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PUBLIC EMERGENCY REGULATIONS 2009

IN exercise of the powers vested in me as President and Commander in Chief of the Republic of the Fiji Military Forces and pursuant to the Public Safety Act, I, Ratu Joseva Iloilovatu Uluivuda make the following Regulations:

PART 1 — PRELIMINARY

Citation, etc

1.—(1) These Regulations may be cited as the Public Emergency Regulations 2009 and shall be deemed to come into force at 1200 hours on the 10th day of April 2009.

(2) These Regulations are valid for 30 days from their commencement and may be extended by the President by Order in the *Gazette*.

Interpretation

2. In these Regulations, unless the context otherwise requires—

‘administrative officer’ means any officer holding the public office of administrative officer of any class specified in the annual Estimates of the Fiji Islands;

‘arm’ and ‘ammunition’ have the same meaning as in the Arms and Ammunition Act, (Cap. 188);

‘Armed Forces’ means the Fiji Military Forces or any naval, military, or air forces of or established in Fiji;

‘assembly’ has the same meaning as in the Public Order Act, (Cap. 20);

‘Commissioner of Police’ includes the Divisional Police Commanders;

‘corrosive substance’ means sulphuric acid, nitric acid, hydrochloric acid, formic acid, acetic acid, phenols ammonia, potassium hydroxide, sodium hydroxide and all other substances which are capable, on application to the human body, of causing hurt through corrosive action;

‘explosive’ has the same meaning as in the Explosives Act, (Cap. 189);

‘house’ includes a place of business;

‘meeting’ has the same meaning as in the Public Order Act, (Cap 20);

‘Officer Commanding’ means the military officer commanding the troops in the area.

‘officer in charge of a Police District’ means that police officer appointed by the Commissioner of Police to be in charge of the Police in a district defined by the Commissioner of Police to be a Police District and, for the purpose of these Regulations, includes that police officer appointed by the Commissioner of Police to be in command of a Police formation senior to a Police District;

‘procession’ has the same meaning as in the Public Order Act, (Cap 20);

‘public place’ includes—

(a) any highway, public street, public road, public park or garden, any sea beach, river, public bridge, wharf, jetty, lane, footway, square, court, alley or passage whether a thoroughfare or not; or

(b) any—

- (i) land or open space, whether such land or space is closed or unenclosed; or
- (ii) place or building of public resort, to which for the time being the public have or are permitted to have access whether on payment or otherwise.

PART II – POWERS FOR MAINTAINING PUBLIC SAFETY

Prohibition and dispersal of assemblies etc

3.—(1) The Commissioner of Police or the Officer Commanding or the officer in charge of the Police District and, where necessary, in consultation with the local district officer, may by order prohibit absolutely or subject to such conditions as he or she may think fit any procession, meeting or assembly in any place, or building whether public or private notwithstanding the fact that a permit for such a procession, meeting or assembly may have already been granted.

(2) Any procession, meeting or assembly in any place whatsoever, whether or not any order shall have been made prohibiting such procession, meeting or assembly under the provisions of the last preceding paragraph, may be ordered to disperse by any police officer or any administrative officer, or any member of the Armed Forces of or above the rank of Sergeant, and it shall thereupon be the duty of the person taking part in such procession, meeting or assembly, to disperse accordingly.

(3) Any police officer or any member of the Armed Forces, if in his or her opinion such action is necessary for the public safety, after giving due warning, may use such force as he or she considers necessary, including the use of arms, to disperse the procession, meeting or assembly and to apprehend any person present thereat, and no police officer nor any member of the Armed Forces nor any person acting in aid of such police officer or member using such force shall be liable in criminal or civil proceedings for having by the use of such force caused harm or death to any person.

(4) Any person who organizes or assists in organizing any procession, meeting or assembly, held or intending to be held, in contravention of an order made under the provisions of this regulation, or who incites any person to take part in such procession, meeting or assembly, or who takes part in such a procession, meeting or assembly shall be guilty of an offence.

(5) Any police officer or any member of the Armed Forces may enter any building (other than a dwelling house) used, hired, let or rented for the holding of meetings, for cinematographic exhibitions or other entertainment, where he has reason to believe that a meeting of three or more persons is to be held or is being held and may remain in such building for the purposes of ascertaining whether or not the provisions of the law are being observed and such police officer when entering, remaining or leaving such building in discharge of his or her powers under this paragraph, shall always be deemed to be acting in accordance with his or her duty under these Regulations.

Closing of roads, etc

4.—(1) The Commissioner of Police or the officer in charge of the Police District, or the Officer Commanding may by order or in any other manner he or she thinks fit, regulate, restrict, control or prohibit the use of any road, street, path or waterway or any public place, or close any road, street, path or waterway or any public place.

(2) If, in the event that the situation is too urgent to communicate with an officer having authority under the provisions of the last preceding paragraph, a police officer of or above the rank of Inspector or a member of the Armed Forces of or above the rank of Sergeant, may exercise the powers conferred by that paragraph on the Commissioner of Police or an officer in charge of the Police District or the Officer Commanding:

Provided that no such order shall be valid after the expiry of a period of twenty-four hours from the time such order was made, unless the order has been made or confirmed by the Commissioner of Police or the officer in charge of the Police District or the Officer Commanding.

(3) Any person who neglects to comply with an order made under the provisions of this regulation shall be guilty of an offence.

Control of persons

5.—(1) Where the Commissioner of Police or the Officer Commanding is satisfied that any person—

- (a) has been recently concerned in acts involving or likely to cause or provoke a breach of the peace, or likely to be prejudicial to the success of measures taken to maintain or restore public order, or in the preparation or institution of such acts, or that by reason of his words or conduct he is likely to be concerned in such acts; and
- (b) that by reason thereof it is necessary to exercise temporary control over such person, the Commissioner of Police or the Officer Commanding may by order exercise in respect of such person any one or more of the following powers:—
 - (i) exclude such person from such place or area or any part thereof;
 - (ii) require such person to reside in such place or area as may be specified and not to leave such place or area without the permission of the President, and subject to such conditions as may be specified;
 - (iii) require such person to remain indoors during such hours as may be specified;
 - (iv) require such person to notify the Police or Army of his or her place of residence and any change thereof and to report to the nearest police station or nearest army headquarters at such times and dates and in such manner as may be specified;
 - (v) require such person to enter into a bond for such amount and with such sureties as may be specified for his or her good behaviour or for due compliance with the terms and conditions of these Regulations.

Control of movement of persons

6.—(1) The Commissioner of Police or the Officer Commanding, if he or she considers such action to be necessary for the securing of public safety, or for the maintenance of public order, or for maintaining supplies and services essential to the life of the community, may, by order, provide for the prohibition or regulation of the entry of persons into or the exit of persons from any Division, province, island, city, town, district or other area or place in Fiji.

(2) An order made under paragraph (1) may provide—

- (a) for any absolute or conditional exemptions from the operation of the order;
- (b) for the granting by any specified authority or persons of permits or conditional permits allowing entry into or exit from any such Division, province, island, city, town, district or other area or place in Fiji;
- (c) for the application of such order to specific classes or descriptions of persons or communities; or
- (d) for such incidental and supplementary matters as appear to the Commissioner of Police or the Officer Commanding to be necessary or expedient for the purposes of such order.

Curfew

7.—(1) The Commissioner of Police or the Officer Commanding may by order require every person within a specified area to remain within doors between such hours as may be specified in the order unless in possession of a written permit in that behalf by a police officer or by any public officer authorized in writing by the Commissioner of Police or the Officer Commanding to issue such permits.

(2) No order under the provisions of this regulation shall apply to—

- (a) any administrative officer or police officer;
- (b) any member of the Armed Forces or of any local forces established under any written law, if such member is in uniform;

- (c) any member of a fire brigade, or the driver and orderlies attached to a hospital ambulance, while on duty;
- (d) any person or class of persons exempted from the provisions of this regulation by the Commissioner of Police or the Officer Commanding.

(3) Any person who is out of doors without a permit in writing within an area declared under the provisions of this regulation and between such hours as have been specified to remain indoors shall be guilty of an offence.

Control of arms

8.—(1) The President, notwithstanding that licences or permits have been issued under the provisions of any written law, may by order, prohibit the buying, selling or otherwise dealing in any arm, ammunition or explosives in any part of Fiji for such period as may be specified in such order, and may at the same time give directions—

- (a) for the taking into custody of arms, ammunition and explosives;
- (b) for the removal to a place approved by the Commissioner of Police or the Officer Commanding of any arms, ammunition and explosives;
- (c) for the keeping of arms, ammunition and explosives in a secure place approved by the Commissioner of Police or the Officer Commanding;
- (d) for the cancellation or suspension of licences or permits for arms, ammunition and explosives for the period specified in such order; and
- (e) generally for the carrying into effect of such order, and any person who neglects to comply with such an order, shall be guilty of an offence.

Possession of arms, etc.

9.—(1) Any person who, without lawful excuse, the onus of providing which shall be upon him or her, carries or has in his or her possession or under his or her control—

- (a) any arm, not being an arm which he or she is permitted to carry or possess or is duly licensed to carry or possess under the provisions of any law; or
- (b) any ammunition or explosive, or any corrosive or inflammable substance, without lawful authority therefor, shall be guilty of an offence.

(2) Notwithstanding paragraph (1), the President may by order prohibit in the Fiji Islands, or in any area of the Fiji Islands specified in the order, the carrying by any person without a permit granted by a police officer of any arm, ammunition or explosive, or any corrosive or inflammable substance, including any arm, ammunition or explosive, or any corrosive or inflammable substance, which any person is permitted or licensed to carry under the provisions of any law and any person who contravenes any such order shall be guilty of an offence.

(3) This regulation shall not apply to any police officer, prisons officer or to any member of the Armed Forces, in the execution of his or her duty.

Consorting with person in possession of arms, etc.

10.—(1) Any person who consorts with or is found in the company of another person who is carrying or who has in his or her possession any arm, ammunition or explosive, or any corrosive or inflammable substance, in contravention of the provisions of the last preceding regulation, in circumstances which raise a reasonable presumption that he or she intends to do or is about to act with or has recently acted with such other person in a manner prejudicial to public security shall be guilty of an offence.

(2) Any person who consorts with or is found in the company of a person who is carrying or has in his or her possession any arms, ammunition or explosives, or any corrosive or inflammable substances, in contravention of the last preceding regulation in circumstances which raise a reasonable presumption that he or she knew such other person had in his or her possession such arms, ammunition or explosives, or such corrosive or inflammable substances, shall be guilty of an offence.

(3) Where in any prosecution for an offence against the provisions of this regulation it is established to the satisfaction of the court that the accused person was consorting with or was in the company of any person carrying or having possession of any arm, ammunition or explosive, or any corrosive or inflammable substance, it shall be presumed until the contrary is proved that such last mentioned person was carrying or was in possession of such arm, ammunition or explosives, or such corrosive or inflammable substance, in contravention of the provisions of the last preceding regulation.

Possession of offensive weapons

11.—(1) Any person who, without lawful excuse, the onus of providing which shall be upon him or her, carried or has in his or her possession or under his or her control any offensive weapon shall be guilty of an offence.

(2) Without prejudice to the general meaning of the words 'offensive weapon' in this regulation it shall include a sword, spear, cane knife, cutlass, club, axe, hatchet, knife or other dangerous weapon, stick or stone or any object, article or thing (whether similar to the foregoing or otherwise) intended or likely to be used for an aggressive or unlawful purpose.

Carrying arms while drunk or disorderly

12. Any person who is drunk or behaves in a disorderly manner while carrying an arm, an explosive or a corrosive or inflammable substance shall be guilty of an offence.

Failure to report offence of possession of arm, etc.

13.—(1) Any person who, knowing or having reasonable cause to believe that another person is guilty of an offence against regulation 9 of these Regulations, fails to report the same to a police officer or member of the Armed Forces at the earliest possible opportunity shall be guilty of an offence.

(2) Where any person is charged with an offence against the provisions of the last preceding paragraph, the burden of proving that there was no opportunity of making a report to any of the officers referred to in that paragraph or that such a report was in fact made at the earliest opportunity, shall lie on the accused.

Loudspeakers may be prohibited

14. Where the Commissioner of Police or the officer in charge of a Police District or the Officer Commanding has reason to apprehend that the use of any loudspeaker or amplifying device at public meetings or in any public place may give rise to disorder and may thereby cause undue demands to be made upon the police or the Armed Forces, or may result in a breach of the peace, or promote disaffection or public alarm, he or she may, by order, prohibit the use of any such loudspeaker or device at any public meeting or in any public place within such area as he or she may specify, without the permission of a gazetted officer of police.

Act calculated to cause mutiny, etc.

15. Any person who attempts or does any act calculated or likely to cause mutiny, sedition or disaffection among members of the Armed Forces, the Fiji Police or the Fiji Prison Service, any fire brigade or among the civilian population or to impede, delay or restrict any measures taken for securing or regulating any essential or necessary service shall be guilty of an offence.

Control of Broadcast and Publications

16.—(1) Where the Permanent Secretary for Information has reason to believe that any broadcast or publication may give rise to disorder and may thereby cause undue demands to be made upon the police or the Armed Forces, or may result in a breach of the peace, or promote disaffection or public alarm, or undermine the Government and the State of Fiji, he or she may, by order, prohibit such broadcast or publication.

(2) In order to give effect to subsection (1) above any broadcaster or publisher upon direction by the Permanent Secretary for Information must submit to him or her all material for broadcast or publication material before broadcast or publication.

(3) Any person or entity which fails in any way whatsoever to comply with the provisions of this section may be ordered by the Commissioner of Police or Officer Commanding upon advice from the Permanent Secretary for Information to cease all activities and operations.

PART III – PROTECTED PLACES AND PROTECTED AREAS

Protected places

17.—(1) If, as respects any area, premises or place, it appears to the Commissioner of Police or the officer in charge of a Police District or the Officer Commanding to be necessary to expedite in the interests of public safety that special precautions should be taken to prevent the entry of authorized persons, he or she may by order declare such area, place or premises to be a protected place for the purpose of this regulation; and so long as the order is in force no person shall, subject to any exemption for which provision may be made in the order, be in the area or place of those premises without the permission of such authority or person as may be specified in the order.

(2) Any area, premises or place in relation to which an order made under this regulation is in force is hereinafter referred to as a “protected place”.

(3) Where, in pursuance of the provisions of this regulation, any person is granted permission to be in a protected place, that person shall, while holding such permission, comply with such directions for regulating his or her conduct as may be given by the person granting the permission.

(4) Any authorized person, including any person authorized in that behalf by the occupier of the premises, may search any person entering or seeking to enter, or being in a protected place, may detain any such person for the purpose of searching him or her:

Provided that no woman may be searched except by another woman.

(5) If any person is in a protected place in contravention of this regulation, or, while in such a place, fails to comply with any directions given under the provisions of this regulation, then, without prejudice to any proceedings which may be taken against him or her, he or she may be removed from the place by any authorised officer including any person authorized in that behalf by the occupier of the premises.

(6) Any person who is in a protected place between the hours of seven o’clock in the afternoon and six o’clock in the forenoon, or such other hours as the Commissioner of Police or the officer in charge of a Police District or the Officer Commanding may, by order, specify in relation to that particular protected place, and who fails to stop after being challenged by an authorized officer so to do, may be arrested by force, which force may, if necessary to effect the arrest, extend to the use of lethal weapons including arms.

(7) It shall be lawful for the Commissioner of Police or the officer in charge of a Police District or the Officer Commanding to take or cause to be taken such steps as he or she may deem necessary for the protection of any protected place, and such steps may extend to the taking of defensive measures which involve or may involve danger to the life of any person entering or attempting to enter the protected place. Where any measures involving such premises as aforesaid are adopted the Commissioner of Police or the officer in charge of a Police District or the Officer Commanding shall cause such precautions to be taken, including the prominent display of warning notices, as he or she deems reasonably necessary to prevent inadvertent or accidental entry into such protected place, and, where such precautions have been duly taken, no person shall be entitled to compensation or damages in respect of injury received or death caused as a result of any unauthorized entry or attempted entry into such protected place.

(8) For the purpose of this regulation, ‘authorised officer’ means—

- (a) any police officer;
- (b) any member of the Armed Forces;
- (c) any prisons officer;
- (d) any other person performing the duties of a guard or watchman in a protected place and especially authorized in that behalf by a police officer;
- (e) any administrative officer.

PART IV – POWER TO DETAIN SUSPECTED PERSONS

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Power to detain suspected persons

18.—(1) If any person, upon being questioned by a police officer or a member of the Armed Forces, fails to satisfy the police officer or member of the Armed Forces as to his or her identity, address or place of employment, or as to the purpose for which he or she is in the place in which he or she is found, such police officer or member of the Armed Forces may, if he or she reasonably suspects that that person has acted or is about to act in a manner prejudicial to public safety or the preservation of the peace, or is about to commit an offence against these Regulations, arrest him or her and detain him or her pending enquiries.

(2) No person shall be detained under the powers conferred by this regulation for a period exceeding twenty-four hours except with the authority of a magistrate or a police officer on whose directions such a person may be detained for a further period of forty-eight hours: PROVIDED that if such magistrate or police officer is satisfied that the necessary enquiries cannot be completed within such further period of forty-eight hours, such magistrate or police officer, as the case may be, may direct such person to be detained for a further period not exceeding seven days.

(3) Any person detained under the powers conferred by this regulation shall be deemed to be in lawful custody and may be detained in any prison or any police station or in any other place authorized generally or specially by the Commissioner of Police or the Officer Commanding.

(4) Without prejudice to the provisions of paragraph (1) of this regulation, if any police officer of or above the rank of Inspector or member of the Armed Forces of or above the rank of Sergeant reasonably suspects that any person has acted or is about to act, or is likely to act in any manner prejudicial to public safety or the preservation of the peace or is about to commit an offence against these Regulations, he or she may arrest that person and detain him pending enquiries, and the provisions of paragraphs (2) and (3) of this regulation shall apply in the case of every person so arrested and detained as if he or she had been arrested and detained under the provisions of paragraph (1) of this regulation.

Prohibition of uniforms, etc.

19.—(1) The President, if he considers it is in the public interest so to do, may by order, prohibit the manufacture, sale, use, display or possession of any flag, banner, badge, emblem, device, picture, photograph, uniform or distinctive dress.

(2) Any person contravening any provision of any order made under the last preceding paragraph shall be guilty of an offence.

(3) If any person, for any purpose prejudicial to the public safety or the maintenance of public order, uses or wears without lawful authority any naval, military, air force, police, prisons or other official uniform, or any clothing so nearly resembling the same to be worn or carried by any member of such forces with the intention that he or she may be believed or with the knowledge that he or she is likely to be believed to be a member of any such force falsely represents himself or herself to be a person who is or has been entitled to wear such uniform he or she shall be guilty of an offence.

(4) If any person pretends to be a police or prisons officer or a member of the Armed Forces, knowing that he or she is not, or falsely impersonates any police or prisons officer or member of the Armed Forces and in such assumed character does or attempts to do any act under colour of being such a police or prisons officer or member of the Armed Forces, he or she shall be guilty of an offence.

Obstruction of officers

20. Any person who wilfully obstructs, knowingly misleads, or otherwise interferes with or impedes, or withholds any information in his or her possession which he or she may reasonably be required to furnish to, any officer or other person who is otherwise acting in accordance with his or her duty under these Regulations, shall be guilty of an offence against these Regulations.

Power of arrest, search and to use force

21.—(1) Notwithstanding anything to the contrary contained in any other written law, it shall be lawful for any police officer or member of the Armed Forces—

(a) to effect the arrest of any person whom he has reasonable grounds for suspecting to have committed an offence against these Regulations;

- (b) to search any person whom he or she has reasonable grounds for suspecting to have committed an offence against these Regulations;
- (c) to search any building, vehicle, cargo or baggage which he or she has reasonable grounds for suspecting may contain any matter connected with an offence against these Regulations, and for the purpose of effecting the arrest of any person whom he or she has reasonable grounds for suspecting to have committed an offence against these Regulations to use such force as he or she considers necessary, including the use of arms, and no police officer nor any member of the Armed Forces nor any person acting in aid of such police officer or member using such force shall be liable in any criminal or civil proceedings for having by the use of such force cause harm or death to any person.

(2) Nothing in this regulation shall derogate from the right of private defence contained in section 17 of the Penal Code.

Power to take photographs, etc.

22.—(1) Any police officer or member of the Armed Forces may use reasonable force to take, for use and record, photographs, descriptions, measurements, fingerprints, palm-prints and footprints of any person who has been arrested under the provisions of these Regulations.

(2) Any person arrested under the provisions of these Regulations who refuses to submit to the taking of any of the methods of identification authorized to be taken under the provisions of the last preceding paragraph shall be guilty of an offence against these Regulations.

Performance of prison and police duties by the Armed Forces

23.—(1) During the continuance in force of these Regulations, it shall be lawful for any member of the Armed Forces when so directed by his or her commanding officer at the request of or with the concurrence of the Controller of Prisons or the Commissioner of Police as the case may be to perform all or any of the duties and functions of a prisons officer or police officer.

(2) In and to the extent necessary for the performance by him of any of the duties or functions of a prisons officer under the provisions of this regulation, any member of the Armed Forces shall have all the powers, protection and privileges of a prisons officer.

(3) In and to the extent necessary for the performance by him or her of any of the duties or functions of a police officer under the provisions of this regulation, any member of the Armed Forces shall have all the powers, protections and privileges of a police officer.

(4) For the purposes of this regulation—

‘prisons officer’ means a prisons officer appointed to the Fiji Prisons Service under the provisions of the Prisons Act, (Cap. 86);

‘police officer’ means a police officer within the meaning of the Police Act, (Cap. 85).

Hearings in camera

24. Notwithstanding anything to the contrary contained in any other written law, the court may order that the whole or any part of the trial before it for an offence against these Regulations or for any offence arising out of or in connection with an occasion of public safety shall be dealt with in camera if it is satisfied that it is expedient in the interests of justice or of public safety or security so to do.

Penalty

25. Any person who is guilty of an offence under these Regulations shall be liable to a fine not exceeding one thousand dollars or to imprisonment for any terms not exceeding two years or to both such fine and imprisonment.

GIVEN under my hand this 10th day of April 2009.

RATU J. I. ULUIVUDA
President and Commander in Chief
of the Republic of the Military Forces