

Appendix 3 – Republic of China Martial Law (1934)

Source: *Laws of the Republic of China* (First Series – Major Laws), Translated and Compiled by Law Revision Planning Group, CUSA, The Executive Yuan, The Republic of China, Dec. 1961.

Promulgated and enforced on November 29, 1934

As amended on May 19, 1948

Text of Article 8 amended on January 14, 1949

Article 1

When a war or rebellion takes place and necessitates the enforcement of martial law throughout the country or in a certain area thereof, the President of the Republic of China may, by resolution of the Executive Yuan Council and with the approval of the Legislative Yuan, declare martial law or have it declared, in accordance with this Law.

In a state of emergency, the President may, at the request of the Executive Yuan, declare martial law or have it declared; provided, that such declaration shall be submitted to the Legislative Yuan for ratification within one month or, in case the Legislative Yuan is in recess, shall be submitted for its ratification as soon as it reconvenes.

Article 2

An area under martial law is of two kinds:

1. Security area-which is affected by war and wherein security should be enforced, when a war or rebellion is going on; and
2. Combat area-wherein operations are carried on.

Security or combat area shall be designated and announced when necessitated by circumstances.

Article 3

In case a certain area is suddenly surrounded by the enemy at the time of war or rebellion, or in the case of coping with an extraordinary incident, the commander-in-chief of the Army, Navy or Air Force in the said area may declare martial law ad interim in accordance with this Law. If there is no such commander-in-chief in the said area, the commanding officer under the rank not lower than regiment commander, of the Army, Navy or Air Force stationed in the said area may declare martial law in accordance with this Law.

The declaration of martial law ad interim as referred to in the preceding paragraph shall be promptly submitted through commanding channels by the commander-in-chief in the said area or the commanding officer under the rank higher than regiment commander, of the Army, Navy or Air Force stationed in the said area, to the Legislative Yuan for ratification.

Article 4

When martial law is declared, the commander-in-chief in the area concerned shall promptly report, through commanding channels, the situation of martial law and all dispositions in connection therewith to the President of the Republic from time to time.

Article 5

An area under martial law may be subject to change when circumstances so require. The provisions specified under paragraph 2 of Article 3 and under Article 4 shall apply mutatis mutandis to the change of an area under martial law.

Article 6

Upon declaration of martial law, the local administrative officials or judges within the security area shall, in the handling of military affairs, be subject to the direction of the highest commanding officer in the said area.

Article 7

During the enforcement of martial law, the local administrative and judicial matters of the combat area shall be placed under the charge of the commander-in-chief in the said area, and the local administrative officials and judges shall be subject to the direction of the said commander-in-chief.

Article 8

During the enforcement of martial law, the military organ may try by itself the following listed criminal offenses committed within the combat area or assign them to a court for trial:

1. Offences against the internal security of the state;
2. Offences against the external security of the state;
3. Offences against public order;
4. Offences against public safety;
5. Offences of counterfeiting currency or valuable securities, or forging instruments or seals;
6. Offences of homicide;
7. Offences against personal liberty;
8. Offences of forceful taking, robbery and piracy;
9. Offences of intimidation and kidnapping for ransom;
10. Offences of destruction, abandonment, and damage.

The same shall apply to offences other than those listed in the preceding paragraph, which are punishable under other special criminal laws.

During the enforcement of martial law, the military organ may try by itself offences provided in items 1, 2, 3, 4, 8 and 9 of paragraph 1 and in paragraph 2 of this Article and committed within the security area, or assign them to a court for trial.

Article 9

During the enforcement of martial law, if there is no court in the combat area or if the traffic between the combat area and the jurisdictional court thereof is blockaded, all criminal and civil cases may be tried by the military organ in the said area.

Article 10

Appeal against a judgment rendered in accordance with Articles 8 and 9 of this Law may be instituted in accordance with law as from the day following the date on which martial law is repealed.

Article 11

Within an area under martial law, the commander-in-chief shall have the power to enforce the following:

1. He may stop assembly, association, demonstration and petition, and keep control over speech, teaching, newspaper, magazine, picture, notice, poster and other publications, if they are deemed prejudicial to the military affairs;
2. The aforesaid assembly, association, demonstration and petition may, when necessary, also be dismissed.
3. He may restrict or prohibit religious activities of the people, if they are deemed prejudicial to public security;
4. He may prohibit traders' strike, workers' strike, students' strike or other strikes of the people and force the strikers to restore to original status;
5. He may censor mails and telegrams, and may withhold or confiscate them in case of need.
6. He may inspect incoming or outgoing vessels, vehicles, aircraft and other conveyances, and, where necessary, may stop their traffics and block their main routes.
7. He may examine doubtful passengers;
8. If occasion calls, he may inspect private weapons, ammunitions, arms, firearms and other dangerous articles and may withhold or confiscate them;
9. Within an area under martial law, he may carry out an examination of constructions, vessels, and doubtful dwelling houses; provided, that no damage shall be inflicted thereon on purpose;
10. In case of need, he may order those who live within the area under martial law to evacuate such area and may restrict or prohibit their moving-in;
11. When circumstances compel it for the enforcement of martial law, he may destroy immovables of the people; provided, that appropriate compensation therefore shall be made;
12. Within the area under martial law, he may conduct an inspection, investigation and registration of civilian foodstuff and resources usable for military purposes and, if necessary, may also prohibit the moving-out thereof. In case the expropriation of the same must be made, an appropriate compensation shall be given.

Article 12

As soon as the martial law situation becomes extinct or the President of the Republic is requested by resolution of the Legislative Yuan for termination of the martial law, the repeal of martial law shall be promptly declared and original status shall be restored as of the date of the repeal of martial law.

Article 13

This Law shall become effective upon promulgation.

