

Bill No. 7 of 1966

PUBLISHED 9TH NOVEMBER, 1966

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NATIONAL SECURITY (MISCELLANEOUS PROVISIONS)
BILL, 1966.

Arrangement of Sections.

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SCHEDULE.

A. BILL

Intituled

AN ACT to make provision for divers matters touching on national security.

Enacted by the Parliament of Guyana:—

PART I — PRELIMINARY.

Short title and
extent
of Act. 1.(1) This Act may be cited as the National Security (Miscellaneous Provisions) Act, 1966.

Proclamation
No. 2 of 1965. (2) The provisions of this Act shall come into operation immediately upon the proclamation of emergency published in the Gazette on the 6th July, 1965, ceasing to be in force:

Provided that sections 3 to 11 (inclusive) shall come into operation on such day, not being prior to the coming into operation of the other sections, as the Governor-General may, by order, appoint.

2.(1) In this Act, unless the context otherwise requires
"Minister" means the Minister for the time being charged with responsibility for the maintenance of public safety and public order;

"section" means a section of this Act.

(2) Reference in this Act to the Commissioner, or an officer of the Police Force, or any policeman, shall be construed as a reference to the Commissioner, or an officer, or any member of the Force, respectively, within the meaning of the Police Ordinance, 1957.

PART II — PREVENTIVE DETENTION AND RESTRICTION OF MOVEMENT.

3. In this Part, unless the context otherwise requires —

- “Chairman” means the Chairman of the Tribunal;
- “detainee” means any person who is detained under section 5;
- “detention order” means an order made under section 4;
- “legal adviser” or “legal representative”, in relation to any person, means an adviser or representative of that person, respectively, entitled to practice in Guyana as an advocate or solicitor;
- “permanent secretary” means the permanent secretary to the Ministry responsible for the maintenance of public safety and public order;
- “the Tribunal” means the Tribunal established by section 7.

4.(1) Subject to the provisions of section 6, the Minister may, if satisfied with respect to any person that, with a view to preventing him acting in any manner prejudicial to public safety or public order or the defence of Guyana, it is necessary to provide for his preventive detention, make an order —

- (a) directing that he be detained; and
- (b) stating concisely the grounds for such detention, so, however, that no defect of any kind in such statement shall invalidate the order.

(2) Every order under subsection (1) of this section shall come into force upon the making thereof, notice of which shall be published in the Gazette within seven days after its coming into force.

5.(1) Any person in respect of whom a detention order is in force may be arrested without warrant by any policeman and may be detained in such place and under such conditions as the Minister may from time to time direct, and shall, while so detained be deemed to be in lawful custody; and, in relation to custody which is deemed lawful by virtue of this section, section 342 of the Criminal Law (Offences) Ordinance shall have effect as if the words “on any criminal charge” had been deleted therefrom.

(2) As soon as practicable after any person is arrested in pursuance of a detention order, a copy thereof certified under the hand of the permanent secretary shall be served by a policeman on such person and he shall be informed of his right, at his own expense, to retain and instruct without delay a legal adviser of his own choice and to hold communication with such adviser and, in due course, to present his case, in person, or by his legal representative, before the Tribunal.

(3) Without prejudice to the generality of the powers conferred on the Minister subsection (1) of this section, the Minister may give directions —

- (a) as to the internal management of and otherwise in connection with any such place as mentioned in that subsection;
- (b) as to the maintenance, discipline and punishment for breaches of discipline of detainees;
- (c) in writing authorising the taking of a detainee to any place where the Minister is satisfied his presence is required in the interests of justice, or for the purpose of any public or other inquiry or in the public interest, or in the interests of the detainee;
- (d) as to the keeping of a detainee in custody (which shall be deemed lawful) during his absence pursuant to paragraph (c) of this subsection from the usual place of his detention.

6.(1) Nothing in this Part shall authorise the detention of a person for a longer period than three months unless the Tribunal has reported before the expiration of the said period of three months that there is, in its opinion, sufficient cause for such detention.

Power to make detention orders.

Place and conditions of detention.

Cap. 10.

Detention subject to sanction of Tribunal.

(2) The references in subsection (1) of this section to a period of three months include references to any lesser periods that amount in the aggregate to three months:

Provided that no two such lesser periods shall be aggregated for this purpose if the period between the expiration of the first and the commencement of the second is more than one month.

(3) A person who has been detained by virtue of the provisions of this Part and who has been released from detention in consequence of a report of the Tribunal that there is, in its opinion, insufficient cause for his detention shall not be again detained by virtue of such provisions within the period of six months from his release on the same grounds as he was originally detained.

(4) For the purposes of subsection (3) of this section a person shall be deemed to have been detained on the same grounds as he was originally detained unless the Tribunal has reported, on a submission thereunto by the Minister, that, in its opinion, there appear, prima facie, to be new and reasonable grounds for the detention (but the giving of any such report shall be without prejudice to the provisions of subsection (1) of this section).

Establishment
of Tribunal.

7.(1) For the purposes of section 6 there shall be and there is hereby established a Tribunal.

(2) The Tribunal shall consist of a chairman and two other members who shall be appointed by the Chancellor from among persons who are Judges of the Supreme Court of Judicature or who are qualified to be appointed as Puisne Judges of the High Court.

(3) The Minister, after consultation with the Chairman of the Public Service Commission, may designate any public officer to perform the functions of secretary to the Tribunal and may revoke any such designation.

(4) The Tribunal may, with the approval of the Chancellor, make rules for the purpose of the discharge of its functions and, subject to the provisions of this Part and any such rules, may regulate its own procedure.

Reference to
Tribunal:

8.(1) In relation to every detention order, the Minister shall, within a period of seven days commencing with the day on which the detention order was made, cause to be submitted to the Tribunal the grounds upon which the order has been made and such other particulars having a bearing on the necessity for the order as the Minister thinks fit, due regard being had to the public interest.

(2) It shall be the duty of the secretary to the Tribunal to furnish the detainee with such particulars in support of the grounds submitted as aforesaid, and with such notice of the time and place of commencement of proceedings before the Tribunal for the purposes of subsection (1) of section 9, as the Tribunal considers sufficient to enable the detainee to present his case against the detention, which the Tribunal shall accordingly afford him a reasonable opportunity to present, in person or by legal representative, at such proceedings.

Duty and pro-
cedure of
Tribunal.

9.(1) As soon as practicable after there have been submitted to the Tribunal under subsection (1) of section 8 the grounds upon which any person is detained and, in any case, not later than three months from the time when the period during which he is detained commenced for the purposes of the provisions of subsections (1) and (2) of section 6, the Tribunal shall consider and report to the Minister whether in its opinion there is sufficient cause for such detention.

(2) For the purposes of subsection (1) of this section the Tribunal may, if the Tribunal considers it relevant —

- (a) hear any person having any communication to make before the Tribunal;
- (b) put any question to any person before the Tribunal;
- (c) invite the Minister to submit further information;
- (d) have regard to anything submitted, presented or communicated to the Tribunal as hereinbefore mentioned.

(3) The Tribunal shall, from such proceedings before it as shall be held for the purposes of subsection (1) of this section, exclude any person not being the detainee, who shall be present at the proceedings, or his legal representative or a policeman having custody of the detainee

or a person performing the functions of secretary to the Tribunal or being heard under paragraph (a) of subsection (2) of this section or whom the Tribunal, at the Minister's request, permits to attend such proceedings:

Provided that —

- (a) the Tribunal may exclude the detainee from the said proceedings in the event of his misconducting himself by so interrupting them as to render their continuance in his presence impracticable; and
- (b) any such proceedings may be held in the detainee's absence if, in the opinion of the Tribunal, it is unreasonable to require his presence thereat on account of his illness or for any other cause.

10.(1) The report of the Tribunal shall specify in a separate part thereof its opinion whether or not there is sufficient cause for the detention of the person against whom the order was made, and the Minister shall cause a copy of that part of the report to be delivered to the detainee, but the remainder thereof shall not be disclosed to any person other than the Minister, save as may be authorised by him.

(2) Where there is a difference of opinion among the members of the Tribunal as to any matter, the opinion of the majority of members shall be deemed to be the opinion of the Tribunal.

11. The Minister may (without prejudice to the generality of any powers conferred under this Act by virtue of paragraph (a) of subsection (1) of section 21 of the Interpretation Ordinance) revoke a detention order at any time and shall do so if its continuance in force would thenceforth be inconsistent with any of the provisions of section 6 or if the Tribunal sooner reports that, in its opinion, there is not sufficient cause for such detention.

12.(1) The Minister may, if satisfied with respect to any person (whether the Tribunal has given any report in his favour in accordance with subsection (1) of section 10 or not) that, with a view to preventing him from acting in any manner prejudicial to public safety or public order or the defence of Guyana, it is necessary so to do, make an order for all or any of the following purposes, that is to say —

- (a) for securing that, except in so far as he may be permitted by the order, or by such authority or person as may be specified in the order, that person shall not be in any such area in Guyana as may be so specified;
- (b) for requiring him to notify his movements, in such manner, at such times and to such authority or person as may be specified in the order.

(2) Every order made under subsection (1) of this section in relation to any person shall come into force —

- (a) upon the service on him by a policeman of a copy thereof certified under the hand of the permanent secretary; or
- (b) upon its publication in the Gazette, which shall be effected within seven days from the making thereof, whichever is sooner.

(3) If any person is in any area in contravention of an order made under this section, or fails to leave any area in accordance with the requirements of such an order, then, without prejudice to any proceedings which may be taken against him, he may be removed from that area by any policeman.

(4) If any person contravenes or fails to comply with any order made under this section he shall be guilty of an offence and shall —

- (a) on summary conviction, be liable to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, or
- (b) on conviction on indictment be liable to a fine not exceeding two thousand five hundred dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

13.(1) For the purposes of paragraph (4) of article 14 of the Constitution, there shall be and there is hereby established an advisory tribunal consisting of a chairman appointed by the Chancellor from among the persons entitled to practise in Guyana as advocates or solicitors, and two other members appointed by the Prime Minister after consultation with the Chancellor.

(2) Where any person is the subject of an order made under section 12, his case shall be reviewed by the advisory tribunal not later than three months from the making of such order and thereafter not later than six months from the date on which his case was last reviewed as aforesaid.

(3) If any person is detained under section 5, his case shall be reviewed by the advisory tribunal not later than six months from the date of any report composed in accordance with subsection (1) of section 10 and opining that there is sufficient cause for such detention, and thereafter not later than six months from the date on which his case was last reviewed as aforesaid.

(4) On any review by the advisory tribunal in pursuance of subsection (2) or (3) of this section of the case of any person such tribunal may make recommendations concerning the necessity or expedience of continuing the restriction or detention, as the case may be, to the Minister who shall not, however, be obliged to act in accordance with any such recommendation.

(5) The advisory tribunal may, with the approval of the Chancellor, make rules for the purpose of the discharge of its functions and, subject thereto, may regulate its own procedure.

Expiration of
this Part.

14. (1) No provisions of this Part shall be in force after the expiration of a period of eighteen months commencing with the date of its enactment:

Provided that the period may from time to time be extended by resolution of the National Assembly passed —

- (a) within the eighteen months commencing as aforesaid; or
 - (b) in the event of any extension having been previously resolved under this proviso, during the currency of the extension effected by the preceding resolution in that behalf.
- so, however, that the period shall not be extended for more than one year at a time.

(2) The expiry of any provision of this Part under subsection (1) of this section shall not prejudice the validity of anything done under such provisions, so, however, that no order or rules made thereunder shall remain in force after such expiry.

PART III — EXPLOSIVES, FIREARMS, AMMUNITION AND OFFENCES

Interpretation.

15. In this Part, unless the context otherwise requires —
“ammunition” means —

- (a) ammunition for any firearm of any kind;
 - (b) every shell, cartridge case, bomb, hand grenade, bullet, or like missile, whether containing any explosive or gas or chemical or not, and whether intended to be discharged from or by any gun or other propelling or releasing instrument or mechanism or not, except missiles which can be used only for the purpose of extinguishing fires;
 - (c) every part of any such shell, cartridge case, bomb, hand grenade, bullet or missile, whether such shell, cartridge case, bomb, hand grenade, bullet or missile may have been completely formed at any time or not;
 - (d) every fuse, percussion cap, or priming cap, adapted or prepared for the purpose of exploding any shell, bomb, hand grenade, bullet or other projectile;
 - (e) every bullet clip or cartridge clip;
 - (f) an explosive when enclosed in any case or contrivance adapted or prepared so as to form a cartridge, charge or complete round for any firearm or any other weapon, or to form any tube for firing explosives or to form a detonator, or a projectile, which can be used (whether singly or in suitable combinations) as, or in connection with, a missile;
- everything declared by order of the Minister to be ammunition;

“approved magazine” means any place or premises approved by the Commissioner as providing adequate facilities and conditions for the storage of explosives;

“explosive” has the meaning assigned by section 2 of the Explosives Ordinance;

"firearm" has the meaning assigned by section 2 of the Firearms Ordinance.

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16.(1) A policeman not below the rank of inspector, accompanied by such persons as he thinks fit, may, without warrant —

Power of entry, search and arrest.

- (a) enter, examine and search any premises or place for the purpose of ascertaining pursuant to the reasonable requirements of public safety or order whether
 - (i) there are in such premises or place any firearms, ammunition or explosives;
 - (ii) any place or premises in which any firearm, ammunition or explosive is kept or stored is or are adequate to ensure its safe custody and whether the conditions under which it is kept or stored are adequate for that purpose;
- (b) seize and detain any firearms, ammunition or explosives found therein in respect of or in connection with which he has reasonable grounds for suspecting an offence prejudicial to public order or safety has been or is about to be committed.

(2) Any power exercisable by a policeman not below the rank of inspector in respect of any place or premises under subsection (1) of this section may be exercised by a policeman below that rank if he is in charge of the police station nearest to such place or premises.

17.(1) If it appears to the Commissioner that any explosives are kept or stored in any premises or place, or under conditions, inadequate to ensure their safe custody, he may, by notice in writing served upon any person having such explosives in his possession or under his control or in his custody, direct such person to take such measures as in the opinion of the Commissioner are necessary or expedient to ensure their safe custody; and without prejudice to the generality of the foregoing any direction given under this section may in particular —

Power to direct measures to ensure safe custody of explosives.

- (a) required the removal of all or part of the explosives kept or stored in any premises or place to an approved magazine;
 - (b) require the construction of a magazine for any such explosives in accordance with such specifications as he may notify;
 - (c) require structural alterations or improvements to the premises or place in which the explosives are kept or stored;
 - (d) specify the maximum quantity of any explosives which may be kept or stored at any time in the premises or place;
 - (e) require guards to be employed;
 - (f) require the person to whom the directions are given to permit the stationing by the Commissioner of guards or the taking by the Commissioner of any security measure and to bear the cost thereof, which shall, without prejudice to any liability of that person under section 20, be recoverable at the suit of the Commissioner as if it were a debt owing to him and contracted by such person.
- (2) A notice under this section may be served
- (a) by delivering it to the person;
 - (b) by leaving it at or by sending it by registered post to the usual or last known residence or place of business of that person.

(3) The Commissioner may, without giving any directions under subsection (1) of this section, remove to an approved magazine any explosives if he is satisfied that, in order to secure their safe custody, it is essential that they be removed forthwith to a place of great security; and the cost of removing any such explosives shall in like manner as is specified in paragraph (f) of that subsection, be recoverable from any person to whom the Commissioner might have given any direction in that behalf under the said subsection.

18.(1) Any person on whom a notice is served under section 17 of this Act may appeal to the Governor-General against any direction contained in the notice, and any person mentioned in subsection (3) of section 17 may likewise appeal against the removal of explosives pursuant to that subsection; and any such appeal shall be by petition delivered to the secretary to the office of the Governor-General within seven days after the day on which such notice was served or such removal effected.

(2) The Governor-General shall have power to confirm, vary or cancel any direction given by the Commissioner in respect of which an appeal is duly submitted under this section; and he shall have power to order the return of explosives removed pursuant to subsection (3) of section 17.

(3) The decision on such appeal shall be served on the appellant in like manner as is prescribed by subsection (2) of section 17 for the service of notices.

Power to
take
measures to
ensure safe
custody of
explosives.

19. The Commissioner may, at the request of any person having in his possession or under his control or in his custody explosives which, in the opinion of the Commissioner, are kept or stored in any premises or place, or under conditions, inadequate to ensure their safe custody, take, on behalf of and at the cost of that person such measures, other than structural alterations or improvements or the construction of a magazine, as in the Commissioner's opinion are necessary or expedient to ensure the safe custody of the explosives.

Offence of
failure to
comply with
directions of
Commissioner.

20.(1) Subject to the provisions of subsection (2) of this section any person on whom a notice is served under section 17 of this Act and who fails to comply with any direction given therein shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(2) No person shall be guilty of an offence under subsection (1) of this section —

- (a) solely by reason of his failing to comply with any such direction as aforesaid, other than a requirement in pursuance of paragraph (a) of subsection (1) of section 17, if he removes the explosives to an approved magazine;
- (b) if he authorises the Commissioner to do anything required to be done by such direction and which the Commissioner is empowered to do under section 19 and undertakes to pay the cost thereof.

(3) No prosecution shall be instituted for an offence under this section until the expiration of the period prescribed by section 18 for appealing to the Governor-General; and it shall be a defence to prove that the prosecution was thereafter instituted during the pendency of such appeal.

(4) Any policeman may seize and detain any explosives in the possession or under the control of or in the custody of any person whom he has reason to suspect has committed an offence in connection therewith under this section.

(5) In this section references to directions given in a notice served under section 17 shall be construed in the event of their being varied by the Governor-General pursuant to an appeal under section 18 as references to the directions as so varied.

(6) Where a person convicted of an offence under subsection (1) of this section is a body corporate, every person who was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Withdrawal of
explosives
from place
approved by
the Commis-
sioner.

21.(1) Where any person removes in consequence of any direction given under section 17 any explosives to an approved magazine or where any explosives are so removed by the Commissioner pursuant to subsection (3) of section 17 or to section 19, there may be withdrawn by the person entitled in that behalf such quantities of the explosives as the

Commissioner is satisfied are required for immediate business purposes and any such withdrawal shall be at such time and subject to such conditions as to their safe custody as the Commissioner may determine.

(2) An appeal by petition delivered to the secretary to the office of the Governor-General shall lie against any decision of the Commissioner under this section to the Governor-General, who shall have power to confirm or vary the same; and subsection (3) of section 18 shall apply to the decision on any such appeal as it applies to a decision under that section.

22.(1) Subject to the provisions of section 30, any person who, without lawful authority, the burden of proof of which shall lie upon him, purchases, acquires or has in his possession any firearm, ammunition or explosive shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment and, on conviction on indictment, to imprisonment for life.

Unlawful possession or firearms, ammunition or explosives.

(2) Any person who consorts with or is found in the company of another person who, without lawful authority, has in his possession any firearm, ammunition or explosive in circumstances which raise a reasonable presumption that he intends or is about to act or has recently acted with such other person in a manner prejudicial to public order or public safety, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment and, on conviction on indictment, to imprisonment for a term not exceeding ten years.

(3) Any person who is guilty of an offence under this section may, on summary conviction or conviction on indictment, be sentenced to whipping or flogging in lieu of or in addition to imprisonment.

(4) In any prosecution for an offence under this section —

(a) any person who is proved to have had in his possession or under his control anything whatsoever in or on which is found any firearm, ammunition or explosive shall, until the contrary is proved, be deemed to have been in possession of such firearm, ammunition or explosive;

(b) where it is established to the satisfaction of the magistrate or the judge that a person accused under subsection (2) of this section was consorting with or in the company of any person who had in his possession any firearm, ammunition or explosive, it shall be presumed, until the contrary is proved, that such last-mentioned person had the same in his possession without lawful authority.

(5) In this section, "firearm" or "ammunition" does not include, respectively, any firearm or ammunition exempted by section 31 of the Firearms Ordinance.

Cap. 345.

23.(1) Subject to the provisions of subsection (3) of this section, it shall be lawful for any policeman to stop and search any person whom he finds in any street or other public place and reasonably suspects of having any firearm, ammunition or explosive in his possession contrary to section 22 or of having committed or being about to commit any other offence prejudicial to public safety or order.

Power to stop and search for firearms, ammunition, explosives etc. in street.

(2) A policeman acting under subsection (1) of this section may seize and detain any firearm, ammunition, explosive or other article found in the person's possession, custody or control and in respect of which or in connection with which he has reasonable grounds for suspecting any offence referred to in that subsection has been or is about to be committed.

(3) Whenever a female is searched under the said subsection, the search shall be made by another female.

24. Any article seized and detained by a policeman as mentioned in the foregoing provisions of this Part, or any explosive found by him without apparent owner, may be retained for as long as is necessary for

Forfeiture and disposal by court.

the purpose of any examination, investigations, inquiries or legal proceedings; and a judge or magistrate may, upon application made in such proceedings, direct such firearm, ammunition or explosive to be forfeited or otherwise disposed of as he considers just.

Exercise of
functions of
Commissioner.

25. The functions of the Commissioner under this Part may be exercised by any officer of the Police Force authorised by him in that behalf.

Obstruction.

26. Any person who resists or obstructs any policeman acting in the execution of any provisions of this Part, or who resists or obstructs any person accompanying any such policeman when such policeman is acting pursuant to section 16, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

Requirements
of Explosives
Ordinance,
Cap. 346, to
be observed
by police.

27. Any explosive seized, detained or removed by a policeman in the execution of any provisions of this Act shall so far as practicable, be kept and conveyed in conformity with the provisions of the Explosives Ordinance (except in so far as they are inconsistent with the provisions of this Act) and with proper precautions to prevent accidents; but the policeman seizing, detaining, removing, keeping or conveying it shall not incur any liability in that connection under or by virtue of the said Ordinance or otherwise, provided that such precautions as aforesaid are taken.

Directions
under the
Emergency
Powers Regu-
lations, 1964.

28. Any direction given by the Commissioner under regulation 49C of the Emergency Powers Regulations, 1964, which is in force immediately before the day on which that regulation ceases to have effect shall continue in force and shall have effect as if it were a direction given under section 17 and, for the purposes of section 18, shall be deemed to have been given on that day.

Miscellaneous
Amendments.
Schedule.

29. (1) The Ordinances and other laws referred to in the first column of the schedule to this Act are hereby amended in the manner specified in the second column of that schedule.

(2) The word "Minister" is hereby substituted for the expressions "Governor in Council", "Governor" and "Chief Secretary" wherever they respectively appear in the provisions of the Ordinances aforesaid and instruments thereunder having the force of law:

Provided that the foregoing provisions of this subsection shall not apply to the expression —

(a) "Governor" where appearing in the expression "Governor and Legislative Council" or in regulation 7 of the Firearms Regulations; or

(b) "Governor in Council" in subsection (5) of section 17, subsection (9) of section 18 or subsection (3) of section 36 of the Firearms Ordinance.

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(3) The Firearms Ordinance shall be construed as if the liability imposed by that Ordinance upon every person who commits and is summarily convicted of an offence thereunder, not being an offence under subsection (4) of section 25 thereof, were liability to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

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Schedule.

(4) Anything lawfully done under subsection (1) of section 18 of the Explosives Ordinance prior to the amendment thereof as specified in the schedule hereto, or under any law prior to its amendment by subsection (2) of this section, and which would continue to have effect but for any such amendment, shall continue to have effect as if so done in conformity with such amendment.

Power to
order amnesty.

Cap. 345.

30. No person who surrenders any firearm, ammunition or explosive during any period prescribed by order of the Minister, and otherwise in accordance with such order, shall be prosecuted under the Firearms Ordinance or section 22 for illegally purchasing, acquiring or possessing such firearm, ammunition or explosive prior to the time of such surrender or at that time.

PART IV — EMERGENCY REGULATIONS

31.(1) During any period referred to in paragraph (1) of article 16 of the Constitution of Guyana (which makes provision with reference to periods of war, threatened subversion and other emergency) the Governor-General may, due regard being had to the circumstances of any situation arising or existing during such period, make regulations for the purpose of dealing with that situation. ^{Power to make regulations.}

(2) Without prejudice to the generality of the provisions of subsection (1), such regulations may make provision with respect to all or any of the following matters, that is to say

- (a) censorship, and the control and suppression of publications, writings, maps, plans, photographs, communications and means of communication;
- (b) arrest and detention of persons, and the exclusion and deportation of persons from Guyana;
- (c) control of the harbours, ports and territorial waters of Guyana, and the movements of vessels;
- (d) transportation by land, air or water, and the control of the transport of persons and things;
- (e) trading, exportation, importation, production and manufacture;
- (f) the taking possession and disposal of any property which, in any such circumstances are as mentioned in the preceding subsection, is in a dangerous state or injurious to the health of human beings, animals or plants;
- (g) amending any law, suspending the operation of any law, and applying with or without modification any law, other than the Guyana Independence Order 1966;
- (h) authorising the search of persons and premises and the seizure of anything and its detention for so long as may be necessary for the purposes of any examination, investigation, trial or inquiry;
- (i) empowering such authorities or persons as may be specified in the regulations to make orders and rules and to make or issue notices, licences, permits, certificates or other documents for the purposes of the regulations;
- (j) charging, in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the regulations such fees as may be prescribed by the regulations;
- (k) the appropriation, or the taking of possession or control, and the use by or on behalf of the Government of any property or undertaking;

Provided that any regulations made under this paragraph which make provision for the compulsory taking possession of, or the compulsory acquisition of any interest in or right over, property of any description shall —

- (i) to any extent to which it is necessary so to do for the purpose of conformity with article 8 of the Constitution of Guyana, require the prompt payment of adequate compensation in that behalf;
 - (ii) give to any person claiming any such compensation as aforesaid a right of access, either directly or by way of appeal, for the determination of his interest in or right over the property and the amount of such compensation to the High Court;
- (l) requiring persons to do work or render services;
 - (m) the payment of remuneration to persons affected by the regulations and the determination of such remuneration; and
 - (n) the apprehension, trial and punishment of persons offending against the regulations or against any law in force in Guyana, including the forfeiture of any property by way of penalty for such offence,

and any regulations made under the foregoing provisions of this section may contain such incidental and supplementary provisions as are regarded necessary or expedient for the purposes of the regulations.

(3) Any such regulations as are in force at the expiration of the period during which they were made as mentioned in subsection (1) of this section shall cease to have effect as if thereupon revoked by the Governor-General.

Emergency Powers Order in Council 1939 to cease to have effect.

32. The Emergency Powers Order in Council 1939 and any Order amending the same shall not have effect on or after the date of the coming into operation of the provisions of this Act, other than the provisions of sections 3 to 11 (inclusive).

PART V — GENERAL.

Incidental police powers.

33. Any policeman may, for the purpose of the exercise of any powers conferred upon him by any provisions of this Act, take all such measures as are reasonably required, including the use, with any assistance, of force to any extent which is reasonably justifiable in the circumstances.

Effect of provisions of this Act.

34.(1) Subject to the provisions of subsection (2) of this section, the powers conferred by this Act shall be in addition to, and not in derogation of, any powers conferred by any other law.

(2) In case of any conflict between any provisions of this Act, or of any instrument having the force of law thereunder, and any other law save the Guyana Independence Order 1966 (whether the other law could have been varied or suspended under paragraph (g) of subsection (2) of section 31 by such provisions or not), that other law shall, in so far as it conflicts with the said provisions, be of no effect.

SCHEDULE

Section 29

Law	Amendment
The Firearms Ordinance	<p>(a) Substitute for the definition of "ammunition" in section 2 the following —</p> <p>"ammunition", except where otherwise expressly provided, has the meaning assigned thereto by section 15 of the National Security (Miscellaneous Provisions) Act, 1966; and includes prohibited ammunition.</p> <p>(b) Insert the words "and anything else declared by order of the Minister to be a firearm" after the words "the weapon" in the definition of "firearm" in section 2.</p> <p>(c) Insert after the definition of "firearms dealer" in section 2 the following definition —</p> <p>"the Minister" means the Minister for the time being charged with responsibility for the maintenance of public safety and public order;</p> <p>(d) Substitute the word "area" for the word "county" in section 17(4).</p> <p>(e) Insert the words "or for any reason cannot be permitted to have in his possession without danger to the public safety or to the peace such firearm as may be included in the licence" after the words "such a firearm" in section 18(8) (a).</p> <p>(f) Insert the words "delays, without reasonable excuse (the proof whereof shall lie upon him), in so doing or, in any case," immediately before the word "fails" in section 18(10), 25(4) and 40(2) (c).</p> <p>(g) Delete the proviso to section 18(10).</p>

Law

Amendment

- (h) Substitute the words "there shall be paid upon the licensing of firearms and, in cases of loss or destruction of firearm licences for their replacement such fees as may be prescribed or, in the absence of any such prescription, fees payable as follows in respect of all firearms concerned, that is to say" for the words "the following fee shall be payable in respect of each firearm included in a licence" in section 19(1).
- (i) Delete the words "on the grant of a firearm licence" wherever they appear in section 19(1) (a) and (b).
- (j) Substitute the word "that" for the words "the public" in section 21(a).
- (k) Substitute the word "forty" for the word "twenty" in section 24(2).
- (l) Delete the first proviso to section 24(2) and the word "further" in the remaining proviso thereto.
- (m) Substitute the word "twenty" for the word "five" in section 25(2) (c).
- (n) Substitute for subsection (4) of section 33 the following —
- “(4) It shall be a condition incident to the grant of any application which is made under subsection (1) of section 24, or paragraph (b) of subsection (2) of section 25, that the Minister may, if satisfied that it is necessary so to do in the interests of public order or safety, by notice given to the applicant at any time while he is a registered firearms dealer, order the deposit of any firearms or ammunition in his possession in a government gunpowder magazine or other place of safe custody, or the suspension of the carrying on of business as a registered firearms dealer or the sale of firearms by him, or both such deposit and suspension, until such order is revoked by a further notice given as aforesaid.”
- (o) Substitute for subsection (1) of section 34 the following —
- “(1) Nothing in this Ordinance shall enable any person under the age of eighteen years to become licensed for the first time in respect of any firearm or registered as a firearms dealer and, save in any case provided for by subsections (6) and (7) of section 20, no person shall sell, let on hire or give possession of any firearm or ammunition to any other person who, by virtue of the foregoing provisions of this subsection, may be neither a firearm licence holder in respect thereof nor a registered firearms dealer and in no case shall anything in the provisions of subsections (3), (4), (5) and (8) of section 20 authorise such other person to have possession thereof.”
- (p) Substitute the figures "18" for the figures "17" in the marginal note to section 34.
- (q) Substitute the words "or found guilty of committing any prescribed offence shall not, at any time during a period of five years from the date

Amendment

of his release or conviction, as the case may be," for the words "shall not, at any time during a period of five years from the date of his release" in section 36(1).

- (r) Substitute the words "imprisonment for life" for the words "penal servitude for a term not exceeding fourteen years" in section 37.
- (s) Insert after section 38 the following section:
- ^{"Cor-} 38A. Every person who commits any
^{poral} offence under section 37 or 38 may, on
^{punish-} conviction on indictment, be sentenced to
^{ment.} whipping or flogging in addition to or in lieu of imprisonment."
- (t) Substitute the words "imprisonment for a term not exceeding five years" for the words "a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment" in section 39(4).
- (u) Insert the words "or is found guilty of committing any offence prescribed pursuant to subsection (1) of section 36" after the word "imprisonment" in section 40(1) (a).
- (a) Insert after the definition of magazine in subsection (2) the following definition —
"Minister" means the Minister for the time being charged with responsibility for the maintenance of public safety and public order;".
- (b) Substitute the word "designated" for the word "appointed" in sections 5 and 33(1).
- (c) Substitute the word "order" for the word "proclamation" in section 9.
- (d) Substitute for section 12(1) the following —
"(1) Except explosive in the course of removal under and according to a permit, there shall not be had in his possession or custody for any purpose whatsoever —
(a) by a wholesale dealer more than one hundred and fifty pounds of explosive;
(b) by a retail dealer any explosive other than not more than twenty-five pounds of gun-powder."
- (e) Substitute the words "the Commissioner" for the words "a district commissioner" and for the words "the district commissioner" in section 18(1).
- (f) Substitute the words "person apparently under the age of twenty-one years" for the words "child apparently under the age of sixteen years" in section 21(1).
- (g) Insert after the word "permit" in section 24 the words "or the directions of the commissioner".
- (h) Substitute the word "twenty-one" for the word "sixteen" in sections 25(1) and 27(1) (g).

The Explosives Ordinance

Laws	Amendment
	(i) Substitute the word "fifty" for the word "twenty-five" wherever it appears in section 27(1) (a) and (b).
The Blasting Operations Regulations	Delete regulation 13.
The Fireworks Order	Substitute the word "National" for the words "Imperial or Colonial" in the proviso to paragraph 2.
The Explosives (Sale, Purchase and Possession) Regulations, 1954.	Delete regulation 13.

EXPLANATORY MEMORANDUM

The National Security (Miscellaneous Provisions) Bill, 1966, seeks to provide for the national security of Guyana and for matters connected therewith. The Bill is divided into four parts. Part 1 deals with certain preliminary matters including the coming into operation of the Act. By virtue of clause 1(2) the measure will not come into operation automatically on enactment but only when the current proclamation of emergency ceases to be in force or, in the case of the provisions of Part II dealing with preventive detention, when they are brought into operation by an Order made by the Governor-General.

2. Part II of the Bill makes provision for preventive detention and for restriction of movement of persons. The provisions of this Part are in conformity with the relevant provisions of the Constitution of Guyana which specifically authorise legislation on these lines (articles 5 and 14). The power to make detention orders is conferred by clause 4 of the Bill and an order may only be made if the Minister is satisfied that it is necessary so to do in order to prevent action that is either prejudicial to public safety, public order or the defence of Guyana. In accordance with the Constitution, the Bill prescribes that no person shall be held in detention for a longer period than three months unless within that time a tribunal appointed by the Chancellor and comprised of judges or persons qualified to be judges of the Supreme Court of Judicature has considered his case (which he must be given a reasonable opportunity to present, whether in person or by legal representative) and confirmed that there is sufficient cause for the detention. If the tribunal reports that in its opinion there is not sufficient cause for the detention, the detention order must be revoked. Provision is made in clauses 4, 5 and 8 of the Bill for a statement of the grounds on which the order has been made to be included in the order, a copy of which should be served on the detainee, who should be informed of his right to engage and communicate with a legal adviser; for such grounds, together with particulars, to be filed with the tribunal within 7 days of the order, and for the secretary to the tribunal to furnish the detainee with such particulars of the grounds as the tribunal thinks sufficient to enable him to present his case against the order, either in person or by a legal representative, at proceedings before the tribunal, which the detainee is required to attend unless the tribunal considers it unreasonable not to dispense with his presence. Clause 12 authorises the making of restriction orders on the same grounds as those on which detention orders are made and a restriction order may confine a person in respect of whom it is made to a particular area of Guyana or require him to notify his movements in a prescribed manner to specified authorities.

Where a detention order has been confirmed by the tribunal and wherever a restriction order has been made, clause 13 provides for a continuous and automatic review by an advisory tribunal. In the case of restriction orders this review must take place within 3 months of the order being made and in the case of confirmed detention and restriction orders the review must be held at six-monthly intervals. The chairman of the advisory tribunal is appointed by the Chancellor from among persons entitled to practise in Guyana as advocates or solicitors and will have on it two other members appointed by the Prime Minister after consultation with the Chancellor.

3. Clause 14 of the Bill imposes a time limit on the continuation of Part II by prescribing that that Part (dealing with preventive detention and restriction of movement) shall cease to have effect at the end of a period of eighteen months

from the enactment of the Act unless the period is, before the expiration thereof, extended by resolution of the National Assembly, which may do so for not more than one year at a time.

4. Part III of the Bill makes special provision regarding the possession and storage of firearms, ammunition and explosives. These provisions are superimposed upon those contained in the Firearms Ordinance (Cap. 345) and the Explosives Ordinance (Cap. 346). Clause 29 of the Bill seeks to amend the Explosives Ordinance so as to vest in the Minister the powers of the Governor-General relating to the regulation of the acquisition, storage and possession of explosives and the prohibition of their importation; to reduce the amount of explosives which may be kept by a retail dealer therein; to increase to 21 the minimum age of persons who may deal with explosives, and to vest in the Commissioner of Police the district commissioner's powers to issue licences under the Ordinance and power to give directions as to the conveyance of explosives. The main effect of the provisions of Part III with respect to explosives is, however, to empower the Commissioner of Police to ensure that explosives are kept in safe custody and to provide more severe penalties for unlawful possession of explosives and kindred offences. This Part of the Bill empowers the Commissioner of Police, whenever he considers that the conditions under which explosives are stored are not adequate to ensure their safe custody, to direct their removal to a magazine approved by him from whence the owner may withdraw therein quantities necessary for his immediate purpose. The Commissioner may also direct such persons to take a number of security measures, for example, to make structural improvements to his magazine and to employ guards. Provision is made for an appeal to the Governor-General against the directions of the Commissioner of Police and against the removal of explosives to an approved magazine. Provisions relating to unlawful possession of firearms, ammunition and explosives, their disposal and searches and seizures by the police are contained in clauses 22, 23, 24 and 27 of the Bill. Clause 29 of the Bill also provides severer penalties for offences under the Firearms Ordinance (Cap. 345), vests in the Minister the various powers of the Governor-General thereunder, except powers to entertain appeals, and amends that Ordinance to widen the definition of "ammunition"; to enable the revocation of a firearm licence with a view to the avoidance of danger to peace or order; to raise the minimum age restriction on possessing firearms from 17 to 18 years and the registration and annual fees payable by a firearms dealer to forty and twenty dollars respectively, and to empower the Minister to increase licence fees, extend the ambit of the definition of "firearm", direct the removal to safe custody of any arms or ammunition in the possession of a registered firearms dealer and the suspension of his business, and prescribe offences for the purpose of disentitling persons convicted thereof from possessing firearms. Clause 30 empowers the Minister to declare an amnesty in favour of persons surrendering firearms, ammunition or explosives unlawfully possessed by them.

5. Part IV of the Bill seeks to replace the Emergency Powers Order in Council, 1939, with local legislation empowering the Governor-General to make regulations during a state of emergency.

6. Part V of the Bill confers on members of the Police Force power to take measures reasonably necessary and justifiable for the purpose of exercising their functions under the provisions contained in the Bill.

7. Finally, clause 36 of the Bill provides that in the event of conflict between the provisions of the Bill and any other law, except the Constitution, the provisions of the Bill will prevail.

P. A. REID.
Minister of Home Affairs.

(Bill No. 7/1966).
(S: 402/75).