

ABILL

ENTITLED

AN ACT to Amend the Emergency Powers Act, and to provide for connected matters.

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BE IT ENACTED by The Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Emergency Powers (Amendment) Act, 2021, and shall be read and construed as one with the Emergency Powers Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title
and
construction.

2. Section 2 of the principal Act is amended—

Amendment
of section 2
of
principal Act.

(a) by inserting, in the appropriate alphabetical sequence, the following definition—

““period of public disaster” means any period during which there is in force a Proclamation by the

Governor-General declaring that a period of public disaster exists;” and

- (b) in the definition of “Proclamation”—
 - (i) by deleting the words “subsection (4) of section 26” and substituting therefor the words “section 20(2)”; and
 - (ii) by deleting from paragraph (a) the words “public emergency” and substituting therefor the words “period of public disaster”.

Amendment
of section 3
of
principal Act.

3. Section 3 of the principal Act is amended—

- (a) in subsection (1), by inserting next after the words “During a” the words “period of public disaster or a”;
- (b) in subsection (5), by deleting the words “three months, or a fine not exceeding two hundred dollars” and substituting therefor the words “twelve months, or a fine not exceeding one million dollars”; and
- (c) by inserting next after subsection (7) the following subsection—
 - “ (8) The Minister may, by order subject to affirmative resolution, amend the monetary penalty specified in subsection (5).”.

Amendment
of
Emergency
(Public
Security) Act.

4.—(1) The Emergency (Public Security) Act is amended in the definition of “period of public emergency” by deleting the words “subsection (4) of section 26” and substituting therefor the words “section 20(2)”.

(2) Subsection (1) shall be read and construed as one with the Emergency (Public Security) Act and all amendments thereto.

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to amend the Emergency Powers Act and the Emergency (Public Security) Act to bring those enactments into conformity with amendments to the Constitution of Jamaica that were enacted in 2011.

This Bill seeks to give effect to that decision.

The opportunity has also been taken to update the level of the penalties applicable under section 3(5) of the Emergency Powers Act and to empower the Minister to amend, by order subject to affirmative resolution of the Houses of Parliament, the monetary penalty specified in that provision.

DELROY CHUCK
Minister of Justice

A BILL

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**AN ACT to Amend the Emergency Powers Act,
and to provide for connected matters.**

As introduced by the Honourable Minister of Justice.

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SECTIONS 2 AND 3 OF THE EMERGENCY POWERS ACT
WHICH IT IS PROPOSED TO AMEND

2—In this Act—

“period of public emergency” means any period during which there is in force a Proclamation by the Governor-General declaring that a state of public emergency exists;

“Proclamation” means a Proclamation, effective for the purposes of subsection (4) of section 26 of the Constitution of Jamaica, which is issued upon the Governor-General being satisfied—

- (a) that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity whether similar to the foregoing or not; or
- (b) that action has been taken or is immediately threatened by any person or body of persons of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or any substantial portion of the community, of supplies or services essential to life.

3—(1) During a period of public emergency, it shall be lawful for the Governor-General, by order, to make Regulations for securing the essentials of life to the community, and those Regulations may confer or impose on any Government Department or any persons in Her Majesty’s Service or acting on Her Majesty’s behalf such powers and duties as the Governor-General may deem necessary or expedient for the preservation of the peace, for securing and regulating the supply and distribution of food, water, fuel, light and other necessities, for maintaining the means of transit or locomotion, and for any other purposes essential to the public safety and the life of the community, and may make such provisions incidental to the powers aforesaid as may appear to the Governor-General to be required for making the exercise of those powers effective.

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(5) The Regulations may provide for the trial, by Courts of Summary Jurisdiction, of persons guilty of offences against the Regulations; so, however, that the maximum penalty which may be inflicted for any offence against any such Regulations shall be imprisonment with or without hard labour for a term not exceeding three months or a fine not exceeding two hundred dollars, or both such imprisonment and fine, together with the forfeiture of any goods or money in respect of which the offence has been committed:

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

... ..

SECTION 2 OF THE EMERGENCY (PUBLIC SECURITY) ACT
WHICH IT IS PROPOSED TO AMEND

2. In this Act—

“enactment” includes any regulation, rule, order, proclamation, or by-law, in force in Jamaica;

“period of public emergency” means any period during which—

- (a) Jamaica is engaged in any war; or
- (b) there is in force a proclamation by the Governor-General declaring that a state of public emergency exists; or
- (c) there is in force a resolution of each House of Parliament supported by the votes of a majority of all the members of that House declaring that democratic institutions in Jamaica are threatened by subversion,

and in this definition “proclamation” means a proclamation, effective for the purposes of subsection (4) of section 26 of the Constitution of Jamaica, which is issued upon the Governor-General being satisfied that a public emergency has arisen as a result of the imminence of a state of war between Jamaica and a foreign State.