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ODO(SA)(82) 20

COPY NO

86

15 April 1982

CABINET

DEFENCE AND OVERSEA POLICY (OFFICIAL) COMMITTEE
SUB-COMMITTEE ON THE SOUTH ATLANTIC AND THE
FALKLAND ISLANDS

EMERGENCY POWERS (FALKLAND ISLANDS) BILL

Note by the Secretaries

The printed draft of an Emergency Powers (Falkland Islands) Bill, referred to at ODO(SA)(82) 3rd Meeting, is attached for the information of the Sub-Committee. The printed draft has been circulated to members of the Cabinet for their information.

Signed C H O'D ALEXANDER
G R G MIDDLETON
S D SPIVEY

Cabinet Office

15 April 1982

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TO

Confer on Her Majesty certain powers which it is ^{A.D. 1982} expedient that Her Majesty should be enabled to exercise in the circumstances arising out of the unlawful occupation of the Falkland Islands and their Dependencies by the Argentine Republic; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 5 1.—(1) Her Majesty may by Order in Council make such ^{Defence} regulations (to be known as “Defence Regulations”) as appear ^{Regulations.} to Her to be necessary or expedient for any of the following purposes (in this Act referred to as “the authorised purposes”), that is to say—
- 10 (a) the defence of the realm (including Her Majesty's dependent territories) in the circumstances arising out of the unlawful occupation of the Falkland Islands and their Dependencies by the Argentine Republic;
- 15 (b) meeting special circumstances arising or likely to arise out of that occupation; and
- (c) the efficient prosecution of any hostilities in which Her Majesty may be engaged in consequence of that occupation;
- and nothing in the following provisions of this Act shall prejudice
20 the generality of the powers conferred by this subsection.

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(2)

- (2) Defence Regulations may for any of the authorised purposes make provision—
- (a) for the expulsion from the United Kingdom of persons (not being British subjects) whose expulsion appears to the Secretary of State to be expedient;
 - (b) authorising the taking of possession or control, on behalf of Her Majesty, of any property or undertaking, or the acquisition on behalf of Her Majesty of any property other than land;
 - (c) imposing prohibitions or restrictions on the supply or 10 transport of goods or the provision of services.
- (3) Defence Regulations may make provision for requiring or authorising the payment of compensation in respect of things done for any of the authorised purposes, whether by virtue of Defence Regulations, the prerogative of the Crown, or otherwise. 15
- (4) Defence Regulations may—
- (a) make such incidental, consequential and supplementary provisions as appear to Her Majesty necessary or expedient for the purposes of the Regulations, including in particular provision for the enforcement of the 20 Regulations;
 - (b) make different provision for different parts of the United Kingdom;
 - (c) empower any Minister of the Crown to make provision for any of the authorised purposes by such instrument 25 as may be specified in the Regulations;
 - (d) include provision for the proof of any instrument made or authority given under Defence Regulations.
- (5) While this section is in force the Trading with the Enemy Act 1939 and any rule of law relating to trading with the enemy shall not have effect unless brought into effect by Her Majesty by Order in Council.
- (6) No Order in Council under this section shall be made unless—
- (a) a draft of the Order has been laid before Parliament and 35 approved by a resolution of each House of Parliament; or
 - (b) it is declared in the Order that it appears to Her Majesty that by reason of urgency it is necessary to make the Order without a draft having been so approved. 40

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(3)

- (7) Every Order in Council under this section (except such an Order of which a draft has been so approved)—
- (a) shall be laid before Parliament; and
 - (b) shall cease to have effect at the expiry of a period of 7 days beginning with the date on which it was made unless, before the expiry of that period, the Order has been approved by a resolution of each House of Parliament, but without prejudice to anything previously done or to the making of a new Order.
- 10 In reckoning for the purposes of this subsection any period of 7 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- 2.—(1) Without prejudice to subsection (3), Her Majesty may 25 by Order in Council direct that the provisions of this Act shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any of the following territories, namely any of the Channel Islands, the Isle of Man and any colony. Extent and extra-territorial operation.
- 20 (2) Without prejudice to the generality of subsection (1), an Order in Council made under that subsection with respect to any territory may direct that any authority specified in the Order shall be substituted for Her Majesty in Council as the authority empowered to make Defence Regulations for that territory.
- 25 (3) A Defence Regulation may be expressed to extend to any of the Channel Islands or the Isle of Man as if the Island in question formed part of the United Kingdom.
- (4) Subject to subsection (5), any provision made by or under Defence Regulations may apply to—
- 30 (a) persons outside the United Kingdom;
- (b) ships, aircraft and hovercraft outside, or registered outside, the United Kingdom; and
 - (c) acts or omissions outside the United Kingdom,
- to such extent and in such circumstances as may be specified in the 35 Regulations.
- (5) No provision made by or under Defence Regulations shall—
- (a) apply to any ship, aircraft or hovercraft outside the United Kingdom unless it is registered in the United Kingdom or in any territory mentioned in subsection (1);
 - (b) apply to any person outside the United Kingdom or to anything done or omitted by any person outside the 40

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United Kingdom unless the person in question is at the material time—

(i) a citizen of the United Kingdom and Colonies, a person who is a British subject by virtue of section 2, 13 or 16 of the British Nationality Act 1948 or the British Nationality Act 1965 or a British protected person within the meaning of the said Act of 1948; or

(ii) a body incorporated or constituted under the law of any part of the United Kingdom or the law of 10 any territory mentioned in subsection (1); or

(iii) in command or charge of a ship, aircraft or hovercraft registered in the United Kingdom or any such territory.

(6) In this section any reference to the United Kingdom 15 includes a reference to the territorial waters thereof, and any reference to any other territory includes a reference to the territorial waters of that territory.

(7) Without prejudice to section 3 of the Continental Shelf Act 1964, subsections (1) to (3) above shall apply in relation to, 20 and to any waters within 500 metres of, any installation in a designated area within the meaning of that Act as they apply in relation to the Channel Islands and the Isle of Man.

3.—(1) Sections 1 and 2 shall remain in force until the expiry 25 of the period of three months beginning with the day on which this Act is passed, and shall then expire unless continued in force by an order under subsection (2).

(2) The Secretary of State may from time to time by order made by statutory instrument provide that sections 1 and 2 shall 30 continue in force for a period not exceeding three months from the coming into operation of the order.

(3) No order under subsection (2) shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(4) Her Majesty may by Order in Council make such provision 35 as appears to Her to be necessary or expedient in connection with the expiration of sections 1 and 2; and an Order in Council under this subsection may make or authorise the making of such incidental, supplemental and consequential provisions as appear to Her Majesty to be expedient for the purposes of the Order. 40

(5) Any Order in Council made under subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4.—(1) This Act may be cited as the Emergency Powers Citation, etc. (Falkland Islands) Act 1982.

(2) The powers conferred by or under this Act shall be in addition to, and not in derogation of, the powers exercisable by 5 virtue of the prerogative of the Crown.

(3) Section 23 of the Interpretation Act 1978 (application of 1978 c. 30. provisions of that Act to subordinate legislation) shall apply to instruments of a legislative character made under Defence Regulations as it applies to subordinate legislation within the 10 meaning of that Act.

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To confer on Her Majesty certain powers which it is expedient that Her Majesty should be enabled to exercise in the circumstances arising out of the unlawful occupation of the Falkland Islands and their Dependencies by the Argentine Republic; and for connected purposes.

LII—C (1)

14th April, 1982

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THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT

Ref: ODO(SA)(82) 20

COPY NO 86

19 April 1982

CABINET

DEFENCE AND OVERSEA POLICY (OFFICIAL) COMMITTEE

SUB-COMMITTEE ON THE SOUTH ATLANTIC AND THE FALKLAND ISLANDS

EMERGENCY POWERS (FALKLAND ISLANDS) BILL

Note by the Secretaries

The draft of an Emergency Powers Bill circulated as ODO(SA)(82) 20 has been revised by the Home Secretary and a copy of the new version is attached for the information of the Sub-Committee.

Signed C H O'D ALEXANDER
G R G MIDDLETON
S D SPIVEY

Cabinet Office

19 April 1982

Emergency Powers (Falkland Islands) Bill

EXPLANATORY AND FINANCIAL MEMORANDUM

The Bill confers a temporary power, by Order in Council, to make Defence Regulations in connection with the unlawful occupation of the Falkland Islands by the Argentine Republic.

Clause 1 contains a general power to make Defence Regulations, in connection with that unlawful occupation, for the defence of the realm (including dependent territories); for meeting special circumstances; and for the efficient prosecution of hostilities. The Regulations may, in particular, include provision for the expulsion of persons from the United Kingdom; for the taking of possession or control of property or undertakings or the acquisition of property other than land; for the control of the supply or transport of goods or the provision of services; for the suspension of the Trading with the Enemy Act 1939 and the common law relating to trading with the enemy; and for the creation and punishment of offences. They will be subject to affirmative resolution.

Clause 2 makes provision for the extra-territorial operation of Defence Regulations.

Clause 3 provides that clauses 1 and 2 are to remain in force for a period of 3 months and may be continued in force for further periods not exceeding 3 months at a time by an order made by the Secretary of State. Any such order will be subject to affirmative resolution.

Clause 4 enables the Bill to be extended to the Channel Islands, the Isle of Man or any colony, and to off-shore installations.

Clause 5 includes a saving for the powers exercisable by virtue of the prerogative of the Crown.

Financial effects of the Bill and effects on public service manpower

The financial effects of the Bill cannot be quantified. Public service manpower implications are small.

Emergency Powers (Falkland Islands) Bill

ARRANGEMENT OF CLAUSES

Clause

1. Defence Regulations.
2. Extra-territorial operation of Defence Regulations.
3. Duration of ss. 1 and 2.
4. Extent.
5. Citation and other supplementary provisions.

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Confer on Her Majesty certain powers which it is ^{A.D. 1982} expedient that Her Majesty should be enabled to exercise in the circumstances arising out of the unlawful occupation of the Falkland Islands and their Dependencies by the Argentine Republic; and for connected purposes.

B E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 5 1.—(1) Her Majesty may by Order in Council make such ^{Defence Regulations.} regulations (to be known as "Defence Regulations") as appear to Her to be necessary or expedient for any of the following purposes (in this Act referred to as "the authorised purposes"), that is to say—
- 10 (a) the defence of the realm (including Her Majesty's dependent territories) in the circumstances arising out of the unlawful occupation of the Falkland Islands and their Dependencies by the Argentine Republic;
 - 15 (b) meeting special circumstances arising or likely to arise out of that occupation; and
 - (c) the efficient prosecution of any hostilities in which Her Majesty may be engaged in consequence of that occupation;

and nothing in the following provisions of this Act shall prejudice the generality of the powers conferred by this subsection.

- (2) Defence Regulations may for any of the authorised purposes make provision—
- (a) for the expulsion from the United Kingdom of persons whose expulsion appears to the Secretary of State to be expedient;
 - (b) authorising the taking of possession or control, on behalf of Her Majesty, of any property or undertaking, or the acquisition on behalf of Her Majesty of any property other than land;
 - (c) imposing prohibitions or restrictions on the supply or transport of goods or the provision of services;
 - (d) suspending, to such extent and in relation to such period (whether beginning before, on or after the date of the passing of this Act) as may be specified in the Regulations, the operation of—
 - (i) the Trading with the Enemy Act 1939 and any related enactment; and
 - (ii) any rule of law relating to trading with the enemy;
 - (e) for the creation and punishment of offences.
- (3) Defence Regulations may make provision for requiring or authorising the payment of compensation in respect of things done for any of the authorised purposes, whether by virtue of Defence Regulations, the prerogative of the Crown, or otherwise.
- (4) Defence Regulations may—
- (a) make such incidental, consequential and supplementary provisions as appear to Her Majesty necessary or expedient for the purposes of the Regulations, including in particular provision for the enforcement of the Regulations;
 - (b) make different provision for different parts of the United Kingdom;
 - (c) empower any Minister of the Crown to make provision for any of the authorised purposes by such instrument as may be specified in the Regulations;
 - (d) include provision for the proof of any instrument made or authority given under Defence Regulations.
- (5) No Order in Council under this section shall be made, unless—
- (a) a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament; or
 - (b) it is declared in the Order that it appears to Her Majesty that by reason of urgency it is necessary to make the Order without a draft having been so approved.

1939 c. 89.

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- (6) Every Order in Council under this section (except such an Order of which a draft has been so approved)—
- (a) shall be laid before Parliament; and
 - (b) shall cease to have effect at the expiry of a period of 7 days beginning with the date on which it was made unless, before the expiry of that period, the Order has been approved by a resolution of each House of Parliament, but without prejudice to anything previously done or to the making of a new Order.
- 10 In reckoning for the purposes of this subsection any period of 7 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- 2.—(1) Subject to subsection (2), any provision made by or under Defence Regulations may apply to—
- (a) persons outside the United Kingdom;
 - (b) ships, aircraft and hovercraft outside, or registered outside, the United Kingdom; and
 - (c) acts or omissions outside the United Kingdom,
- to such extent and in such circumstances as may be specified in the Regulations.
- (2) No provision made (otherwise than by virtue of section 1(3)) by or under Defence Regulations shall—
- (a) apply to any ship, aircraft or hovercraft outside the United Kingdom unless it is registered in the United Kingdom or in any territory to which the provisions of this Act can be extended by Order in Council;
 - (b) apply to any person outside the United Kingdom or to anything done or omitted by any person outside the United Kingdom unless the person in question is at the material time—
 - (i) a citizen of the United Kingdom and Colonies, a person who is a British subject by virtue of section 2, 13 or 16 of the British Nationality Act 1948 or the 1948 c. 56. British Nationality Act 1965 or a British protected person within the meaning of the said Act of 1948; or
 - (ii) a body incorporated or constituted under the law of any part of the United Kingdom or the law of any territory to which the provisions of this Act can be extended by Order in Council; or

Extra-territorial operation of Defence Regulations.

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(iii) in command or charge of a ship, aircraft or hovercraft registered in the United Kingdom or any such territory.

Duration of ss. 1 and 2.

3.—(1) Sections 1 and 2 shall remain in force until the expiry of the period of three months beginning with the day on which this Act is passed, and shall then expire unless continued in force by an order under subsection (2).

(2) The Secretary of State may from time to time by order made by statutory instrument provide that sections 1 and 2 shall continue in force for a period not exceeding three months from the coming into operation of the order.

(3) No order under subsection (2) shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(4) Her Majesty may by Order in Council make such provision as appears to Her to be necessary or expedient in connection with the expiration of sections 1 and 2; and an Order in Council under this subsection may make or authorise the making of such incidental, supplemental and consequential provisions as appear to Her Majesty to be expedient for the purposes of the Order.

(5) Any Order in Council made under subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Extent.

4.—(1) Without prejudice to subsection (3), Her Majesty may by Order in Council direct that the provisions of this Act shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any of the following territories, namely any of the Channel Islands, the Isle of Man and any colony.

(2) Without prejudice to the generality of subsection (1), an Order in Council made under that subsection with respect to any territory may direct that any authority specified in the Order shall be substituted for Her Majesty in Council as the authority empowered to make Defence Regulations for that territory.

(3) A Defence Regulation may be expressed to extend to any of the Channel Islands or the Isle of Man as if the island in question formed part of the United Kingdom.

1964 c. 29.

(4) Without prejudice to section 3 of the Continental Shelf Act 1964, subsections (1) to (3) above shall apply in relation to, and to any waters within 500 metres of, any installation in a designated area within the meaning of that Act as they apply in relation to the Channel Islands and the Isle of Man.

5.—(1) This Act may be cited as the Emergency Powers (Falkland Islands) Act 1982. Citation and other supplementary provisions.

(2) The powers conferred by or under this Act shall be in addition to, and not in derogation of, the powers exercisable by virtue of the prerogative of the Crown.

(3) In this Act any reference to the United Kingdom includes a reference to the territorial waters thereof, and any reference to any other territory includes a reference to the territorial waters of that territory.

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To confer on Her Majesty certain powers which it is expedient that Her Majesty should be enabled to exercise in the circumstances arising out of the unlawful occupation of the Falkland Islands and their Dependencies by the Argentine Republic; and for connected purposes.

LII—C (2)

16th April, 1982

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THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT

2nd Ref: ODO(SA)(82) 20

COPY NO 87

21 April 1982

CABINET

DEFENCE AND OVERSEA POLICY (OFFICIAL) COMMITTEE

SUB-COMMITTEE ON THE SOUTH ATLANTIC AND THE FALKLAND ISLANDS

EMERGENCY POWERS (FALKLAND ISLANDS) BILL

Note by the Secretaries

1. Attached for the information of the Sub-Committee is a copy of the draft supporting regulations to the Bill already circulated at Ref: ODO(SA)(82) 20.
2. An ad hoc meeting to discuss this emergency legislation will be held under the Chairmanship of Mr Heaton, Home Office in Room 765, Queen Anne's Gate at 3.00 pm on Friday 23 April. Representatives of the Treasury, Foreign and Commonwealth Office, Ministry of Defence, the Scottish Office, the Departments of Industry, Transport, Energy, Employment and Trade and of Parliamentary Counsel, the Board of Customs and Excise and the Export Credits Guarantee Department are invited to attend. Those intending to be present at the meeting are requested to inform the Home Office (01-243 3305) as soon as possible.

Signed C H O'D ALEXANDER
 G R G MIDDLETON
 S D SPIVEY

Cabinet Office

21 April 1982

Draft Regulations under the Emergency Powers (Falkland Islands) Act 1982 laid before Parliament for approval by resolutions of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

1982 No.

**THE DEFENCE (FALKLAND ISLANDS) REGULATIONS
1982**

Laid before Parliament in draft

Made - - - - 1982
Coming into Operation 1982

ARRANGEMENT OF REGULATIONS

PRELIMINARY

1. Title and commencement.
2. Interpretation.

REQUISITIONING ETC.

3. Requisitioning of chattels.
4. Taking possession of land.
5. Requisitioning of space or accommodation in ships etc.

CONTROL OF NAVIGATION

6. Navigation instructions.

NATIONALS OF HOSTILE COUNTRIES

7. Expulsion orders.

OFFENCES

8. Treachery.
9. Acts done with intent to assist the enemy.
10. Communication with enemy agents.
11. Sabotage.
12. Interference with Her Majesty's forces etc.
13. Inducing withholding of services or breaches of discipline.
14. Trespassing and loitering.
15. False statements and documents.
16. Restriction on disclosure of information.
17. Contravention of directions etc. under Regulations.
18. Attempts to commit offences and assisting offenders.

SUPPLEMENTARY

19. Compensation.
20. Penalties.
21. Power to arrest without warrant.
22. Prosecutions.
23. Entry and search of premises.

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At the Court at _____, the _____ day of _____ 1982

PRESENT

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred by the Emergency Powers (Falkland Islands) Act 1982(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PRELIMINARY

Title and commencement

1.—(1) These Regulations may be cited as the Defence (Falkland Islands) Regulations 1982.

(2) These Regulations shall come into force on 1982.

Interpretation

2.—(1) In these Regulations—

“the authorised purposes” has the same meaning as in the principal Act;

“British-controlled”, in relation to a ship, aircraft or hovercraft, means registered in the United Kingdom or in any territory mentioned in section 2(1) of the principal Act;

“enemy” means the enemy in any such hostilities as are mentioned in section 1(1)(c) of the principal Act;

“the principal Act” means the Emergency Powers (Falkland Islands) Act 1982(a);

“ship” includes any vessel used in navigation.

(2) In these Regulations any reference to the master of a ship includes a reference to the person (other than a pilot) for the time being in charge of it and any reference to the commander of an aircraft or hovercraft includes a reference to the person for the time being in charge of the aircraft or hovercraft.

REQUISITIONING ETC.

Requisitioning of chattels

3.—(1) The Secretary of State may requisition any chattel in the United Kingdom if it appears to him to be necessary or expedient to do so for any of the authorised purposes and may give such directions as appear to him to be necessary or expedient in connection with the requisitioning of that chattel.

(2) Where the Secretary of State requisitions any chattel under this Regulation or under the prerogative of the Crown, he may—

(a) use or deal with, or authorise the use of or dealing with, the chattel for such purpose and in such manner as he thinks expedient for all the authorised purposes; and

(a) 1982 c. _____

(b) hold, or sell or otherwise dispose of, the chattel as if he were the owner and as if it were free from any mortgage, pledge, lien, security or other similar obligation.

(3) The powers conferred by this Regulation shall also be exercisable by any person authorised by the Secretary of State to act on his behalf.

(4) Where a chattel is requisitioned under this Regulation the Secretary of State shall pay to the owner and to any other person interested in the chattel who suffers damage owing to the requisition such compensation as may be agreed or as may, in default of agreement, be determined by arbitration to be just having regard to all the circumstances of the particular case.

(5) In this Regulation “chattel” includes any vehicle, ship, aircraft or hovercraft and anything on board and any detachable part of a vessel, ship, aircraft or hovercraft; and the power conferred by this Regulation shall be exercisable in respect of any British-controlled ship, aircraft or hovercraft (and anything on board and any detachable part of any such ship, aircraft or hovercraft) whether or not it is in the United Kingdom.

(6) In this Regulation “requisition” means, in relation to any chattel, take possession of the chattel or require it to be placed at the disposal of the Secretary of State.

(7) In the application of this Regulation to Scotland for any reference to a chattel there shall be substituted a reference to a corporeal movable.

Taking possession of land

4.—(1) The Secretary of State may take possession of any land in the United Kingdom if it appears to him to be necessary or expedient to do so for any of the authorised purposes and may give such directions as appear to him to be necessary or expedient in connection with the taking of possession of that land.

(2) While any land is in the possession of the Secretary of State by virtue of this Regulation the land may, notwithstanding any restriction imposed on its use (whether by any Act or other instrument or otherwise), be used by him or under his authority for such purpose and in such manner as he thinks necessary or expedient for any of the authorised purposes.

(3) Without prejudice to paragraph (2) above, the Secretary of State may, so far as appears to him to be necessary or expedient in connection with the taking of possession of any land in pursuance of this Regulation or with the use of any land in his possession by virtue of this Regulation, do (or authorise persons using the land under his authority to do) in relation to the land anything which any person having an interest in the land would be entitled to do by virtue of that interest.

(4) Where the Secretary of State is in possession of any land in pursuance of this Regulation he may by directions prohibit or restrict, or by order make provision for enabling such persons as may be specified in the order to prohibit or restrict, the exercise of rights of way over the land and of other rights relating to it which are enjoyed by any person whether by virtue of an interest in land or otherwise.

(5) In respect of land of which possession is taken under this Regulation the Secretary of State shall pay to the person who would otherwise be entitled to possession of the land, and to any other person having an estate or interest in the land who suffers damage by reason of the taking of possession or of anything done in relation to the land while in the Secretary of State's possession, such compensation as may be agreed or as may, in default of agreement, be determined by arbitration to be just having regard to the circumstances of the particular case.

(6) Without prejudice to the definition in Schedule 1 to the Interpretation Act 1978(a), in this Regulation "land" includes part of a building or other structure.

Requisitioning of space or accommodation in ships etc.

5.—(1) The Secretary of State may for any of the authorised purposes require any space or accommodation in a British-controlled ship, aircraft or hovercraft, whether or not in the United Kingdom, to be placed at his disposal and may give such directions as appear to him to be necessary or expedient in connection with any such requirement.

(2) If any requirement or direction under paragraph (1) above with respect to any ship, aircraft or hovercraft is contravened, the master of the ship or the commander of the aircraft or hovercraft, as the case may be, and the person having the management of it, shall each be guilty of an offence against this Regulation.

(3) Where, in respect of any ship, aircraft or hovercraft, wherever it may be, there subsists between a person of any class specified in paragraph (6) below and any other person a charter-party or other contract under which the first-mentioned person is entitled to possession of the ship, aircraft or hovercraft, or has the right to have anything carried, or to use any space or accommodation, in the ship, aircraft or hovercraft, the Secretary of State may serve on the first-mentioned person, in any manner appearing to him to be convenient, a notice stating that on such date as may be specified in the notice the rights and liabilities of that person under the contract will be transferred to the Secretary of State.

(4) Where a notice is served under paragraph (3) above the contract shall, as regards any rights exercisable or liabilities incurred after the date specified in the notice, have effect (subject to paragraph (5) below) as if the Secretary of State were a party to the contract instead of the person on whom the notice was served and as if for any reference in the contract to that person there were substituted a reference to the Secretary of State.

(5) The Secretary of State may at any time cancel a notice served under paragraph (3) above in respect of a contract, and thereupon paragraph (4) above shall, unless and until a further notice is served in respect of the contract, cease to operate in relation to the contract as regards any rights exercisable or liabilities incurred on or after the date on which the cancellation takes effect, and notice of any such cancellation shall be given as soon as may be by the Secretary of State in such manner as he thinks best for informing the person concerned.

(a) 1978 c. 30.

(6) The classes of persons referred to in paragraph (3) above are—

(a) persons who are resident in or incorporated under the law of, or any part of, the United Kingdom or any territory mentioned in section 2(1) of the principal Act;

(b) citizens of the United Kingdom and Colonies;

(c) persons who are British subjects by virtue of section 2, 13 or 16 of the British Nationality Act 1948(a) or the British Nationality Act 1956(b);

(d) British protected persons within the meaning of the said Act of 1948;

(e) firms carrying on business in Scotland.

(7) The powers conferred by this Regulation shall also be exercisable by any person authorised by the Secretary of State to act on his behalf.

CONTROL OF NAVIGATION

Navigation instructions

6.—(1) The Secretary of State may issue instructions (in this Regulation referred to as "navigation instructions") as to the places in or to which ships may be or go, and generally regulating the movements, navigation, pilotage, anchorage, mooring, berthing and lighting of ships, and any such instructions may require—

(a) any ship to sail from one port in the United Kingdom to another such port;

(b) any British-controlled ship to sail from any port to any other port, wherever either of those ports may be;

(c) any British-controlled ship at sea to sail to any specified port, wherever that port may be;

(d) any ship to leave the territorial waters of the United Kingdom.

(2) Navigation instructions may make provision for any incidental and supplementary matters for which it appears to the Secretary of State issuing the instructions to be necessary or expedient for the purposes of the instructions to provide [; but any such instructions shall go so far as practicable avoid any prejudice to the revenue or to the due discharge of their functions by the Commissioners of Customs and Excise].

(3) If, in the case of any ship, any navigation instructions are contravened, the master of the ship shall be guilty of an offence against this Regulation.

(4) A person acting on behalf of Her Majesty may, in relation to any ship, take such steps and use such force as may appear to him to be reasonably necessary for securing compliance with any navigation instructions relating to the ship or, where an offence against this Regulation has occurred in the case of the ship, for enabling proceedings in respect of the offence to be effectually taken.

(5) In relation to any particular ship or to ships in a particular port anything authorised by this Regulation to be done by the Secretary of State may be done on his behalf by any person authorised by him.

(6) The foregoing provisions of this Regulation shall apply in relation to seaplanes on the surface of the water [and to hovercraft] as they apply in relation to ships except that the reference to the master of a ship shall be

(a) 1948 c. 56. (b) 1965 c. 34.

construed as a reference to the commander of a seaplane [or hovercraft]; [and seaplanes taking off from or alighting on the water shall be deemed for the purposes of this Regulation to be on the surface of the water while in contact with it].

(7) In this Regulation "seaplane" includes a flying-boat and any other aircraft designed to manoeuvre on the water.

NATIONALS OF HOSTILE COUNTRIES

Expulsion orders

7.—(1) Without prejudice to any powers exercisable by virtue of the prerogative of the Crown, the Secretary of State may, if it appears to him to be necessary or expedient to do so for any of the authorised purposes, make an order for the expulsion from the United Kingdom of any person (not having the right of abode in the United Kingdom) who are nationals of any country which he considers to be hostile to the United Kingdom.

(2) It shall be the duty of the Secretary of State to secure that a person to whom an order under this Regulation applies is afforded the earliest practicable opportunity of making representations to him in writing.

(3) A person to whom an order under this section applies may be detained pending his removal or departure from the United Kingdom and—

(a) paragraphs 17 and 18 of Schedule 2 to the Immigration Act 1971 (a) (arrest and detention) shall apply in relation to any such person as they apply in relation to a person liable to be detained under paragraph 16 of that Schedule; and

(b) paragraph 1 of Schedule 3 to that Act (removal directions) shall apply in relation to any such person as it applies in relation to a person in respect of whom a deportation order is in force.

(4) The powers conferred on the Secretary of State by paragraphs (1) and (3) above shall also be exercisable by any person authorised by him on his behalf.

OFFENCES

Treachery

8. Any person who, with intent to help the enemy, does any act which is designed or likely to give assistance to the naval, military or air operations of an enemy, to impede such operations of Her Majesty's forces or to endanger life shall be guilty of an offence against this Regulation.

Acts done with intent to assist the enemy

9. Any person who, with intent to help the enemy, does any act which is likely to help the enemy or to prejudice the public safety or the defence of the realm shall, without prejudice to Regulation 8 above or to the law relating to treason, be guilty of an offence against this Regulation.

(a) 1971 c. 77.

Communication with enemy agents

10.—(1) Any person who, having reasonable cause to believe that another person is engaged in assisting the enemy, communicates or associates with that other person shall be guilty of an offence against this Regulation.

(2) In any proceedings for an offence under this Regulation in respect of a particular communication or association it shall be a defence to prove that the communication or association was for a purpose not prejudicial to the public safety or the defence of the realm.

Sabotage

11.—(1) Any person who, with intent to impair—

(a) the efficiency or impede the working or movement of any ship, aircraft, hovercraft, vehicle, machinery, apparatus or other thing used or intended to be used in Her Majesty's service or in the performance of services for any of the authorised purposes; or

(b) the usefulness of any works, structure or premises used or intended to be so used,

shall be guilty of an offence against this Regulation.

(2) Paragraph (1) above shall apply in relation to an omission on the part of a person to do anything which he is under a duty, either to the public or to any person, to do as it applies in relation to the doing of an act.

Interference with Her Majesty's forces etc.

12.—(1) Any person who does any act which he has reasonable cause to believe would be likely to endanger the safety of any member of Her Majesty's forces, of any constable or of any person charged with the exercise or performance of any power or duty under any of these Regulations or for any of the authorised purposes shall be guilty of an offence against this Regulation.

(2) Any person who—

(a) wilfully obstructs any person acting in the course of his duty as a constable or exercising or performing any power or duty under any of these Regulations or for any of the authorised purposes; or

(b) does any act which he has reasonable cause to believe would be likely to prevent any person from, or mislead or interfere with any person in, performing his duty as a constable or exercising or performing any power or duty under any of these Regulations or for any of the authorised purposes,

shall be guilty of an offence against this Regulation.

Inducing withholding of services or breaches of discipline

13. Any person who—

(a) does any act calculated to induce any member of Her Majesty's forces or any constable or any person exercising or performing any power or duty under these Regulations or for any of the authorised purposes to withhold his services or commit breaches of discipline; or

(b) with intent to contravene or to aid, abet, counsel or procure a contravention of, paragraph (a) of this Regulation, has in his possession or under his control any document of such a nature that the dissemination of

copies of it among members of Her Majesty's forces or constables or any such persons would constitute such a contravention, shall be guilty of an offence against this Regulation.

Trespassing and loitering

14.—(1) No person shall trespass on, or on premises in the vicinity of, any premises used or appropriated for any of the authorised purposes; and if any person is found trespassing on any premises in contravention of this paragraph then, without prejudice to any proceedings which may be taken against him, he may be removed by the appropriate person from the premises.

(2) No person shall, for any purpose prejudicial to the public safety, be in or in the vicinity of any premises used or appropriated for any of the authorised purposes.

(3) No person loitering in the vicinity of any premises used or appropriated for any of the authorised purposes shall continue to loiter in that vicinity after being requested by the appropriate person to leave it.

(4) In this Regulation "the appropriate person" means—

- (a) any person acting on behalf of Her Majesty;
- (b) any constable; or
- (c) the occupier of the premises concerned or any person authorised by the occupier.

(5) Any person who contravenes the foregoing provisions of this Regulation shall be guilty of an offence against this Regulation; and where, in any proceedings taken against a person by virtue of paragraph (2) above, it is proved that at the material time he was present in, or in the vicinity of, the premises concerned, the prosecution may thereupon adduce such evidence of the character of that person (including evidence of his having been previously convicted of any offence) as tends to show that he was so present for a purpose prejudicial to the public safety.

[(6) In this Regulation references to premises used or appropriated for any of the authorised purposes include references to vehicles, ships, aircraft or hovercraft used or appropriated for any of those purposes and references to trespass shall be construed accordingly.]

False statements and documents

15.—(1) Any person who, in furnishing any information for the purposes of any of these Regulations, makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular shall be guilty of an offence against this Regulation.

(2) Any person who with intent to deceive—

- (a) forges or uses, or lends to or allows to be used by another person, a document issued for the purposes of any of these Regulations; or
- (b) makes or has in his possession a document so closely resembling such a document as aforesaid as to be calculated to deceive; or
- (c) produces, furnishes, sends or otherwise makes use of, for the purposes of any of these Regulations, any document which is false in a material particular,

shall be guilty of an offence against this Regulation.

Restriction on disclosure of information

16. Any person who discloses any information obtained by him by virtue of these Regulations except—

- (a) for the purpose of the execution of these Regulations; or
- (b) with permission given by or on behalf of a Minister,

shall be guilty of an offence against this Regulation.

Contravention of directions etc. under Regulations

17. Any person who contravenes any direction, prohibition, restriction or requirement given or imposed under any of these Regulations shall, if the contravention is not expressed to constitute an offence against any of the foregoing provisions, be guilty of an offence against this Regulation.

Attempts to commit offences and assisting offenders

18.—(1) Without prejudice to the operation of section 8 of the Accessories and Abettors Act 1861(a) and section 44 of the Magistrates' Courts Act 1980(b), any person who attempts to commit, conspires with any other person to commit, or does any act preparatory to the commission of, an offence against any of these Regulations shall be guilty of an offence against that Regulation.

(2) Any person who, knowingly or having reasonable cause to believe that another person is guilty of an offence against any of these Regulations, gives that other person any assistance with intent to prevent, hinder or interfere with the apprehension, trial or punishment of that person for that offence shall be guilty of an offence against that Regulation.

(3) In the application of this Regulation to Scotland, for the reference to section 8 of the said Act of 1861 and section 44 of the said Act of 1980 there shall be substituted a reference to any rule of law relating to art and part guilt and to sections 216 and 428 of the Criminal Procedure (Scotland) Act 1975(c).

SUPPLEMENTARY

Compensation

19.—(1) Any arbitration under Regulations 3(4) or 4(5) above shall, unless otherwise agreed, be the arbitration—

- (a) in England and Wales, of a single arbitrator appointed by the Lord Chancellor;
- (b) in Scotland, of a single arbiter appointed by the Lord President of the Court of Session;
- (c) in Northern Ireland, of a single arbitrator appointed by the Lord Chief Justice of Northern Ireland.

(2) Without prejudice to the provisions of Regulations 3(4) and 4(5) or to any other provision contained in or having effect under any enactment, the Treasury may in such cases as they think fit make such payments as they think just by way of or towards compensating any person for anything done by him in compliance with any obligation imposed on him by or under these Regulations.

(a) 1861 c. 94. (b) 1980 c. 43. (c) 1975 c. 21.

(3) The provisions of Regulations 3(4) and 4(5) above shall be without prejudice to any agreement for the making of any payment (whether by way of compensation or otherwise) in respect of the doing of anything on behalf of Her Majesty for any of the authorised purposes whether by virtue of these Regulations, the prerogative of the Crown or otherwise, but where compensation in respect of the doing of anything as aforesaid would, apart from this paragraph, be payable both under those provisions and under any other enactment or rule of law, the compensation shall, subject to any such agreement, be payable in accordance with those provisions and not otherwise.

Penalties

20.—(1) A person guilty of an offence against Regulation 8 or 9 above shall be liable on conviction on indictment to imprisonment for life.

(2) A person guilty of an offence against Regulation 10 or 11 above shall be liable on conviction on indictment to imprisonment for a term not exceeding fourteen years or to a fine or to both.

(3) A person guilty of an offence against any other of these Regulations shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the prescribed sum or to both.

(4) In paragraph (3)(b) above “the prescribed sum” means—

(a) in the case of an offence committed in England, Wales or Northern Ireland, the prescribed sum within the meaning of section 32 of the Magistrates’ Courts Act 1980(a);

(b) in the case of an offence committed in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975(b);

and for the purposes of the application of this definition in Northern Ireland the provisions of the said Act of 1980 which relate to the sum mentioned in sub-paragraph (a) above shall extend to Northern Ireland.

Power to arrest without warrant

21. Where a constable, with reasonable cause, suspects that an offence against any of these Regulations has been committed he may arrest without warrant anyone whom he, with reasonable cause, suspects to be guilty of the offence.

Prosecutions

22.—(1) Proceedings for an offence against any of these Regulations shall not be instituted except by or with the consent of the Secretary of State or the Director of Public Prosecutions.

(2) Proceedings in respect of an offence alleged to have been committed by any person against any of these Regulations may be taken before the

(a) 1980 c. 43. (b) 1975 c. 21.

appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(3) Paragraph (1) above does not apply to Scotland.

Entry and search of premises

23.—(1) If a justice of the peace is satisfied by information on oath that evidence of the commission of an offence against any of these Regulations or of an act prejudicial to any of the authorised purposes is to be found on any premises he may grant a search warrant authorising entry to those premises.

(2) The warrant shall authorise a constable or a member of Her Majesty’s forces, together with any other persons named in the warrant and any other constables or members of Her Majesty’s forces—

(a) to enter the premises, if necessary by force, at any time within one month of the date of the warrant;

(b) to search the premises and every person who is found there or who is reasonably believed by a person exercising the warrant to have recently left or to be about to enter the premises; and

(c) to seize anything found on the premises which is reasonably believed by a person executing the warrant to be such evidence as is mentioned in paragraph (1) above.

(3) If a member of a police force of a rank not lower than superintendent reasonably believes that such evidence as is mentioned in paragraph (1) above is to be found on any premises and that by reason of urgency it is impracticable to apply for a warrant under that paragraph he may by a written order signed by him confer the powers that would be exercisable by virtue of such a warrant.

(4) In this Regulation “premises” includes any vehicle, ship, aircraft or hovercraft.

(5) In the application of this Regulation to Scotland, for the reference to a justice of the peace there shall be substituted a reference to a sheriff or a magistrate or justice of the peace and for the reference to information on oath there shall be substituted a reference to evidence on oath.

(6) In the application of this paragraph to Northern Ireland for the reference to a police force there shall be substituted a reference to the Royal Ulster Constabulary.

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