

REPUBLIC OF ZAMBIA

**THE EMERGENCY POWERS ACT**

**CHAPTER 108 OF THE LAWS OF ZAMBIA**

**CHAPTER 108 THE EMERGENCY POWERS ACT**

THE EMERGENCY POWERS ACT

ARRANGEMENT OF SECTIONS

*Section*

1. Short title
2. Interpretation
3. Emergency regulations
4. Repugnancy with other enactments
5. Duration, etc., of emergency regulations
6. Proof of documents

**CHAPTER 108**

EMERGENCY POWERS

43 of 1964

**An Act to empower the President to make emergency regulations whenever an emergency proclamation is in force; to specify the matters which may be provided for in emergency regulations; to provide for the duration of emergency regulations; and to provide for matters incidental to or connected with the foregoing.**

[24th October, 1964]

1. This Act may be cited as the Emergency Powers Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"the Constitution" means the Constitution of the Republic;

Cap. 1

"emergency proclamation" means a proclamation under the Constitution declaring that a state of public emergency exists;

"emergency regulations" means regulations made under section *three*;

"enactment" means an instrument having the force of law other than the Constitution and this Act;

"the President" means the President of the Republic;

"the Republic" means the Republic of Zambia.

3. (1) Whenever an emergency proclamation is in force the President may, by statutory instrument, make such regulations as appear to him to be necessary or expedient for securing the public safety, the defence of the Republic, 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.

Emergency  
regulations

(2) Without prejudice to the generality of the powers conferred by subsection (1), emergency regulations may so far as appears to the President to be necessary or expedient for any of the purposes mentioned in that subsection-

(a) make provision for the detention of persons or the restriction of their movements, and for the deportation and exclusion from the Republic of persons who are not citizens of Zambia;

The Laws of Zambia

- (b) authorise-
  - (i) the taking of possession or control on behalf of the Republic of any property or undertaking;
  - (ii) the acquisition on behalf of the Republic of any property other than land;
- (c) authorise the entering and search of any premises;
- (d) provide for amending any enactment, for suspending the operation of any enactment, and for applying any enactment with or without modification;
- (e) provide for charging, in respect of the grant or issue of any license, 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 paragraph shall authorise the making of provision for the trial of persons by military courts.

(3) Emergency 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 Act to be made, and may contain such incidental and supplementary provisions as appear to the President to be necessary or expedient for the purposes of the regulations.

(4) Emergency regulations shall specify the area to which they apply, and may contain provision for the exclusion of persons from the area so specified if it consists of only a part of the Republic.

**4.** Emergency regulations and any orders or rules made in pursuance of emergency regulations shall have effect notwithstanding anything inconsistent therewith contained in any enactment; and any provision of an enactment which may be inconsistent with any emergency regulation or any such order or rule shall, whether or not that provision has been amended, modified or suspended in its operation under section *three*, to the extent of such inconsistency have no effect so long as such regulation, order or rule remains in force.

Repugnancy with other enactments

**5.** (1) All emergency regulations, if not sooner revoked, shall cease to have effect when the emergency proclamation in pursuance of which they have been made ceases to have effect.

Duration, etc., of emergency regulations

(2) No emergency regulations shall have effect-

- (a) during a period when an emergency proclamation is in force by virtue of having been approved by a resolution of the National Assembly under the Constitution;
- (b) during a period when an emergency proclamation is in force by virtue of having been extended by a resolution of the National Assembly under the Constitution;

unless the National Assembly has, by a like resolution in such case, affirmed that those regulations shall have effect during that period.

6. Every document purporting to be an instrument made or issued by the President or 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 President or that authority or person.

Proof of documents

## SUBSIDIARY LEGISLATION

### EMERGENCY POWERS (Laws, Volume 8, Cap. 108)

#### SECTION 3-EMERGENCY REGULATIONS

##### *Regulations by the President*

*Statutory Instrument*  
216 of 1986  
126 of 1997  
*Act No.*  
13 of 1994

1. These Regulations may be cited as the Emergency Powers Regulations.

Title

2. (1) It is hereby authorised that any undertaking in an industry which has been declared a strategic industry by the President may be acquired, or possession of or control over it may be taken or acquired, on behalf of the Republic.

Power to acquire  
certain undertakings

(2) Any land or other property of such undertaking which, in the opinion of the President, is necessary for the operations of such undertaking shall be deemed to be part of such undertaking for the purposes of these Regulations.

The Laws of Zambia

(3) In exercise of the powers contained in subregulation (1), the President may authorise any person to enter upon any land or property and take control thereof, and exercise the other powers contained in these Regulations in respect of any undertaking, notwithstanding that no compensation has yet been agreed or paid.

**3.** Where any of the powers contained in regulation 2 are exercised in respect of any undertaking, the Minister responsible for finance shall, on behalf of the Republic, pay in respect thereof, such compensation in money as may be agreed or, in default of agreement, determined in accordance with these Regulations.

Compensation to be paid

**4.** (1) If within six months from the exercise in respect of any undertaking of the powers contained in regulation 2 there remains outstanding any dispute relating to or in connection with such exercise of powers, other than a dispute as to the amount of compensation, the Attorney-General or any person claiming any interest in the undertaking may institute proceedings in the High Court for the determination of such dispute.

Disputes

(2) Where any dispute arises as to the amount of compensation, the Attorney-General or any person claiming compensation may, and if such dispute is not settled within the aforementioned period of six months, shall refer such dispute to the National Assembly which shall by resolution determine the amount of compensation to be paid.

(3) No compensation determined by the National Assembly under these Regulations shall be called in question in any court on the grounds that it is not adequate.

(4) The existence of any dispute as aforesaid shall not affect the right of the President and persons authorised by him to take possession of and operate the undertaking.

**5.** Where a dispute as to the amount of compensation is referred to the National Assembly and either party wishes to adduce evidence, such evidence shall be heard by a select committee of the National Assembly. The powers, duties and proceedings of such select committee shall be governed by the Standing Orders of the National Assembly for the time being in force.

Procedure in National Assembly

**6.** (1) The decision of the High Court (or, in the case of an appeal, the Supreme Court) shall be final and conclusive as between all the parties to the proceedings in question.

Effect of decisions

(2) The payment to the person who appears to be entitled thereto (or into court if the identity of such person, or any question of apportionment, is doubtful or in dispute) of the compensation determined by the National Assembly shall operate as a complete discharge of the Republic from all claims in respect of the undertaking, but shall not bar any subsequent proceedings against the person to whom the same was awarded by any person claiming to have a better right to the compensation or the right to a share thereof:

Provided that no proceedings under this subregulation by any person claiming to have a better right to any compensation or a right to a share therein shall be commenced after the expiration of three years from the date of the final decision.

(3) For the purposes of this regulation, the date of the final decision means the date of the settlement by agreement, the date of the passing of the resolution of the National Assembly referred to in regulation 4 or the date of the judgment of the High Court or the Supreme Court, as the case may be.

(4) Where it appears to the President that any estate or interest in any property or undertaking acquired under these Regulations was held by any person in any fiduciary or representative capacity, the Attorney-General may apply to the Court for directions as to whom and in what proportions the compensation should be paid.

7. (1) Any undertaking or property in respect of which the President has exercised the powers contained in regulation 2 shall be deemed to have been transferred to the Republic by virtue of these Regulations and without more.

Transfer and powers

(2) If the undertaking is a company registered under the Companies Act, the shares in such company shall be deemed to have been transferred to the Republic from the date on which the powers contained in regulation 2 were exercised.

Cap. 388

(3) If the undertaking is owned by a single person or is a firm or a partnership, the ownership thereof, together with all licenses and permits, shall be deemed to have been transferred to the Republic.

(4) The President may appoint a competent authority who by itself or through any person authorised in that behalf by it, may exercise all the powers which before the transfer to the Republic of the undertaking were the powers of the owner, shareholders, board of directors, chief executive, secretary or any other officer of the undertaking.

(5) Without derogation from the generality of sub-regulation (4), such powers shall include the powers to-

- (a) carry on the operations of the undertaking;
- (b) operate any bank accounts of the undertaking;
- (c) administer all assets, liabilities, contracts and agreements;
- (d) enter into contracts, negotiations or other arrangements;

(e) sue and be sued in the name of the undertaking; and

(f) do all such things as the undertaking could lawfully have done prior to the transfer.

**8.** (1) Nothing in these Regulations shall be construed as requiring the President to complete the acquisition of any undertaking:

President may withdraw from acquisition

Provided that where possession of or control over or interest in any undertaking has been taken and the President decides not to complete the acquisition, the Government shall pay to the owner thereof, and all persons affected thereby, reasonable compensation including such reasonable costs and expenses as may have been incurred by them by reason or in consequence of the action by Government.

(2) The amount of such compensation shall, in default of agreement, be determined by the High Court.

**9.** In determining the amount of any compensation (including costs or expenses) payable under these Regulations, the National Assembly, the court and every other person shall have due regard to the fact that such undertaking has become part of an industry which has been declared a strategic industry.

Principles of assessment of compensation, etc.

**10.** (1) Any person who wilfully fails to comply with a notice to yield up possession, or who wilfully hinders or obstructs any duly authorised person taking possession of any undertaking or property in terms of these Regulations or exercising any rights or performing any functions under these Regulations in relation thereto, shall be guilty of an offence and liable on conviction to a fine not exceeding twelve thousand five hundred penalty units or to imprisonment for a term not exceeding two years, or to both.

Offences and penalties

(2) If any person hinders or obstructs any duly authorised person from taking possession of any undertaking, land or other property in terms of these Regulations, the Attorney-General may apply *ex parte* to the High Court for an appropriate order and such court may thereupon, and upon proof of the due service of the notice to yield up possession, issue the necessary order addressed to any officer of the court or to any police officer and such officer or police officer shall forthwith eject any person so withholding possession.

(As amended by Act No. 13 of 1994)

**11.** The Minister responsible for industry may, by statutory instrument, make orders for the better carrying out of the provisions of these Regulations.

Orders

The Laws of Zambia

SECTION 3-THE EMERGENCY (ESSENTIAL SUPPLIES AND SERVICES) REGULATIONS

*Statutory Instrument*  
38 of 1988  
*Act No.*  
13 of 1994

*Regulations by the President*

1. These Regulations may be cited as the Emergency (Essential Supplies and Services) Regulations. Title
2. These Regulations shall apply to the whole of the Republic. Application
3. Any person who is not a citizen of Zambia and whose licence under the Trades Licensing Act has been revoked by the President may be deported from the Republic. Deportation of certain non-citizens. Cap. 393
4. (1) It is hereby authorised that any property or undertaking, other than land, belonging to-
- (a) any person referred to in regulation 3; or
- (b) any person or company whose licence has been revoked by the President under the Trades Licensing Act: Cap. 393
- may be acquired or possession of, or control over, such property or undertaking may be taken or acquired, by the Republic.
- (2) In exercise of the powers contained in sub-regulation (1), the President may authorise any person to enter any property or undertaking and take possession of, or control on behalf of the Republic of, such property or undertaking, and exercise any powers contained in these Regulations in respect of such property or undertaking notwithstanding that no compensation has yet been agreed or paid.
5. A person authorised by the President (hereinafter referred to as an "authorised person") may at any time, without warrant, enter and search any premises belonging to any person or company whose licence has been revoked by the President under the Trades Licensing Act. Entry and search Cap. 393
6. (1) Any goods or commodities found on any property or undertaking which is the subject of regulation 4 and belonging to, any person or company whose licence has been revoked according to regulations 3 and 4 (1) (b) respectively may be confiscated and thereafter disposed of as the President may direct. Disposal of goods and commodities



(2) In these Regulations the words "goods" and "commodities" have the meaning assigned to them in the Control of Goods Act. Cap. 421

7. Where any of the powers contained in regulation 6 are exercised, the Minister responsible for finance shall, on behalf of the Republic, pay- Compensation to be paid

(a) in the case where the goods or commodities were purchased on a wholesale licence, the manufacturer's price;

(b) in a case where the goods or commodities were purchased on a retailers licence, the wholesaler's price.

8. (1) Where any dispute arises as to the amount of compensation, the Attorney-General or any person claiming compensation may, if such dispute is not settled within six months, refer the dispute to the National Assembly which shall by resolution determine the amount of compensation to be paid. Disputes

(2) No compensation determined by the National Assembly under these Regulations shall be called in question in any Court on the grounds that it is not adequate.

(3) The existence of any dispute shall not affect the right of the President and persons authorised by him to take possession of, or control of, any property or dispose of any goods or commodities confiscated.

9. Where a dispute as to the amount of compensation is referred to the National Assembly and either party wishes to adduce evidence, such evidence shall be heard by a select committee of the National Assembly. The powers, duties and proceedings of such select committee shall be governed by the Standing Orders of the National Assembly for the time being in force. Procedure in National Assembly

10. Any person who wilfully fails to comply with an order to yield up possession, or who wilfully hinders or obstructs any duly authorised person taking possession of, or control of, any undertaking or property in terms of these Regulations or exercising any rights or performing any functions under these Regulations shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding two years, or to both. Offences and penalties

*(As amended by Act No. 13 of 1994)*

11. The Minister responsible for commerce may, by statutory instrument, make orders for the better carrying out of the provisions of these Regulations. Orders