STATUTORY INSTRUMENTS

2017 No. 181

OVERSEAS TERRITORIES EMERGENCY POWERS

The Emergency Powers (Overseas Territories) Order 2017

Made - - - -	*15th February 2017*
Laid before Parliament	*22nd February 2017*
Coming into force - -	*16th March 2017*

At the Court at Buckingham Palace, the 15th day of February 2017

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 112 of the Saint Helena Act 1833(**1**), the British Settlements Acts 1887 and 1945(**2**), section 2(1)(b) of the Cyprus Act 1960(**3**), section 5 of the West Indies Act 1962(**4**), section 1(2) of the Anguilla Act 1980(**5**) and of all other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and extent

1.—(1) This Order may be cited as the Emergency Powers (Overseas Territories) Order 2017 and comes into force on 16th March 2017.

(2) This Order extends to—

(a) the British overseas territories specified in Schedule 1; and

(b) Gibraltar, but only to the limited extent specified in article 3(3).

Interpretation

2.—(1) In this Order—

(**1**) 1833 c.85.
(**2**) 1887 c.54 and 1945 c.7. There are amendments, but none relevant to this Order.
(**3**) 1960 c.52. There are amendments, but none relevant to this Order.
(**4**) 1962 c.19. There are amendments, but none relevant to this Order.
(**5**) 1980 c.67. There are amendments, but none relevant to this Order.

"Gazette", in relation to the Territory, means the official Gazette of that Territory, and in the case of Pitcairn includes any means of publication the Governor may from time to time direct;

"Governor", in relation to the Territory, means the person holding or acting in the office of Governor of that Territory, or if there is no such office, the officer for the time being administering that Territory;

"law", in relation to the Territory, means any law in force made by any legislature established for that Territory and includes any subordinate legislation made under any such law; and

"Pitcairn" means Pitcairn, Henderson, Ducie and Oeno Islands.

(2) In the application of this Order to any territory listed in Schedule 1, the expression "the Territory" in this Order means that Territory.

Revocations and savings

3.—(1) Subject to paragraph (3), the instruments specified in Schedule 2 are revoked with effect from the date of commencement of this Order.

(2) Any Proclamations or Regulations made under the Orders revoked by paragraph (1) that are in force immediately before the date of commencement of this Order shall continue to have effect on and after that date as if they had been made under this Order.

(3) In relation to Gibraltar, the instruments specified in Schedule 2 that apply to Gibraltar are revoked with effect from the date that equivalent provision comes into force.

(4) For the purpose of paragraph (3), "equivalent provision" means provision made by the Legislature of Gibraltar conferring powers on the Governor of Gibraltar to take action during a state of public emergency, which are equivalent to the powers conferred on the Governor of a territory by this Order.

(5) Any Proclamations or Regulations made under the Orders revoked by paragraph (3) that are in force immediately before the revocation takes effect shall continue to have effect on and after that date as if they had been made under the equivalent provision.

Meaning of "state of public emergency"

4.—(1) In this Order, "state of public emergency" means—

(a) an event or situation which threatens serious damage to human welfare in the Territory, whether in whole or in part;

(b) an event or situation which threatens serious damage to the environment of the Territory, whether in whole or in part; or

(c) an event or situation which threatens serious damage to the security of the Territory.

(2) For the purposes of paragraph (1)(a), an event or situation threatens damage to human welfare only if it involves, causes or may cause—

(a) loss of human life;

(b) human illness or injury;

(c) homelessness;

(d) damage to property;

(e) disruption of a supply of money, food, water, energy or fuel;

(f) disruption of a system of communication;

(g) disruption of facilities for transport; or

(h) disruption of services relating to health.

(3) For the purposes of paragraph (1)(b), an event or situation threatens damage to the environment only if it involves, causes or may cause—

(a) contamination of land, water or air with biological, chemical or radio-active matter; or

(b) disruption or destruction of plant life or animal life.

(4) The event or situation mentioned in paragraph (1) may occur or be inside or outside the Territory.

Proclamations of Emergency

5.—(1) If the Governor is satisfied that a state of public emergency has occurred, is occurring or is about to occur, the Governor may make a Proclamation of Emergency.

(2) A Proclamation of Emergency shall cease to have effect—

(a) after a period of 30 days, beginning with the day on which it is made; or

(b) at such earlier time as—

(i) the Proclamation of Emergency is revoked by direction made by the Governor; or

(ii) may be specified in the Proclamation of Emergency or in Regulations made under article 6(1).

(3) Paragraph (2)—

(a) does not prevent the making of a new Proclamation of Emergency; and

(b) does not affect things done or omitted to be done while the Proclamation of Emergency was in force.

(4) A Proclamation of Emergency may, if the Governor thinks fit, be made so as to apply to such part of the Territory as may be specified in that Proclamation, in which case Regulations made under article 6(1) shall, except as they otherwise expressly provide, have effect only in that part.

(5) Any Proclamation of Emergency or direction made under this article shall be published in the Gazette as soon as practicable after it is made.

Power to make Regulations

6.—(1) Where the Governor has made a Proclamation of Emergency under article 5(1) and the Governor is satisfied that the conditions in article 7 are met, the Governor may make Regulations for the purpose of preventing, controlling or mitigating an aspect or effect of the state of that public emergency.

(2) In particular, Regulations may make any provision which the Governor is satisfied is necessary for the purpose of—

(a) protecting human life, health or safety;

(b) treating human illness or injury;

(c) protecting or restoring property;

(d) protecting or restoring a supply of money, food, water, energy or fuel;

(e) protecting or restoring a system of communication;

(f) protecting or restoring facilities for transport;

(g) protecting or restoring the provision of services relating to health;

(h) protecting or restoring the activities of banks or other financial institutions;

(i) preventing, containing or reducing the contamination of land, water or air;

(j) preventing, reducing or mitigating the effects of disruption or destruction of plant life or animal life;

(k) protecting or restoring the activities of the government of the Territory; or

(l) protecting or restoring the performance of public functions.

(3) Regulations made under paragraph (1) may, so far as necessary for any of the purposes mentioned in paragraph (2), in particular—

(a) confer any function on the Governor or on any other specified person, including—

(i) a power, or duty, to exercise a discretion;

(ii) a power to give directions or orders, whether written or oral;

(b) provide for or enable the detention of persons and the deportation or exclusion of persons from the Territory;

(c) provide for or enable, on behalf of Her Majesty, in relation to any property and with or without compensation—

(i) the taking of possession or control of that property; or

(ii) the acquisition of that property;

(d) provide for or enable the destruction of property, animal life or plant life (with or without compensation);

(e) prohibit, or enable the prohibition of, movement to or from a specified place;

(f) require, or enable the requirement of, movement to or from a specified place;

(g) prohibit, or enable the prohibition of, assemblies of specified kinds, at specified places or at specified times;

(h) prohibit, or enable the prohibition of, travel at specified times;

(i) prohibit, or enable the prohibition of, other specified activities;

(j) provide for any law to be amended, suspended in its operation or applied with or without modification;

(k) make provision (which may include conferring powers in relation to property) for facilitating any deployment of the Territory's armed forces or police services;

(l) confer jurisdiction on a court or tribunal (which may include a tribunal established by the Regulations);

(m) make provision which has effect in relation to, or to anything done in, an area of the territorial sea of the Territory;

(n) provide for charging, in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the Regulations, such fee as may be prescribed by or under those Regulations; and

(o) provide for the payment of compensation and remuneration to persons affected by the Regulations.

(4) In paragraph (3) "specified" means specified by, or to be specified in accordance with, the Regulations.

(5) Any Regulations made under paragraph (1) may contain such incidental and supplementary provision as appear to the Governor to be necessary for the purposes mentioned in that paragraph.

(6) Any Regulations made under paragraph (1) shall be published in the Gazette as soon as practicable after they are made.