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Martial Law Act

계엄법

Republic of Korea · 24 November 1949

Original Korean source · English translation, Gwangbok Archive

ACT NO. 69 · 24 NOVEMBER 1949

Source details

Original title
: 계엄법

Enactment
: Act No. 69, 24 November 1949

Effective date
: 24 November 1949 (upon promulgation)

Issuing authority
: Republic of Korea; promulgated by the President

Extent
: 3 chapters, 23 articles, and one supplementary provision

Textual basis
: Original 1949 enactment as recorded by the National Law Information Center; checked against the Korean Wikisource transcription

Subject
: Declaration, kinds, effects, and termination of martial law; jurisdiction of courts-martial

Historical introduction

The 1948 Constitution allowed the President to declare martial law as provided by law, but no such law existed when martial law was declared during the Yŏsu–Sunch'ŏn rebellion in October 1948 and on Cheju later that year. The Martial Law Act of November 1949 supplied the statute.

It distinguished security martial law, under which the martial law commander took over military-related administration and justice, from emergency martial law, under which he took over all administrative and judicial affairs and could restrict arrest, search, residence, movement, speech, publication, assembly, and collective action. It listed twenty-five classes of crime to be tried by court-martial in emergency areas, protected members of the National Assembly from arrest, and required the President to lift martial law when the Assembly demanded it. The Act governed the martial law declared on the outbreak of the Korean War seven months later.

Text and editorial practice

The Korean text below is the original enactment as recorded by the National Law Information Center (국가법령정보센터), in the hangul-normalized form in which that database presents it, and it

was checked character by character against the independent transcription on Korean Wikisource. The English follows the article and paragraph structure of the Korean one to one, without substituting later amended law.

Nothing has been silently corrected. Where the Korean as transmitted contains an evident misprint, a missing word, or an irregular construction, the Korean is left as it stands, the English gives the most probable sense with the printed form in square brackets, and the point is explained in the notes. Square brackets in the English otherwise give transliterations of Korean terms whose institutional meaning does not map neatly onto an English equivalent. Dates in the Tangun era (단기) are kept, with the Common Era year in brackets.

Primary source / facing translation

Original Korean and English Translation

Act No. 69 · 24 November 1949

제1장 계엄의 선포	CHAPTER I. DECLARATION OF MARTIAL LAW

제1조 대통령은 전시, 사변 또는 이에 준하는 국가비상사태에 제하여 병력으로써 군사상이나 또는 공공의 안녕질서를 유지할 필요가 있을 때에는 특히 경비에 필요한 지역을 구획하여 본법의 정하는 바에 의하여 계엄을 선포한다. 대통령이 전항에 의하여 계엄의 선포를 한 때에는 그 선포의 이유, 종류, 시행지역 또는 계엄사령관을 공고하여야 한다.	ARTICLE 1 When, in time of war, incident [sabyŏn], or a comparable state of national emergency, it is necessary to maintain military needs or public peace and order by armed force, the President shall declare martial law as prescribed by this Act, specially demarcating the areas requiring security measures. When the President declares martial law under the preceding paragraph, he shall publicly announce the reasons for the declaration, its kind, the area of enforcement, or the martial law commander.

제2조 계엄은 경비계엄과 비상계엄으로 나눈다.	ARTICLE 2 Martial law shall be divided into security martial law [kyŏngbi kyeŏm] and emergency martial law [pisang kyeŏm].

제3조 경비계엄은 전시, 사변 또는 이에 준하는 비상사태로 인하여 질서가 교란된 지역에 선포한다.	ARTICLE 3 Security martial law shall be declared in areas where order has been disturbed by war, incident, or a comparable state of emergency.

제4조
비상계엄은 전쟁 또는 전쟁에 준할 사변에 있어서 적의 포위공격으로 인하여 사회질서가 극도로 교란된 지역에 선포한다.

ARTICLE 4
Emergency martial law shall be declared in areas where, in war or an incident comparable to war, social order has been extremely disturbed by the enemy's encirclement and attack.

제5조
대통령이 비상계엄을 선포 또는 추인하였을 때에는 지체없이 국회에 통고하여야 한다.
전항의 경우에 있어서 국회가 폐회중일 때에는 대통령은 지체없이 국회의 집회를 요구하여야 한다.

ARTICLE 5
When the President has declared or ratified emergency martial law, he shall notify the National Assembly without delay.
In the case of the preceding paragraph, when the National Assembly is in recess, the President shall without delay request that the National Assembly be convened.

제6조
제3조와 제4조의 경우에 교통, 통신의 두절로 인하여 대통령의 계엄선포를 기다릴 여유가 없을 때에는 당해 지방의 관할하는 좌의 군사책임자가 임시로 계엄을 선포할 수 있다.
1. 특명의 사령관
2. 군사령관
3. 사단장
4. 병단장
5. 요새사령관
6. 위수사령관인 독립단대장
7. 함대사령장관
8. 함대사령관
9. 통제부사령장관
10. 경비부사령관
11. 전각호의 제관과 동등이상의 권한있는 군대지휘관

ARTICLE 6
In the cases of Articles 3 and 4, when, because communications and transport are cut off, there is no time to wait for the President's declaration of martial law, the following military officers in charge of the area concerned may declare martial law provisionally:
1. A commander under special orders.
2. An army commander.
3. A division commander.
4. A corps commander [pyŏngdanjang].
5. A fortress commander.
6. An independent unit commander serving as garrison commander.
7. A fleet commander-in-chief.
8. A fleet commander.
9. A naval district commander-in-chief [t'ongjebu saryŏng changgwan].
10. A guard district commander [kyŏngbibu saryŏnggwan].
11. A military commander with powers equal to or greater than those of the officers in the preceding items.

제7조
전조의 규정에 의하여 임시로 계엄을 선포한 자는 지체없이 국방부장관에게 상신하여 대통령의 추인을 받아야 한다.
전항의 경우에 대통령이 추인하지 아니할 때에는 임시로 계엄을 선포한 자는 즉시 그 해제를 선포하여야 한다.

ARTICLE 7
A person who has provisionally declared martial law under the preceding Article shall without delay report to the Minister of National Defense and obtain the ratification of the President.
In the case of the preceding paragraph, when the President does not ratify, the person who provisionally declared martial law shall immediately declare its termination.

제8조
전각조의 규정에 의하여 선포된 계엄은 그 지역 또는 종류를 변경할 수 있다.

ARTICLE 8
The area or kind of martial law declared under the preceding Articles may be changed.

제2장 계엄의 효력

CHAPTER II. EFFECTS OF MARTIAL LAW

제9조
계엄사령관은 계엄의 시행에 관하여서는 국방부장관의 지휘감독을 받는다. 단 전국을 계엄지역으로 하는 경우에는 대통령의 지휘감독을 받는다.

ARTICLE 9
In enforcing martial law, the martial law commander shall be under the direction and supervision of the Minister of National Defense. However, when the whole country is made a martial law area, he shall be under the direction and supervision of the President.

제10조
경비계엄의 선포와 동시에 계엄사령관은 계엄지역내의 군사에 관한 행정사무와 사법사무를 관장한다.

ARTICLE 10
Upon the declaration of security martial law, the martial law commander shall take charge of the administrative and judicial affairs relating to military matters within the martial law area.

제11조
비상계엄의 선포와 동시에 계엄사령관은 계엄지역내의 모든 행정사무와 사법사무를 관장한다.

ARTICLE 11
Upon the declaration of emergency martial law, the martial law commander shall take charge of all administrative and judicial affairs within the martial law area.

제12조
전2조의 경우에 당해 지역내의 행정기관 또는 사법기관은 지체없이 계엄사령관의 지휘감독을 받는다.

ARTICLE 12
In the cases of the two preceding Articles, the administrative or judicial organs in the area concerned shall without delay come under the direction and supervision of the martial law commander.

제13조
비상계엄지역내에서는 계엄사령관은 군사상 필요할 때에는 체포, 구금, 수색, 거주, 이전, 언론, 출판, 집회 또는 단체행동에 관하여 특별한 조치를 할 수 있다. 단 계엄사령관은 조치내용을 미리 공고하여야 한다.

ARTICLE 13
In an emergency martial law area, the martial law commander may, when militarily necessary, take special measures concerning arrest, detention, search, residence, movement, speech, publication, assembly, or collective action. However, the martial law commander shall publicly announce the content of the measures in advance.

제14조
비상계엄지역내에서는 계엄사령관은 징발법의 정하는 바에 의하여 징용, 징발할 수 있으며 필요에 의하여서는 군수에 공할 물품의 조사, 등록과 반출금지를 할 수 있다.
작전상 부득이한 경우에는 국민의 재산을 파괴 또는 소화할 수 있다.
전항의 경우에 생한 손해에 대하여는 이를 보상하여야 한다.

ARTICLE 14
In an emergency martial law area, the martial law commander may conscript labor and requisition property as prescribed by the Requisition Act, and may, when necessary, investigate and register articles to be supplied for military needs and prohibit their removal.
In unavoidable cases for operations, the property of the people may be destroyed or burned.
Losses arising in the case of the preceding paragraph shall be compensated.

제15조
제12조, 제13조 또는 전조제1항, 제2항의 규정에 의하여 취한 계엄사령관의 조치에 응하지 아니하거나 이에 배반하는 언론 또는 행동을 한 자는 3년이하의 징역에 처한다.

ARTICLE 15
A person who does not comply with measures taken by the martial law commander under Article 12, Article 13, or paragraph 1 or 2 of the preceding Article, or who speaks or acts against them, shall be punished by penal servitude of not more than three years.

제16조
비상계엄지역내에 있어서는 전조 또는 좌기의 죄를 범한 자는 군법회의에서 이를 재판한다. 단 계엄사령관은 당해 관할법원으로 하여금 이를 재판케 할 수 있다.
1. 내란에 관한 죄
2. 외환에 관한 죄
3. 국교에 관한 죄
4. 공무집행을 방해한 죄
5. 범인은닉 또는 증빙연멸죄
6. 소요죄
7. 방화죄
8. 일수에 관한 죄
9. 음료수에 관한 죄
10. 통화위조죄
11. 문서위조죄
12. 유가증권위조죄
13. 인장위조죄
14. 위증죄
15. 무고죄
16. 간음죄
17. 살인죄
18. 상해죄
19. 체포 또는 감금죄
20. 협박죄
21. 절도 또는 강도죄
22. 횡령 또는 배임죄
23. 장물죄
24. 훼기 또는 장닉죄
25. 군사상 필요에 의하여 제정한 법령에 규정된 죄

ARTICLE 16
In an emergency martial law area, persons who commit the crime in the preceding Article or any of the crimes listed below shall be tried by court-martial. However, the martial law commander may have the competent court try them.
1. Crimes concerning insurrection.
2. Crimes concerning foreign aggression.
3. Crimes concerning foreign relations.
4. Crimes of obstructing the performance of official duties.
5. Crimes of harboring criminals or destroying evidence.
6. Crimes of riot.
7. Crimes of arson.
8. Crimes concerning flooding.
9. Crimes concerning drinking water.
10. Crimes of counterfeiting currency.
11. Crimes of forging documents.
12. Crimes of forging securities.
13. Crimes of forging seals.
14. Crimes of perjury.
15. Crimes of false accusation.
16. Crimes of illicit intercourse [kanŭm].
17. Crimes of homicide.
18. Crimes of bodily injury.
19. Crimes of arrest or confinement.
20. Crimes of intimidation.
21. Crimes of theft or robbery.
22. Crimes of embezzlement or breach of trust.
23. Crimes concerning stolen property.
24. Crimes of destruction or concealment.
25. Crimes prescribed in laws and ordinances enacted for military necessity.

제17조
계엄선포중 국회의원은 현행범을 제외한 외에는 체포 또는 구금되지 아니한다.

ARTICLE 17
While martial law is in force, members of the National Assembly shall not be arrested or detained, except when caught in the act.

제18조
비상계엄지역내에 법원이 없거나 또는 당해 관할법원과의 교통이 차단된 경우에는 모든 형사사건에 대한 재판은 군법회의가 이를 행한다.

ARTICLE 18
When there is no court in an emergency martial law area, or communication with the competent court has been cut off, trials of all criminal cases shall be conducted by court-martial.

제19조
제16조와 제18조에 의하여 군법회의에서 재판을 받은 자가 불복이 있을 때에는 재심을 요구할 수 있다.

ARTICLE 19
A person tried by court-martial under Articles 16 and 18 may, if dissatisfied, request a retrial.

제3장 계엄의 해제	CHAPTER III. TERMINATION OF MARTIAL LAW
제20조 제3조 또는 제4조에 규정된 사태가 평상사태로 회복된 때에는 대통령은 계엄을 해제한다.	ARTICLE 20 When the situation prescribed in Article 3 or Article 4 has returned to normal, the President shall terminate martial law.
제21조 국회가 계엄의 해제를 요구할 때에는 대통령은 이를 해제하여야 한다.	ARTICLE 21 When the National Assembly demands the termination of martial law, the President shall terminate it.
제22조 계엄이 해제된 날로부터 모든 행정사무 또는 사법사무는 평상사태로 복구한다.	ARTICLE 22 From the day martial law is terminated, all administrative or judicial affairs shall return to their normal state.
제23조 비상계엄시행중에 제16조와 제18조의 규정에 의하여 군법회의에 계속중인 재판사건의 관할은 비상계엄해제와 동시에 일반법원에 속한다. 대통령은 필요하다고 인정할 때에는 대통령령의 정하는 바에 의하여 군법회의의 재판권을 1개월이내에 한하여 이를 연기할 수 있다.	ARTICLE 23 Jurisdiction over cases pending before courts-martial under Articles 16 and 18 during the enforcement of emergency martial law shall pass to the ordinary courts upon the termination of emergency martial law. When the President considers it necessary, he may, as prescribed by Presidential Decree, extend the jurisdiction of courts-martial for not more than one month.
부칙 ＜법률 제69호, 1949. 11. 24.＞ 본법은 공포일로부터 시행한다	SUPPLEMENTARY PROVISION Act No. 69, 24 November 1949 This Act shall enter into force on the date of its promulgation.

The English text is a historical translation; it is not an official modern consolidated law.

Editorial apparatus

Notes and Sources

Translation and context notes

1. Kinds of martial law (Article 2). 경비계엄 is rendered “security martial law” and 비상계엄 “emergency martial law.”

2. Commanders (Article 6). The list uses the military vocabulary of the period, partly inherited from

Japanese usage (사령장관, 통제부, 경비부). The English gives functional equivalents with the Korean in brackets where the office has no clear English counterpart.

3. Courts-martial (Articles 16, 18, 19, and 23). 군법회의 is rendered “court-martial.” Article 19 allows a retrial (재심) to be requested by a person dissatisfied with a court-martial judgment.

4. Article 16, item 16. 간음죄 is rendered “illicit intercourse,” a category of the criminal law then in force.

5. Original and later versions. This edition presents the text as originally enacted. Later amendments have not been inserted, and the English is not a translation of the law currently in force.

6. Source collation. The Korean text was checked against the National Law Information Center record and the Korean Wikisource transcription, which agree. It has not been collated line by line against a photographic copy of the Official Gazette (관보) printing; any variants in the original print should be recorded before a critical facsimile edition is issued.

Primary-source references

Republic of Korea, “계엄법” [Martial Law Act], Act No. 69, November 24, 1949. National Law Information Center (original enactment). https://www.law.go.kr/lsInfoP.do?lsiSeq＝3783.

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