



PARLIMEN MALAYSIA



BILL

Emergency Regulation (Indemnity) 1960

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Federation of Malaya

HIS MAJESTY'S GOVERNMENT

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BILLS
SUPPLEMENT No. 8

CONTENTS

The following Bills introduced into the House of Representatives are published for general information:

	Page
Emergency Regulations (Indemnity) Act, 1960	135
Internal Security Act, 1960	141
Police (Amendment) Act, 1960	195
Arms Act, 1960	199
Visiting Forces Act, 1960	227
International Development Association Act, 1960	245
Rubber Industry (Replanting) Fund (Amendment) Act, 1960	249
Statutory Declarations Act, 1960	251

(Presented and read a first time and ordered to be printed,
19th April, 1960.)

A BILL intituled

An Act to indemnify public officers and other persons in respect of acts done under the Emergency Regulations Ordinance, 1948, and to provide for certain other matters arising out of the cesser of such Ordinance pursuant to the provisions of Article 163 of the Constitution.

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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 Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Emergency Regulations (Indemnity) Act, 1960, and shall come into operation upon such date as the Minister may by notification in the *Gazette* appoint. Short title and commencement.

2. In this Act—

“appointed day” means the date appointed by the Minister under section 1; Interpretation.

“emergency period” means the period beginning on the 12th day of July, 1948, and ending on the appointed day;

“Minister” means the Minister for the time being charged with responsibility for internal security;

“Ordinance” means the Emergency Regulations Ordinance, 1948; 10 of 1948.

“public officer” includes any member of any visiting force or of any civilian component thereof for the time being lawfully present in the Federation pursuant to any treaty, agreement or arrangement to which the Government of the Federation is a party.

3. (1) 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, direction or notice made or issued under the 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, direction, notice or instruction Indemnity of public officers and certain other persons.

2

OF 1960

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.

(2) Nothing in this section shall be construed to exempt any public officer from liability to be surcharged under section 18 or 32 of the Financial Procedure Ordinance, 1957.

62 of 1957.

Special provisions relating to section 3.

4. For the purposes of section 3—

(a) it shall be conclusive proof that an act was done under an order of a public officer for one of the purposes referred to in such section if the Attorney-General in the case of an officer employed in connection with the affairs of the Federal Government, or the State Legal Adviser in the case of an officer employed in connection with the affairs of a State Government, so certifies;

(b) an act shall be deemed to have been done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby unless the contrary is proved.

Sanction necessary for institution of certain proceedings.

5. (1) Without prejudice to the operation of any other law for the time being in force requiring any sanction for the institution of legal proceedings, no suit, prosecution or other legal proceeding such as is referred to in section 3 shall be instituted in any court on an allegation that the act complained of was not done in good faith, or was not done in a reasonable belief that it was necessary for the purpose intended to be served thereby, except with the previous sanction in writing—

(a) where the act complained of was ordered or done by an officer or person employed in connection with the affairs of the Federal Government, of the Attorney-General; and

(b) where the act complained of was ordered or done by an officer or person employed in connection with the affairs of a State Government, of the State Legal Adviser.

(2) The issue of any sanction under this section shall be in the absolute discretion of the Attorney-General or the State Legal Adviser, as the case may be.

Continuance of pensions, awards, etc.

6. Subject to the provisions of any order made under section 10, the payment of any pension, award, gratuity or allowance payable under or pursuant to any of the regulations referred to in the Schedule shall continue upon the

EMERGENCY REGULATIONS (INDEMNITY)

3

same terms and conditions as those in force immediately before the appointed day.

7. Any property which immediately before the appointed day was requisitioned under or in pursuance of any regulations made under the Ordinance shall remain so requisitioned upon the same terms and conditions as those then obtaining, until such date as the Minister may appoint.

Requisition-
ing of
property.

8. For the avoidance of doubt it is hereby declared that, notwithstanding anything contained in any written law, any sentence or order imposed in pursuance of any regulation made under the Ordinance shall be deemed at all times to have been a valid and lawful sentence or order.

Validity of
sentences
and orders.

9. (1) Notwithstanding anything to the contrary contained in any written law relating to workmen's compensation for the time being in force in the Federation or any part thereof, in any case in which the Government has made any payment to any person or to the dependants of any person in respect of any injury to that person or of his death resulting from any act of terrorism, and the said person or his dependants are eligible for any compensation in accordance with the provisions of the said written law in consequence of the same act of terrorism, then the amount of any such payment made by the Government shall be repaid to the Government by the person liable to pay such compensation, and shall be set off against and deducted from the amount of the said compensation:

Saving
relating to
workmen's
compensa-
tion.

Provided that no person shall be liable to repay to the Government an amount greater than the amount of any such compensation.

(2) For the purposes of this section—

(a) a certificate signed by the Minister of Finance or by any person or class of person authorised by him in writing in that behalf that payment has been made by Government to any person or the dependants of any person, specifying the amount thereof, shall be conclusive evidence of the fact of such payment and of the amount thereof;

(b) "terrorism" has the same meaning as in the Emergency Regulations, 1951.

10. (1) The Yang di-Pertuan Agong may by order provide for the carrying into effect of the provisions of this Act.

Orders.

(2) Without prejudice to the generality of sub-section (1), an order made under this section may provide for all or any of the following matters:

(a) the appointment by the Yang di-Pertuan Agong of an administrator for the purpose of the order, and

4

OF 1960

- the conferring and imposing on that administrator of such powers and duties as may be prescribed by such order;
- (b) the manner and time in which claims in respect of the emergency period are to be put forward, and the furnishing and verification of information in connection with any such claims, including the production of books and documents;
 - (c) the determination, as respects any such claim, of the question whether the claim is established for the purposes of the order, and the amount of the claim;
 - (d) the payment of any awards, gratuities or allowances payable under any of the regulations specified in the Schedule and any variation in the amounts, terms and conditions of such awards, gratuities or allowances;
 - (e) removing any hardship or inconvenience occasioned by the repeal of the Ordinance or any subsidiary legislation made thereunder;
 - (f) the alteration, amendment and repeal of the Schedule.

(3) All orders made under this section shall be laid as soon as practicable before the Dewan Ra'ayat, and if a resolution of the Dewan Ra'ayat is passed within the next subsequent three months annulling the order or any part thereof the said order, or such part thereof, as the case may be, shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

Saving
relating to
Government
proceedings.

11. Nothing in this Act shall prevent the institution of proceedings by or on behalf of the Government against any person in respect of any matter whatsoever.

Transitional
provisions.

12. Notwithstanding the ending of the emergency period, where provision for payment of compensation was made by any regulation made under the Ordinance, then, subject to the provisions of any order made under section 10, any such claim may be made, and compensation may be assessed in respect of any act done or purporting to have been done within the emergency period as if in respect of any such claim or assessment the provisions of such regulation were in force.

SCHEDULE

(Sections 6 and 10)

- Emergency (Auxiliary Police) (Personal Injuries) Regulations, 1948.
- Emergency (Civilian Injuries Compensation) Regulations, 1949.
- Emergency (Injury Allowances) Regulations, 1949.
- Emergency (Police Force Pensions) Regulations, 1948.

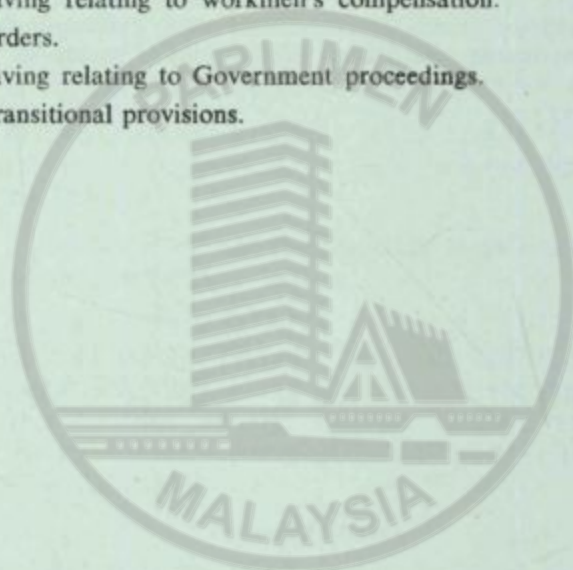
EMERGENCY REGULATIONS (INDEMNITY)

5

TABLE OF CONTENTS

Section

1. Short title and commencement.
2. Interpretation.
3. Indemnity of public officers and certain other persons.
4. Special provisions relating to section 3.
5. Sanction necessary for institution of certain proceedings.
6. Continuance of pensions, awards, etc.
7. Requisitioning of property.
8. Validity of sentences and orders.
9. Saving relating to workmen's compensation.
10. Orders.
11. Saving relating to Government proceedings.
12. Transitional provisions.



6

OF 1960

EXPLANATORY STATEMENT

The object of the above Bill is to wind up the Emergency declared in 1948, and to provide formal indemnity, upon the cesser of the Emergency, in respect of acts done during the emergency period for the purpose of maintaining order or public security (*clauses 3, 4 and 5*). The payment of existing pensions, awards, etc., and the retention of requisitioned property until such date as the Minister may appoint, are regulated by *clauses 6 and 7* and the Schedule, while *clause 8* affirms the validity of sentences, etc., passed under Emergency Regulations. *Clause 9* repeats a provision, set out in the present law (Emergency Regulation 54A) under which gratuities to workmen injured, or to the dependants of workmen killed by acts of terrorism are set off against workmen's compensation; *clause 10* confers a power to provide for the appointment of an Administrator to carry into effect the provisions of the Act, and also a general power to make orders for such purposes; *clause 11* contains a saving relating to proceedings by the Government, and *clause 12* provides a saving in relation to claims for compensation, etc.

[A.G. 2282.]

