or charterer of any ship or aircraft registered in Malaysia (being a person resident in Malaysia or a corporation incorporated under the law of Malaysia) is subjected to restrictions in respect of the employment of persons in any country or territory in connection with the management of the ship or aircraft.

4. Every document purporting to be an instrument made or issued by any Minister or authority or person in pursuance of any provision contained in, or having effect under, Essential Regulations, and to be signed by or on behalf of the said Minister, 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 that Minister, authority or person; and prima facie evidence of any such instrument as aforesaid may, in any legal proceedings (including arbitrations), be given by the production of a document purporting to be certified to be a true copy of the instrument by, or on behalf of, the Minister or other authority or person having power to make or issue the instrument.

5. No suit, prosecution or other legal proceeding shall lie in any court against any public officer either personally or in his official capacity for or on account of or in respect of any act ordered or done by him or purporting to have been ordered or done by him during the emergency period for the purpose of maintaining order or public security or of carrying into effect any regulation, order, rule, by-law, direction or notice made or issued under this Ordinance, and no suit, prosecution or other legal proceeding shall lie in any court against any other person for or on account of or in respect of any act done or purporting to have been done by him under any regulation, order, rule, by-law, direction, notice or instruction of any public officer given for any such purpose as aforesaid:

Provided that the act of such officer or person was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby.

6. For so long as the Proclamation of Emergency referred to in the preamble to this Ordinance remains in force, the regulations made under the Emergency (Essential Powers) Act, 1964 (except those regulations which the Yang di-Pertuan Agong may by notification in the Gazette declare not to be in force) shall be in force and shall have effect as if they have been made under this Ordinance; and the regulations may be amended, modified or repealed as if they have been made under this Ordinance.

7. The elections to the Dewan Ra'ayat and the Legislative Assembly of any State which have not been completed in any part of Malaysia shall upon the coming into force

of this Ordinance be suspended until such date as the Yang di-Pertuan Agong may determine.

8. The powers conferred by this Ordinance and by any regulations made thereunder shall be in addition to and not in substitution for any powers conferred by or under other written law from time to time in force.

9. Every person who contravenes any regulation made under this Ordinance shall, where no other penalty is provided by such regulation, be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months or to both.

[EMERGLAW69(2)]

DIRECTION UNDER ARTICLE 150(4) OF THE
FEDERAL CONSTITUTION

WHEREAS Article 150 (4) of the Federal Constitution provides that while a Proclamation of Emergency is in force, the executive authority of Malaysia shall, notwithstanding anything in the Constitution, extend to any matter within the legislative authority of a State and to the giving of directions to the Government of a State or to any officer or authority thereof:

Now, THEREFORE, by virtue of Article 150 (4) aforesaid, while the Proclamation of Emergency is in force, the Yang di-Pertuan Agong directs that the Legislative Assembly or the Council Negeri of any State shall not be summoned to meet until such date as may be determined by the Yang di-Pertuan Agong.

By Command,

TUNKU ABDUL RAHMAN PUTRA AL-HAJ,
Prime Minister

JABATAN PERDANA MENTERI,
15th May, 1969

[EMERGLAW69(3)]

LAWS OF MALAYSIA

Ordinance 2

EMERGENCY (ESSENTIAL POWERS)
ORDINANCE No. 2,1969

An Ordinance promulgated by the Yang di-Pertuan Agong under Article 150(2) of the Federal Constitution.

[16th May, 1969.]

WHEREAS by reason of the existence of a grave emergency threatening the security of Malaysia, a Proclamation of Emergency has been issued by the Yang di-Pertuan Agong under Article 150 of the Constitution;

AND WHEREAS Parliament was dissolved on the twentieth day of March, 1969, and elections to the new Dewan Ra'ayat have not been completed;

AND WHEREAS the Yang di-Pertuan Agong is satisfied that immediate action is required for securing public safety, the defence of Malaysia, the maintenance of public order and of supplies and services essential to the life of the community;

IT IS HEREBY ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong pursuant to Clause (2) of Article 150 of the Constitution as follows:

1. This Ordinance may be cited as the Emergency (Essential Powers) Ordinance No. 2, 1969, and shall have application throughout Malaysia, and shall be deemed to have come into force on 16th May, 1969.

2. (1) The executive authority of Malaysia referred to in Article 39 of the Constitution and all powers and authorities conferred on the Yang di-Pertuan Agong by any written law are hereby delegated to a Director of Operations who shall be a person designated by the Yang di-Pertuan Agong.

(2) The Director of Operations as designated under sub-section (1) shall act in accordance with the advice of the Prime Minister and shall exercise and be responsible for the exercise of the executive authority of Malaysia and of the powers and authorities referred to in sub-section (1); and Article 40 of the Constitution shall not apply to the exercise of the executive authority and the exercise of the powers and authorities referred to in sub-section (1).

3. For the purpose of performing his functions under this Ordinance the Director of Operations shall be assisted by a Council to be known as the National Operations Council,

consisting of such persons as the Director may appoint in his absolute discretion.

4. (1) To assist the Director of Operations in the exercise of his powers and duties and the performance of his functions under this Ordinance there shall be a Chief Executive Officer who shall be a person to be appointed by the Director in his absolute discretion.

(2) The Chief Executive Officer shall be assisted by such persons as he may appoint from amongst members of the Public Service of Malaysia.

5. There shall be established in respect of each State in Malaysia a Committee to be known as the State Operations Committee whose members shall be appointed by the Director of Operations in his absolute discretion.

6. There shall be established in respect of each administrative area or district in each State in Malaysia a Committee to be known as the District Operations Committee whose members shall be appointed by the Director of Operations in his absolute discretion.

7. The State Operations Committees and the District Operations Committees shall perform such functions as the Director of Operations may direct generally or specially for the purpose of carrying into effect the policies as may be made by the Director of Operations pursuant to the provisions of section 2 of this Ordinance.

8. For the purpose of this Ordinance the Director of Operations may make essential regulations under section 2 of the Emergency (Essential Powers) Ordinance No. 1, 1969 for any or all of the purposes as set out in that section.

Promulgated at Istana Negara, Kuala Lumpur, on Seventeenth day of May, 1969.

TUANKU ISMAIL NASIRUDDIN SHAH,
Yang di-Pertuan Agong

[EMERGLAW69(4)]

LAWS OF MALAYSIA

Ordinance 5

EMERGENCY (PUBLIC ORDER AND PREVENTION
OF CRIME) ORDINANCE, 1969

An Ordinance promulgated by the Yang di-Pertuan Agong under Article 150 (2) of the Constitution.

[16th May, 1969.]

WHEREAS by reason of the existence of a grave emergency threatening the security of Malaysia, a Proclamation of Emergency has been issued by the Yang di-Pertuan Agong under Article 150 of the Constitution;

AND WHEREAS Parliament was dissolved on the twentieth day of March, 1969, and elections to the new Dewan Ra'ayat have not been completed;

AND WHEREAS the Yang di-Pertuan Agong is satisfied that immediate action is required for securing public order, the suppression of violence and the prevention of crimes involving violence;

IT IS HEREBY ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong pursuant to Clause (2) of Article 150 of the Constitution as follows:

1. (1) This Ordinance may be cited as the Emergency (Public Order and Prevention of Crime) Ordinance, 1969, and shall have effect throughout Malaysia.

(2) This Ordinance shall be deemed to have come into force on 16th May, 1969.

2. The provisions of this Ordinance shall have effect without prejudice to the provisions of the Prevention of Crime Ordinance, 1959.

3. (1) Any police officer may without warrant arrest and detain pending enquiries any person in respect of whom he has reason to believe that there are grounds which would justify his detention under section 4 (1).

(2) Any police officer may without warrant arrest and detain pending enquiries any person who on being questioned by him fails to satisfy him as to his identity or as to the purposes for which he is in the place where he is found if the police officer suspects that person of having acted or being about to act or being likely to act in any manner prejudicial to public order or if he has reason to believe that it is necessary for the suppression of violence or the prevention of crimes involving violence that that person should be detained.

(3) Any person arrested and detained under this section may be detained in police custody for a period not exceeding sixty-days without an order of detention having been made in respect of him under section 4 (1):

Provided that-

(a) he shall not be detained for more than twenty-four hours except with the authority of a police officer of or above the rank of Inspector;

(b) he shall not be detained for more than forty-eight hours except with the authority of a police officer of or above the rank of Assistant Superintendent;

(c) he shall not be detained for more than thirty days unless a police officer of or above the rank of Deputy Superintendent has reported the circumstances of the arrest and detention to the Inspector-General of Police or to a police officer designated by the Inspector-General in that behalf who shall forthwith report the same to the Minister.

(4) The powers conferred upon a police officer by sub-sections (1) and (2) may be exercised by any member of the security forces, by any person performing the duties of

guard or watchman in a protected place, and by any other person generally authorised in that behalf by a Chief Police Officer.

(5) Any person detained under the powers conferred by this section shall be deemed to be in lawful custody, and may be detained in any prison, or in any police station, or in any other similar place authorised generally or specially by the Minister.

4. (1) If the Minister is satisfied that with a view to preventing any person from acting in any manner prejudicial to public order it is necessary that that person should be detained, or that it is necessary for the suppression of violence or the prevention of crimes involving violence that that person should be detained, the Minister shall make an order directing that that person be detained for any period not exceeding two years.

(2) Every person detained in pursuance of an order made under sub-section (1) shall be detained in such place as the Minister may direct and in accordance with instructions issued by the Minister and any rules made under sub-section (3).

(3) The Minister may by rules provide for -

- (a) the maintenance and management of any place referred to in sub-section (2);
- (b) compelling persons detained therein to perform such work or duties therein or connected therewith as he considers necessary or expedient; and
- (c) the discipline of persons detained therein:

Provided that until any such rules are made under this sub-section and thereafter in respect of any matters not provided for by such rules the Internal Security (Detained Persons) Rules, 1960 shall apply to every place of detention and to all persons detained therein under this Ordinance.

(4) Whenever any person is detained under any order made under sub-section (1) he shall, in accordance with Article 151 of the Constitution, as soon as may be-

- (a) be informed of the grounds of this detention;
- (b) subject to Clause (3) of the said Article (which provides that no authority may be required to disclose facts whose disclosure would in its opinion be against the national interest) be informed of the allegations of fact on which the order is based; and
- (c) be given the opportunity of making representations against the order as soon as may be.

5. (1) A copy of every order made by the Minister under section 4 (1) shall as soon as may be after the making thereof be served on the person to whom it relates, and every such person shall be entitled to make representations against the order to an Advisory Board.

(2) For the purpose of enabling a person to make representations under sub-section (1) he shall, at the time of the service on him of the order-

- (a) be informed of his right to make representations to an Advisory Board under sub-section (1); and
- (b) be furnished by the Minister with a statement in writing-
 - (i) of the grounds on which the order is made;
 - (ii) of the allegations of fact on which the order is based; and
 - (iii) of such other particulars, if any, as he may in the opinion of the Minister reasonably require in order to make his representations against the order to the

Advisory Board.

(3) The Minister may make rules as to the manner in which representations may be made under this section and for regulating the procedure of Advisory Boards:

Provided that until any such rules are made under this sub-section and thereafter in respect of any matter not provided for by such rules the Internal Security (Detained Persons Advisory Board) Rules, 1964, as modified by the Emergency (Internal Security) (Modification of Laws) Ordinance, 1969, shall apply to the making of representations under this section and in applying them references therein to an order of detention or a place of detention shall be construed as references to an order of detention made or a place of detention directed, under section 4.

6. (1) Whenever any person has made any representations under section 5 (1) to an Advisory Board, the Advisory Board, shall within three months of the date on which such person was detained, consider such representations and make recommendations thereon to the Yang di-Pertuan Agong.

(2) Upon considering the recommendations of the Advisory Board under this section the Yang di-Pertuan Agong may give the Minister such directions, if any, as he shall think fit regarding the order made by the Minister; and every decision of the Yang di-Pertuan Agong thereon shall, subject to the provisions of section 7, be final, and shall not be called into question in any Court.

7. (1) Every order made by the Minister under section 4(1) may, so long as it shall remain in force, be reviewed from time to time by an Advisory Board at the discretion of the Chairman thereof.

(2) The Advisory Board shall on completing every review under sub-section (1) forthwith submit to the Minister a written report of every such review, and may make therein such recommendations as it shall think fit.

8. The Emergency (Detained Non-Citizens) Regulations, 1965, as amended by section 5 of the Emergency (Internal Security) (Modification of Laws) Ordinance, 1969, shall apply to persons detained under section 4(1).

9. Every Advisory Board shall, for the purposes of this Ordinance, but subject to the provisions of section 11, have

all the powers of a Court for the summoning and examination of witnesses, the administration of oaths or affirmations, and for compelling the production of documents.

10. Every member of an Advisory Board shall be deemed to be a public servant within the meaning of the Penal Code in force in that part of Malaysia in which he exercises the functions of a member of an Advisory Board, and shall have in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duty under the provisions of this Ordinance the like protection and privileges as are by law given to a Judge in the execution of his office.

11. Nothing in this Ordinance or in any rules made thereunder shall require the Minister or any member of an Advisory Board or any public servant to disclose facts or to produce documents which he considers it to be against the national interest to disclose or produce.

12. (1) The Minister may by order direct the removal from any place of detention to another place of detention to be specified in such order of any person detained in pursuance of the provisions of section 4, to be there detained for the whole or any part or parts of such period for which it has been ordered that such person shall be detained.

(2) Any person in course of removal under the provisions of sub-section (1) shall be deemed to be in lawful custody.

13.(1) On proof to his satisfaction that the presence at any place of any person detained under the provisions of section 4, or lawfully in the custody of the police or confined in any prison whether in pursuance of the provisions of section 4 or under an order of any Court or otherwise howsoever, and notwithstanding any order of any Court or other authority whatsoever, is required in the interests of justice, or for the purpose of any public or other inquiry, or in the national interest, or in the interests of the person detained, in custody, or confined, the Minister may order that such person be taken to that place.

(2) Any person in course of being taken to any place in pursuance of the provisions of sub-section (1) and whilst at such place shall be kept in such custody as the Minister may direct and whilst in that custody shall be deemed to be in lawful custody.

14. The provisions of this Ordinance shall have effect in relation to

- (a) any person arrested under this Ordinance on or after the date of its commencement; and
- (b) any person arrested under the Prevention of Crime Ordinance, 1959, at any time before the coming into force of this Ordinance if that person:
 - (i) has been remanded in custody or released on bond or is subject to police supervision pending an inquiry under that Ordinance;
 - (ii) is subject to police supervision under section 15 (1) thereof; or
 - (iii) is subject to police supervision under section 15 (1) and to restrictions imposed on him under section 15 (2).

Promulgated at Istana Negara, Kuala Lumpur, on the Twelfth day of June, 1969.

TUANKU ISMAIL NASIRUDDIN SHAH,
Yang di-Pertuan Agong

[EMERGLAW69(5)]

LAWS OF MALAYSIA

Ordinance 6

EMERGENCY (ESSENTIAL POWERS)
ORDINANCE No. 6,1969

An Ordinance promulgated by the Yang di-Pertuan Agong under Article I 50 (2) of the Federal Constitution.

[27th June, 1969.]

WHEREAS by reason of the existence of a grave emergency threatening the security of Malaysia, a Proclamation of Emergency has been issued by the Yang di-Pertuan Agong under Article I 50 of the Constitution;

AND WHEREAS Parliament was dissolved on the Twentieth day of March, 1969, and elections to the new Dewan Ra'ayat have not been completed;

AND WHEREAS the Yang di-Pertuan Agong is satisfied that immediate action is required for securing public safety, the defence of Malaysia, the maintenance of public order and of supplies and services essential to the life of the community;

IT IS HEREBY ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong pursuant to Clause (2) of Article 150 of the Constitution as follows:

1. This Ordinance may be cited as the Emergency (Essential Powers) Ordinance No. 6, 1969.
2. Where the extension, force or effect of any written law or subsidiary legislation thereunder is dependent upon a resolution of either House or both Houses of Parliament or a resolution of a Legislative Assembly of a State, the extension, force or effect may be effected by an order made under the hand of the Director of Operations designated under section 2 of the Emergency (Essential Powers) Ordinance No. 2, 1969 published in the Gazette and an order so made shall be valid and effective as if it was a resolution made in accordance with the provisions of the written law.

PROMULGATED at Istana Negara, Kuala Lumpur, on Twenty fifth day of June, 1969.

TUANKU ISMAIL NASIRUDDIN SHAH,
Yang di-Pertuan Agong

[EMERGLAW69(6)]

EMERGENCY (ESSENTIAL POWERS) ORDINANCE, 1969
(Ordinance 1 and Ordinance 2)

ESSENTIAL (DISPOSAL OF DEAD BODIES AND DISPENSATION OF
INQUESTS AND DEATH INQUIRIES) REGULATIONS, 1969

IN exercise of the powers conferred under section of the Emergency (Essential Powers) Ordinance No. 1, 1969, the Director of Operations designated under section of the Emergency (Essential Powers) Ordinance No. 2, 1969, hereby makes the following regulations:

1. These regulations may be cited as the Essential (Disposal of Dead

Bodies and Dispensation of Inquests and Death Inquiries) Regulations, 1969, and shall be deemed to have come into force on the 16th May, 1969.

Notwithstanding any written law to the contrary, where a police officer not below the rank of Assistant Superintendent of Police is satisfied that a dead body is that of a police officer or that of a member of the Malaysian Armed Forces killed during disturbances or that of any other person killed as a result of Operations for the purpose of suppressing disturbances or killed as a result of disturbances, the said police officer may arrange for the disposal of the said dead body in any manner he may think fit:

Provided that proper documentation shall be made before the disposal thereof with a view to identification of the said dead body.

3. Notwithstanding anything to the contrary in any written law-
 - (a) a Magistrate or a Coroner may dispense with the holding of a death inquiry or inquest on the dead body of any police officer or of any member of the Malaysian Armed Forces killed during disturbances; and
 - (b) where a Magistrate or a Coroner responsible for holding a death inquiry or inquest on the body of any person is satisfied that such person has been killed as a result of operations for the purpose of suppressing disturbances by the Police or the Malaysian Armed Forces or as a result of injuries caused by disturbances, the Magistrate or the Coroner, as the case may be, may dispense with the holding of a death inquiry or inquest on the body of such person.

4. For the purpose of these Regulations, "disturbances" shall mean acts of violence for the suppression of which the Proclamation of Emergency was declared on the 15th of May, 1969.

Made this 18th day of May, 1969.

TUN HAJI ABDUL RAZAK BIN DATO' HUSSEIN,
Director of Operations

[EMERGLAW69(7)]

EMERGENCY (ESSENTIAL POWERS) ORDINANCE, 1969
(Ordinance No. 1 and Ordinance No. 2)

ESSENTIAL (NEWSPAPERS AND OTHER PUBLICATIONS) REGULATIONS,
1969

IN exercise of the powers conferred under section 2 of the Emergency (Essential powers) Ordinance No. 1, 1969, the Director of Operations designated under section 2 of the Emergency (Essential Powers) Ordinance No. 2, 1969, hereby makes the following regulations:

1. These regulations may be cited as the Essential (Newspapers and Other Publications) Regulations, 1969, and shall come into force on such date as may be notified in the Gazette by the Minister of Home Affairs.

2. In these regulations-

"competent authority" means any officer under the administrative control of the Minister of Home Affairs or any police officer not below the rank of Inspector or any other person appointed by the Minister of Home Affairs either by name or office;

"printing press" means any printing press licensed under the Printing Presses Ordinance: 1948 of the States of Malaya, the Printing Presses Ordinance (Cap. 107) of Sabah or the Printing Presses Ordinance, 1962 of Sarawak, and the word "printer" shall be construed accordingly.

3. (1) A competent authority may at any time require the proprietor, editor, printer or publisher of any publication, or the proprietor or manager of any printing press or printing business, or any person about to print or publish, any matter, to submit to him any matter intended for printing or publishing for scrutiny and clearance.

(2) A competent authority shall if satisfied that any news material or photograph or matter is or is likely to be prejudicial to public order or national security direct that the news material or photograph or matter shall not be printed or published.

4. The Minister of Home Affairs may by order-

(a) prohibit generally or specially the publishing in publications of any matter the publishing of which, in his opinion, would be or is likely to be prejudicial to public order, or national security;

(b) prohibit the importation, or exportation, or the printing or publishing of any particular publication or of a publication of a particular kind or character, the importation, exportation, printing or publication of which, in his opinion, would be or is likely to be prejudicial to public order or national security.

5. A competent authority shall have power to detain, open and examine or to direct the detention, opening and examination of-

(a) all postal packets and telegrams; and

(b) all printed or written matter and all packages, articles and things subject to examination by the postal or customs authorities which may contain any printed or written matter; and to withhold from delivery or destroy any postal packet or telegram or any printed or written matter which contains anything which the competent authority considers to be, or likely to be or to become prejudicial to public order or national security and, the competent authority shall have all such powers as are necessary or appropriate for the carrying out of all such measures.

6.(1) Any officer authorised generally or specially in that behalf by or on behalf of the Postmaster-General may require the sender of a postal packet, at the time of submitting the packet to a post office, to expose the contents of the packet to such officer and, after the contents have been examined to close the packet in the presence of such officer and hand it over to such officer forthwith.

(2) Any person who contravenes any such requirements shall be guilty of an offence against these regulations, and, in addition, the officer may refuse to accept the postal packet for posting.

7. Any person-

(a) who publishes any news material, photograph or matter prohibited under these regulations or any news material, photograph or matter directed by the competent authority not to be printed or published; or

(b) who imports, exports, prints or publishes any publication the importation, exportation, printing or publishing - of which is prohibited by order under these regulations;

shall be guilty of an offence and shall be liable to a fine of ten thousand dollars or an imprisonment of three years or to both.

Made this 20th day of May, 1969.

TUN HAJI ABDUL RAZAK BIN DATO' HUSSEIN,
Director of Operations

[EMERGLAW69(8)]

EMERGENCY (ESSENTIAL POWERS) ORDINANCE, 1969
(Ordinance 1 and Ordinance 2)

ESSENTIAL (PROHIBITION OF ACTIVITIES RELATING TO ELECTIONS)
REGULATIONS, 1969

IN exercise of the powers conferred under section 2 of the Emergency
(Essential Powers) Ordinance No. 1, 1969 the Director of Operations

designated under section 2 of the Emergency (Essential Powers) Ordinance No. 2, 1969, hereby makes the following regulations:

1. These regulations may be cited as the Essential (Prohibition of Activities relating to Elections) Regulations, 1969, and shall be deemed to have come into force on the 27th May, 1969.

2. Notwithstanding any written law to the contrary. for so long as the elections are suspended all activities relating to elections are hereby prohibited.

3.(1) For the purposes of these Regulations "activities relating to elections" includes soliciting on behalf of any candidate the votes of electors in any constituency or electoral ward for or against any candidate or political party at an elections by

- (a) visiting electors at their homes or places of work;
- (b) convening or organising or assisting in convening or organising any public meeting, procession or demonstration;
- (c) interviewing members of the public;
- (d) printing or distributing or causing to be printed or distributed any written or printed appeal in favour of or against any candidate or political party;
- (e) affixing or causing to be affixed any elections posters, papers or banners against or upon any property;
- (f) writing upon any property;
- (g) damaging, altering or removing any such elections posters, papers or banners which had been affixed;
- (h) using any musical instrument or loud speaker in or upon any premises, vessels, animals, motor cars, trucks or other vehicles as or for the purpose of political propaganda;
- (i) making statements of political nature to the press;
- (j) incurring any expenditure for any of the matters specified above.

(2) Nothing contained in paragraph (1) shall apply to:

- (a) visits to party branches by political leaders for purely party affairs;
- (b) bona fide social visits.

4. Any person who contravenes the provisions of these Regulations shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding twelve months or to both.

Made this 11th day of June, 1969.

TUN HAJI ABDUL RAZAK BIN DATO' HUSSEIN,

Director of Operations

[EMERGLAW69(9)]

EMERGENCY (ESSENTIAL POWERS)
ORDINANCE 1969
(Ordinance 1)
ESSENTIAL (SECURITY CASES) REGULATIONS,
1975

IN exercise of the powers conferred by section 2 of the
Emergency (Essential Powers) Ordinance No. 1, 1969, the
Yang di-Pertuan Agong hereby makes the following
regulations:

PRELIMINARY

1. Citation and application.

These Regulations may be cited as the Essential (Security
Cases) Regulations, 1975, and shall have application
throughout Malaysia.

[Regulations 2 -- 29 as substituted by the Essential (Security
Cases) (Amendment) Regulations 1975 - P. U.(A) 362/1975.]

2. Interpretation.

(I) In these Regulations, unless the context otherwise
requires-

'Public Prosecutor' includes a Director of Public Prosecutions
and a Deputy Public Prosecutor;

'security case' means a case where a person is charged with
a security offence;

'security offence' means an offence (whether committed
before or after the commencement of these Regulations)
against section 57,58,59,60,61 or 62 of the Internal Security
Act, 1960, or any offence against any other written law the
commission of which is certified by the Attorney-General
under paragraph (2) to affect the security of the Federation;

'Subordinate Court' shall have the same meaning as in the

Courts of Judicature Act, 1964 but does not include a Juvenile Court.

(2) Where the commission of any offence against any written law other than Section 57,58,59,60,61 and 62 of the Internal Security Act, 1960, in the opinion of the Attorney-General, affects the security of the Federation, he shall issue a certificate to that effect and the case shall thereupon be dealt with and tried in accordance with these Regulations.

3. Scope.

(1) These Regulations shall have effect with respect to any cases notwithstanding anything to the contrary contrary in any written law; but, except in so far as the same are covered by these Regulations, the ordinary practice and procedure where appropriate, shall apply to security cases.

(2) If any proceedings in respect of any case, which by virtue of these Regulations has become a security case, have commenced before the coming into force of these Regulations, those proceedings shall be deemed to have been held under these Regulations and shall be valid and be continued in accordance with these Regulations.

(3) Where a person is accused of or charged with a security offence, he shall, regardless of his age, be dealt with and tried in accordance with the provisions of these Regulations and the Juvenile Courts Act, 1948, shall not apply to such cases.

4. Proclamation.

(1) If any court has reason to believe that any person accused of committing a security offence has absconded or is concealing himself, such court may publish a written proclamation requiring such person (hereinafter referred to as the proclaimed person') to appear at a specified place and at a specified time, being not less than thirty days from the date of the publication of such proclamation.

(2) The proclamation shall be published as follows:

(a) it shall be affixed to some conspicuous part of the house or other place in which such person ordinarily

- resides or in some conspicuous place of the town, village or kampong, in or near which such person ordinarily resides; and
- (b) a copy thereof shall be affixed to some conspicuous part of the court house.

(3) A certificate in writing by the court issuing the proclamation to the effect that the proclamation was duly published on a specified date shall be conclusive evidence that the requirements of this regulation have been complied with and that the proclamation was published on such date.

(4) Where a proclamation is issued under paragraph (1), the provisions of sections 45 and 46 of the criminal Procedure Code shall apply *mutatis mutandis*.

TRIALS

5. Court of competent jurisdiction.

A security case shall be tried by a court of competent jurisdiction that is to say, the High Court or the appropriate Subordinate Court and for the purpose of these Regulations a Juvenile Court shall not be a court of competent jurisdiction.

6. Procedure of committal to High Court.

(1) Where a security case is triable by the High Court, no preliminary enquiry shall be held in respect thereof, and the Magistrate before whom the accused is produced shall forthwith commit the accused for trial by the High Court at such place (whether within the same State or not) as the Public Prosecutor may specify and upon such charge as the Public Prosecutor may prefer.

(2) Where the accused is committed for trial under paragraph (1), he shall be supplied with a copy of the record of proceedings before the committing Magistrate.

(3) The Public Prosecutor may at any time before or during the trial but before judgment alter or amend the charge or charges against the accused or prefer an additional charge or charges against him.

7. Special provisions applicable to trial of security case in the High Court.

A person who has been committed for trial under regulation 6 shall not be tried by a jury or by a Judge with the aid of assessors but shall be tried by a Judge sitting alone in accordance with the provisions of these Regulations.

8. Venue.

(1) The Public Prosecutor may at any time before the trial of a security case by notice served on the trial court, apply for the transfer of the case to be tried by another court at any place in Malaysia (regardless of the place where the offence was committed or where the accused was found or arrested) and the case shall thereupon be forwarded to the appropriate court in that place which in turn shall proceed to fix a date for the trial as aforesaid.

(2) The court to which the case is transferred for trial under paragraph (1) shall have the competence and jurisdiction to try the case notwithstanding the local limits of its jurisdiction.

9. Bail.

Bail shall not be granted to an accused person in a security case but it may be allowed where the offence is not punishable with death or life imprisonment if the accused satisfies the court that he should be granted bail.

10. Joinder of offence and joint trial.

(1) Any number of security offences against any person may be cited at the same hearing, and such offences may be so tried notwithstanding that these offences are not of the same kind, and not committed in one series of acts, and regardless of the period of time that may have lapsed between one offence and another.

(2) Any number of accused persons may be tried together, and they shall be tried together where the Public Prosecutor issues a certificate that it is a fit case for a joint trial.

11. Commencement of trial.

(1) The trial of a security case shall begin with the charge read and explained to the accused who shall thereupon asked whether he pleads guilty of the offence charged or

claims to be tried.

(2) If the accused pleads guilty the plea shall be recorded, and he may be convicted thereon.

(3) If the accused refuses to plead or does not plead, or if he claims to be tried, the court shall proceed to try the case.

12. Opening case for prosecution.

(1) The prosecution shall open its case and may state shortly the nature of the offence charged and the evidence by which it proposes to prove the guilt of the accused.

(2) The prosecution shall then examine its witnesses, who may in turn be cross-examined for the defence and, if necessary, re-examined.

13. Procedure after conclusion of case for prosecution.

When the case for the prosecution is closed, the court shall call on the accused to enter on his defence.

14. Defence.

The accused or his counsel may then open his case, stating the facts or law on which he intends to reply and making such comments as he thinks necessary on the evidence for the prosecution; he may then examine his witness (if any) and after their cross-examination and re-examination (if any) may sum up his case.

(2) Where the accused elects to give evidence on oath or make a statement from the dock, his evidence or statement shall be taken before that of other witnesses for the defence, and, if he gives evidence on oath, he may be cross-examined by the prosecution or by any other accused, and the court may also put any question to him.

15. Reply.

In all cases the prosecution shall have the right to reply on the whole case, whether the accused or his counsel adduces evidence or not.

16. Power of the court to question or recall witnesses.

At any time before the court gives its decision, the court may put any question to or recall any witness including the accused where he gives evidence on oath.

17. Court's decision.

The court shall decide on the guilt or innocence of the accused only at the conclusion of the case for the defence, and shall so decide upon hearing and considering the evidence from the prosecution and the defence as a whole, having regard to the justice of the case, without regard for the formalities to the rules of evidence or procedure, or for any ... concerning the charge.

18. Finding and sentence.

(1) If the court finds the accused not guilty, it shall record an order of acquittal.

(2) If the court finds the accused guilty, or if he pleads guilty, the court shall convict him and pass sentence accordingly.

EXAMINATION OF WITNESSES UNDER SPECIAL CIRCUMSTANCES

19. Evidence of witness given in a special manner.

(1) Where at any time during the trial, the court is satisfied that any of the witnesses for the prosecution is afraid to have his identity disclosed and therefore wishes to give evidence in such a manner that he could not be seen or heard by both the accused and his counsel, the procedure contained in paragraphs (3) and (4) shall apply.

(2) For the purpose of satisfying itself as to the need to adopt this procedure of recording evidence under this regulation the court shall hold an inquiry in camera by asking the witness concerned or any other witness in the absence of the accused and his counsel.

(3) If after such inquiry the court is satisfied as aforesaid, the evidence of such witness as aforesaid shall be given in camera and in addition thereto he shall give evidence in such a manner as he shall not be visible to the accused or his counsel, but will be visible to the court; and further if the witness fears

that his voice may be recognised, his evidence may be given through an interpreter or other officer of the court who shall relay to the witness such questions as may be put to him in examination-in-chief, cross-examination and re-examination and in turn shall relay back to the court the answers given by the witness to such questions.

(4) The court may disallow such questions to be put to the witness as to his name, address, age, occupation, race or other particulars or such other questions as in the opinion of the court will lead to the witness's identification.

20. Identification by witness where evidence is taken in camera.

If in the course of taking evidence under regulation 19 the accused or any other person is required to be identified by the witness who gives evidence in a manner provided in that regulation, such identification may be made by the witness through an interpreter or other officer of the court.

EVIDENCE

21. Special provisions relating to evidence in a security case.

(1) A statement made by the accused whether orally or in writing to any person shall be admissible in evidence notwithstanding that such statement-

- (a) was made to or in the hearing of a police officer provided that such police officer is not below the rank of an Inspector; or
- (b) was made whilst the accused was in police custody or in the custody of any other person; or
- (c) was made to a person in authority; or
- (d) was made in the course of a police investigation (whether or not wholly or partly in answer to a question); or
- (e) was made with or without a caution being administered under any written law relating to statements made after the administration of a caution to the person making the statement; or
- (f) would incriminate the accused; or
- (g) contains an admission or confession of guilt, or amounts to an admission or confession of guilt; or
- (h) was made after the commencement of the trial; or
- (i) was made during the subsistence of the accused's

marriage to a person to whom the accused is or has been married.

(2) Conviction obtained on the evidence of an accomplice or a person of tender age, though uncorroborated, shall not be vitiated, and no such conviction shall be upset on appeal merely because the court which tried the case fails to refer in the grounds of judgment as to the need to warn itself against the danger of convicting on such evidence.

(3) Secondary documentary evidence shall be admissible and hearsay evidence including a statement made to a police officer not below the rank of an inspector by a person other than the accused, may at the discretion of the court be permitted.

(4) Evidence of the identification of an accused or other person prior to the trial shall be admissible even though the identification was by photographs or other methods or held under circumstances in which the witness identifying the accused or other person is not visible to such accused or other person.

(5) The evidence of a police officer that the accused or any other person was identified during the course of the police investigation shall be admissible.

(6) In a security case in which firearm or explosive is the subject matter of the charge or was used in the commission of the offence, such firearm or explosive shall be deemed at the time of the offence to have been in serviceable condition and otherwise capable of being used for the purpose for which such firearm or explosive is designed; and for the purpose of this regulation, a firearm or explosive includes any component part thereof.

(7) The court shall give due weight and consideration to the evidence admitted under these regulations.

22. Inspection of banker's books.

The Public Prosecutor may, if he is satisfied that any evidence of the commission of a security offence is likely to be found in any bankers' book, by order authorise any police officer to inspect any such book and a police officer so authorised may, at all reasonable times, enter the bank specified in the order and inspect the banker's books kept therein, and may take copies of any entry in any such book.

23. Power to intercept communications.

(1) The Public Prosecutor may, if he considers that any articles or message sent through the post or telecommunication are likely to contain any information relating to a security offence, authorise any police officer either orally or in writing-

- (a) to intercept, detain and open any postal article in course of transmission by post;
- (b) to intercept any message transmitted or received by any telecommunication; or
- (c) to intercept or listen to any conversation by telephone.

(2) In a trial of a security case, any information obtained by a police officer in pursuance of paragraph (1), whether before or after the commencement of the trial, shall be admissible in evidence without the originator of the information being required to give evidence.

(3) For the purpose of this regulation-

postal article' shall have the same meaning as in the Post Office Ordinance, 1947; and

telecommunication' shall have the same meaning as in the Telecommunications Act, 1950.

24. Information

(1) Any person may give information relating to a security offence to a police officer or other public officer and the identity of the informant giving such information shall at his request be kept secret.

(2) A report setting out the said information shall be admissible in evidence without the informant being required to give evidence, and the court shall give due weight and consideration to such information.

25. Weight to be given to evidence.

No adverse inference shall be held against the evidence given under these Regulations, or against any witness who is refusing the Court to give evidence under regulation 19, but the court shall give due weight and consideration to all the evidence [...] admissible by these Regulations.

APPEAL

26. Right of appeal.

(1) The accused and the Public Prosecutor shall have the right of appeal as set out below:

- (a) if the decision is made by the High Court in the exercise of its original jurisdiction, he may appeal to the Federal Court;
- (b) if the decision is made by a subordinate court other than the Court mentioned in sub-paragraph (c), he may appeal to the High Court whose decision shall be final; and
- (c) if the decision is made by the Sessions Court, whose President is conferred with special jurisdiction under subsection (3) of section 63 of the Subordinate Courts Act, 1948, he may appeal to the High Court with a further right of appeal to the Supreme Court;

(2) The decision of the Supreme Court in respect of an appeal under sub-paragraphs (a) and (c) shall be final; and for the purpose of this paragraph, the word 'decision' includes the whole or any part of any judgment, order or sentence made or passed by the relevant Court during the course or at the time of the trial or the hearing of an appeal, as the case may be in that Court.

(3) There shall be no right of appeal by either the accused or by the Public Prosecutor to the Yang di-Pertuan Agong under Part IV of the Courts of Judicature Act, 1964, in respect of a security case.

27. Arrest of accused in certain cases.

When an appeal is presented against an acquittal, the court against whose decision the appeal is presented may issue a warrant directing that the accused be arrested and brought before it, and may commit him to prison pending the disposal of the appeal, or admit him to bail.

28. Prohibition against owning or driving a motor vehicle where a charge in respect of a security case is proved against accused.

- (1) Where a charge for a security offence is proved against

the accused, the court may order that the accused be prohibited from owning or driving a motor vehicle for the duration of his natural life or for such shorter period as the court may think fit, being, in any case, not less than ten years, where, in the opinion of the court, the charge proved against the accused relates to an offence the commission of which can be facilitated by the use of a motor vehicle.

(2) For the purpose of this regulation motor vehicle' shall have the same meaning as in the Road Traffic Ordinance, 1958.

29. Pardon.

(1) For so long as these Regulations remain in force, the power of the Yang di-Pertuan Agong to grant pardons, reprieves and respites or to remit, suspend or to commute sentences under Clauses (1) and (2) of Article 42 of the Constitution shall extend to all security offences wherever committed or tried and such extended power shall be exclusively exercisable by him notwithstanding however the provisions of any written law to the contrary.

Reg. 29(2) as substituted by the Essential (Security Cases) (Amendment) Regulations 198] - P. U. (A) 206/81.

(2) The power conferred upon the Yang di-Pertuan Agong by virtue of paragraph (1) shall be exercised on the advice of a Pardons Board constituted for security offences wherever committed or tried, and the provisions of Clauses (5), (6), (7), (8) and (9) of Article 42 of the Constitution shall apply mutatis mutandis to the Pardons Board, except that reference to "Ruler or Yang di-Pertuan Negeri" shall be construed as reference to the Yang di-Pertuan Agong and reference to "Chief Minister of the State" shall be construed as reference to the Prime Minister.

Regulations 30 - 33: Repealed by P. U.(A) 362/1975.

34. Repeal.

The Emergency (Criminal Trials) Regulations, 1964, are hereby repealed.

Made this 4th day of October, 1975.

By Command,

TUN HAJI ABDUL RAZAK BIN HUSSEIN,
Prime Minister

[EMERGREGS69]

EMERGENCY (ESSENTIAL POWERS) ORDINANCE, 1969
P.U.(A) 146/1969

- Essential (Disposal of Dead Bodies and Dispensation
of Inquests and Death Inquiries) Regulations, PU(A) 153/69
- " (Directions to the Public Services) Regulations, PU(A) 156/69
- " (Requisition on Property Other than Land)
Regulations, 1969 PU(A) 157/69
- " (Newspaper and other Publications) Regulations, PU (A) 160/69
- " (Procedure for Deprivation to Citizenship
Regulations, 1969 PU(A) 167/69
- " (Prohibition of Activities relating to
Elections) Regulations, 1969 PU(A) 176A/69
- " (Immigration)(Borneo States) Regulations, 1969 PU(A) 179/
- " (Security Cases) Regulations, 1975 PU(A) 320/69
- " (Pasokan Kawalan)(Am) Regulations, 1969 PU(A) 198/69
- " (Modifications of Employment (Restriction)
Act 1968) Regulations, 1969 PU(A) 221/69
- " (Higher Educational Institution) Regulations, PU(A) 234/69
- " (Modifications of National Registration
Regulations 1960) Regulations, 1969 PU(A) 235/69
- " (Modification of National Registration
Ordinance 1962 for Sabah) Regulations, 1969 PU(A) 236/69
- " Modifications of National Registration
Regulations (Sarawak) 1960 Regulations, 1969 PU(A) 237/69
- " (Modifications of Immigration Laws Regulations PU(A) 238/69
- " (Goodwill Committees) Regulations, 1969 PU(A) 260/69
- " (General Orders, Chapter D) Regulations, 1969 PU(A) 273/69
- " (Modification of Employment (Restriction)
Act, 1968)(No.2) Regulations, 1968 PU(A) 274/69
- " (Goodwill Committees) Regulations, 1969 PU(A) 275/69
- " Modification of Internal Security (Restriction
of Processions and Meetings in a Security
Area) Regulations, 1969 PU(A) 354/69
- " (Modification of Employee Provident
Ordinance, 1951) Regulations, 1969 PU(A) 368/69
- " (Clearance of Squatters) Regulations, 1969 PU(A) 395/69

- " (Modification of Registration of Dentists Ordinance, 1948) Regulations, 1969 PU(A) 397/69
- " (Modification of Immigration Laws) (Amend.) Regulations, 1969 PU(A) 404/69
- " (Modification of the Trade Unions (Exception of Public Officer) Order, 1967) Regulations, PU(A) 406/69
- " (Industrial Relations) Regulations, 1969 PU(A) 407/69
- " (Trade Unions) Regulations, 1969 PU(A) 408/69
- " (Employment) Regulations, 1969 PU(A) 409/69
- " (Protection of Banking Companies) Regulations, PU(A) 413/69
- " (National Land Code) Regulations, 1969 PU(A) 414/69
- " (Penang Port Commission) Regulations, 1969 PU(A) 449/69
- " (Port Authorities) Regulations, 1969 PU(A) 450/69
- " (Modification of Police Act, 1967) Regulations, PU(A) 454/69
- " (Modification of the Municipal Ordinance, Federal Capital) Regulations, 1969 PU(A) 486/69
- " (House to House and Street Collections) Regulations, 1969 PU(A) 514/69
- " (Land Acquisition) Regulations, 1969 PU(A) 515/69
- " (National Land Code)(No.2) Regulations, 1969 PU(A) 532/69
- " (Community Self Reliance) Regulations, 1975 PU(A) 279/76
- " (Security Cases) Regulations, 1975 PU(A) 320/75

EMERGENCY (ESSENTIAL POWERS) ORDINANCE, 1969
P.U.(A) 219/69.

- Royal Malaysia Police Cadet Corps Rules, 1969 PU(A) 487/69
- Essential (Consultative Council) Regulations, 1970 PU(A) 52/70
- Muda Agriculture Development Authority (Incorporation) Regulations, 1970 PU(A) 175/70
- Essential (Trade Unions) Regulations, 1970 PU(A) 202/70
- Police Fund Rules, 1970 -- PU(A) 281/70
- Legal Aid and Advice Regulations, 1970 PU(A) 299/70
- Planning Development Rules, 1970 PU(A) 7/71
- Essential (National Unity Council) Regulations, 1971 PU(A) 215/71

EMERGENCY (PUBLIC ORDER AND PREVENTION OF
CRIME) ORDINANCE, 1969
PU(A) 187/69.

- Public Order and Prevention of Crime (Procedure) Rules, 1972 PU(A) 246/72

[EMERGLAW69(10)]

LAWS OF MALAYSIA
Act 216

EMERGENCY (ESSENTIAL POWERS) ACT 1979

An Act under Clause (5) of Article 150 of the Federal Constitution to enact as an Act of Parliament the Emergency (Essential Powers) Ordinance, 1969, and to provide for the validation of all subsidiary legislation made or purporting to have been made under the said Ordinance on or after the 20th February 1971, and for the validation of all acts and things done under the said Ordinance or any subsidiary legislation made or purporting to have been made thereunder, and to provide for matters connected therewith.

[20th February 1971.]

WHEREAS a Proclamation of Emergency has been issued by the Yang di-Pertuan Agong on the 15th May 1969 under Article 150 of the Federal Constitution:

AND WHEREAS Parliament by reason of the Emergency considers it necessary to enact as an Act of Parliament the Emergency (Essential Powers) Ordinance, 1969, and to provide for the validation of all subsidiary legislation made or purporting to have been made under the said Ordinance on or after the 20th February 1971, and for the validation of all acts and things done under the said Ordinance or under any subsidiary legislation made or purporting to have been made thereunder:

AND WHEREAS it is hereby declared that this Act appears to Parliament to be required by reason of the Emergency:

Now, THEREFORE, pursuant to Clause (5) of Article 150 of the Federal Constitution BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1.(1) This Act may be cited as the Emergency (Essential Powers) Act 1979, and shall have application throughout Malaysia.

(2) This Act shall be deemed for all purposes to have

come into force on the 20th February 1971.

2. (1) Subject to the provisions of this section, the Yang di-Pertuan Agong may make any regulations whatsoever (in this Act referred to as "Essential Regulations") which he considers desirable or expedient for securing the public safety, the defence of Malaysia, the maintenance of public order and of supplies and services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by the preceding subsection, Essential Regulations may, so far as appear to the Yang di-Pertuan Agong to be necessary or expedient for any of the purposes mentioned in that subsection-

- (a) make provisions for the apprehension, trial and punishment of persons offending against the regulations, and for the detention, exclusion and deportation of persons whose detention, exclusion or deportation appears to the Minister of Home Affairs to be expedient in the interests of the public safety or the defence of Malaysia;
- (b) create offences and prescribe penalties (including the death penalty) which may be imposed for any offence against any written law (including regulations made under this Act);
- (c) provide for the trial by such courts as may be specified in such regulations, of persons guilty of any offence against the regulations;
- (d) make special provisions in respect of procedure (including the hearing of proceedings in camera) in civil or criminal cases and of the law regulating evidence, proof and civil and criminal liability;
- (e) make provisions for the control of aliens;
- (f) make provisions for directing and regulating the performance of services by any persons;
- (g) authorise-
 - (i) the taking of possession, control, forfeiture or disposition on behalf of the Government of Malaysia, of any property or undertaking;
 - (ii) the acquisition, on behalf of the Government of Malaysia of any property other than land;
- (h) authorise the entering and search of any premises;
- (i) prescribe fees or other payments;
- (j) provide for amending any written law, for suspending the operation of any written law and for

- applying any written law with or without modification;
- (k) make provisions for the control of the harbours, ports and of territorial waters of any State in Malaysia and of the movements of vessels;
 - (l) make provisions for the transportation by land, or water, and the control of the transport and movement of persons, animals and things;
 - (m) make provisions for trading, storage, exportation, importation, production, and manufacture;
 - (n) make provisions for the supply and distribution of food, water, fuel, light, and other necessities;
 - (o) provide for any other matter in respect of which it is in the opinion of the Yang di-Pertuan Agong desirable in the public interest that regulations should be made.

(3) Essential Regulations may provide for empowering such authorities, persons or classes of persons as may be specified in the regulations to make orders, rules and by-laws for any of the purposes for which such regulations are authorised by this Act to be made, and may contain such incidental and supplementary provisions as appear to the Yang di-Pertuan Agong to be necessary or expedient for the purposes of the regulations.

(4) An Essential Regulation, and any order, rule, or by-law duly made in pursuance of such a regulation shall have effect notwithstanding anything inconsistent therewith contained in any written law, including the Constitution or the Constitution of any State, other than this Act or in any instrument having effect by virtue of any written law other than this Act.

3. Unless the contrary intention appears therefrom any provisions contained in, or having effect under, any Essential Regulation shall-

- (a) in so far as they specifically impose prohibitions, restrictions or obligations in relation to ships, vessels or aircraft or specifically authorise the doing of anything in relation to ships, vessels or aircraft, apply to all ships, vessels or aircraft in or over Malaysia and to all ships or aircraft registered in Malaysia wherever they may be; and
- (b) in so far as they impose prohibitions, restrictions or obligations on persons, apply to all persons in Malaysia and all persons on board any ship or air

craft registered in Malaysia and to all citizens:

Provided that Essential Regulations may make provisions whereby the owner, manager or charterer of any ship or aircraft registered in Malaysia (being a person resident in Malaysia or a corporation incorporated under the law of Malaysia is subjected to restrictions in respect of the employment of persons in any country or territory in connection with the management of the ship or aircraft.

4. Every document purporting to be an instrument made or issued by any Minister or authority or person in pursuance of any provision contained in, or having effect under, Essential Regulations, and to be signed by or on behalf of the said Minister, 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 that Minister, authority or person; and prima facie evidence of any such instrument as aforesaid may, in any legal proceedings (including arbitrations), be given by the production of a document purporting to be certified to be a true copy of the instrument by, or on behalf of, the Minister or other authority or person having power to make or issue the instrument.

5. No action, prosecution or other legal proceeding whatsoever shall be brought, instituted or maintained in any court against any public officer either personally or in his official capacity for or on account of or in respect of any act ordered or done by him or purporting to have been ordered or done by him during the emergency period for the purpose of maintaining order or public security or of carrying into effect any regulation, order, rule, by-law, direction or notice made or issued under this Act, and no suit, prosecution or other legal proceeding shall lie in any court against any other person for or on account of or in respect of any act done or purporting to have been done by him under any regulation, order, rule, by-law, direction, notice or instruction of any public officer given for any such purpose as aforesaid:

Provided that the act of such officer or person was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby.

6. For so long as the Proclamation of Emergency referred to in the preamble to this Act remains in force, the regulations made under the Emergency (Essential Powers) Act, 1964 (except those regulations which the Yang di-Pertuan

Agong may by notification in the Gazette declare not to be in force) shall be in force and shall have effect as if they have been made under this Act; and the regulations may be amended, modified or repealed as if they have been made under this Act.

7. The powers conferred by this Act and by any regulations made thereunder shall be in addition to and not in substitution for any powers conferred by or under other written law from time to time in force.

8. Every person who contravenes any regulation made under this Act shall, where no other penalty is provided by such regulation, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

9. (1) Every subsidiary legislation whatsoever made or purporting to have been made under the Emergency (Essential Powers) Ordinance, 1969, (hereinafter in this Act referred to as "the Ordinance") on or after the 20th February 1971, shall be valid and have effect as if the said subsidiary legislation has been made under the appropriate provision of this Act and shall be deemed to have come into force from the date on which the said subsidiary legislation came into force or purported to have come into force under the Ordinance, and shall be read with all such modifications as may be necessary to construe such subsidiary legislation as having been made under this Act.

(2) Any such subsidiary legislation as is referred to in subsection (1) may be amended, modified or repealed as if the same has been made under the appropriate provision of this Act.

(3) Any prosecution instituted, trial conducted, decision or order given, in respect of any person in any court, or any other proceeding whatsoever had, or any other act or thing whatsoever done or omitted to be done, under or by virtue of the Ordinance or any subsidiary legislation whatsoever made or purporting to have been made thereunder is declared lawful and hereby validated.

10. Where, before the publication of this Act in the Gazette, any person charged for any offence under the Internal Security Act, 1960 has been tried in accordance with the

Essential (Security Cases) Regulations, 1975 and found guilty and convicted and his appeal to the Federal Court has been dismissed, the Public Prosecutor or such person may by notice of motion apply to the Federal Court within thirty days from the date of publication of this Act in the Gazette, or within such further time as the Federal Court may allow, to have such case reviewed, and, in such event, the Federal Court shall have jurisdiction to review such case and make such order as it deems fit.

11. (1) The Public Prosecutor shall have the power exercisable at his discretion to elect to charge any person for any offence either under a law promulgated or enacted under Part XI of the Federal Constitution or under any other law in respect of an act or acts which constitute an offence under a law promulgated or enacted under the said Part XI as well as under any other law, notwithstanding that the area within which such offence was committed is an area proclaimed as a security area under section 47 of the Internal Security Act, 1960.

(2) Any charge preferred by the Public Prosecutor against any person before or after the commencement of this Act under the Arms Act, 1960, the Firearms (Increased Penalties) Act, 1971, or any other law not promulgated or enacted under Part XI of the Federal Constitution in relation to an offence committed in the area which has been proclaimed a security area under section 47 of the Internal Security Act, 1960, as published in P.U. (A) 148 of 1969, and any trial conducted, or decision or order given, in consequence of such charge, are declared lawful and hereby validated.

12. No court shall have jurisdiction to entertain or determine any application or question in whatever form, on any ground, regarding the validity or the continued operation of any proclamation issued by the Yang di-Pertuan Agong in exercise of any power vested in him under any Ordinance promulgated, or Act of Parliament enacted, under Part XI of the Federal Constitution.

13. (1) The Emergency (Essential Powers) Ordinance, 1969 is hereby repealed.

(2) Notwithstanding subsection (1), all subsidiary legislation made under the said Ordinance and in force immediately before the 20th February 1971 shall (without prejudice to the power to amend the same by any subsidiary

legislation made under the appropriate provision of this Act and subject to such modifications as may necessary to bring such subsidiary legislation into conformity with this Act) continue in force until repealed or replaced by subsidiary legislation made under the appropriate provision of this Act, and shall be deemed to have been made thereunder.

14. The Yang di-Pertuan Agong may make such rules as he may deem necessary or expedient to provide for the removal of any difficulty or anomaly whatsoever in any written law, or in the carrying out of any function, the exercise of any power, or the discharge of any duty, or the doing of any act, under any written law, that may be occasioned by the provisions of this Act, and for that purpose such rules may make any modification, adaptation, alteration, change, or amendment whatsoever to any written law.

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