

CONSTITUTION OF BRUNEI DARUSSALAM

(Order made under Article 83(3))

ANTI-TERRORISM ORDER, 2011

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SCHEDULE — COUNTER-TERRORISM CONVENTIONS

CONSTITUTION OF BRUNEI DARUSSALAM

(Order made under Article 83(3))

ANTI-TERRORISM ORDER, 2011

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order –

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Anti-Terrorism Order, 2011 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*.

(2) The long title of this Order is “An Order to suppress terrorism, to give effect to any international obligation relating to the combating of terrorism and for matters connected therewith or incidental thereto”.

Interpretation.

2. (1) In this Order, unless the context otherwise requires –

“Al-Qaida Sanctions List” means the Al-Qaida Sanctions List established by the United Nations Security Council pursuant to Resolution 1267 and Resolution 1989 and any subsequent or successor resolutions; [S 87/2012]

“Authority” means the Autoriti Monetari Brunei Darussalam established by section 3(1) of the Autoriti Monetari Brunei Darussalam Order, 2010 (S 103/2010);

“counter-terrorism convention” means any of the Conventions specified in the Schedule;

“country” includes a territory;

“designated non-financial businesses and professions” means any of the following –

- (a) real estate agents;
- (b) casinos, including internet casinos;
- (c) dealers in precious metals, precious stones and jewellery;
- (d) advocates and solicitors, notaries, other independent legal

professionals and accountants when they prepare for, engage in, or carry out transactions for a client concerning any of the following activities –

- (i) purchase and sale of real estate;
- (ii) management of client money, securities or other assets;
- (iii) management of bank, savings or securities accounts;
- (iv) organisation of contributions for the creation, operation or management of entities;
- (v) creation, operation or management of entities or arrangements, and purchase and sale of business entities;

(e) trust and company service providers not otherwise covered by this Order which, as business, prepare for or carry out transactions on behalf of clients in relation to any of the following services to third parties –

- (i) acting as a formation, registration or management agent of entities;
- (ii) acting as, or arranging for another person to act as, a director or secretary of a company or partner of a partnership, or to hold a similar position in relation to other entities;
- (iii) providing a registered office, business address or accommodation, correspondence or administrative

address for a company, a partnership or any other entity or arrangement;

- (iv) acting as, or arranging for another person to act as, a trustee of an express trust or other similar arrangement;
- (v) acting as, or arranging for another person to act as, a nominee shareholder for another person;

(f) any person licensed under the Registered Agents and Trustees Licensing Order, 2000 (S 54/2000); *[S 87/2012]*

(g) such other business and professions as may be specified by the Authority; *[S 87/2012]*

“designated person” means –

(a) a person associated with Al-Qaida as designated by the Al-Qaida Sanctions Committee on the Al-Qaida Sanctions List;

(b) a person associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan as designated by the 1988 Sanctions Committee on the 1988 Sanctions List;

(c) a person designated by the Minister under regulations made under this Order pursuant to Resolution 1373 and any subsequent or successor resolutions; or

(d) a person declared by the Minister as a terrorist or a terrorist group under section 65; *[S 87/2012]*

“entity” includes an individual, group, partnership, trust, fund, undertaking, and any company or association or other body of persons, corporate or unincorporate;” *[S 87/2012]*

“explosive or other lethal device” means –

(a) an explosive or other incendiary weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage; or

(b) a weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage through the release, dissemination or impact of –

- (i) toxic chemicals, biological agents or toxins or similar substances;
- (ii) radiation or radioactive material; or
- (iii) nuclear material;

“financial institution” means –

(a) in relation to Brunei Darussalam –

- (i) a bank licensed under section 4 or 23 of the Banking Order, 2006 (S 45/2006), an international bank licensed under section 7 of the International Banking Order, 2000 (S 53/2000) and an Islamic bank licensed under section 4 or 23 of the Islamic Banking Order, 2008 (S 96/2008);
- (ii) the Perbadanan Tabung Amanah Islam Brunei established by section 3(1) of the Perbadanan Tabung Amanah Islam Brunei Act (Chapter 163);
- (iii) any insurer registered under the Insurance Order, 2006 (S 48/2006) or the Takaful Order, 2008 (S 100/2008) or any person licensed under the International Insurance and Takaful Order, 2002 (S 43/2002);
- (iv) any finance company licensed under the Finance Companies Act (Chapter 89);
- (v) any person licensed under the Mutual Funds Order, 2001 (S 18/2001), the Securities Order, 2001 (S 31/2001) or the International Insurance and Takaful Order, 2002 (S 43/2002); *[S 87/2012]*
- (vi) any person licensed to carry on any money-changing business or remittance business under the Money-Changing and Remittance Businesses Act (Chapter 174);
or

(vii) such other person licensed, approved or regulated by the Authority under any written law; and

(b) in relation to any country outside Brunei Darussalam, a person lawfully carrying on therein business corresponding in whole or in part to banking business as defined in section 2(1) of the Banking Order, 2006 (S 45/2006) or in section 2(1) of the International Banking Order, 2000 (S 53/2000); and includes Islamic banking business as defined in section 2(1) of the Islamic Banking Order, 2008 (S 96/2008);

“Financial Intelligence Unit” means the agency responsible for receiving, requesting, analysing and disseminating information concerning suspected proceeds of crime, money-laundering and terrorist financing;

“infrastructure facility” means any facility (whether publicly or privately owned) providing or distributing services for the benefit of the public, such as water, sewage disposal, energy, fuel or communications;

“military forces of a State” means –

(a) the armed forces of a country which are organised, trained and equipped under its internal law for the primary purpose of national defence or security;

(b) civilians who direct or organise the official activities of those armed forces; or

(c) civilians acting in support of the official activities of those armed forces, if the civilians are under the formal command, control and responsibility of those forces;

“Minister” means the Minister responsible for internal security matters;

“place of public use” –

(a) means those parts of any building, land, street or waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and whether for free or on payment of a charge; and

(b) includes any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational, or similar place that is so accessible or open to the public;

“person” includes an entity;

[S 87/2012]

“property” means –

(a) assets of every kind, whether tangible or intangible, movable or immovable, actual or potential, however acquired, and includes –

- (i) land, buildings or other real estate;
- (ii) equipment, including computers, computer software, tools and machinery; office furniture, fixtures and fittings and other items of a fixed nature; vessels, aircraft and motor vehicles;
- (iii) inventories of goods;
- (iv) works of art, precious stones, jewellery or gold;
- (v) commodities, including oil, minerals or timber;
- (vi) arms related material including all items mentioned in the arms embargo at paragraph 1(c) of Resolution 1989;
- (vii) patents, trademarks, copyrights, trade names, franchises, goodwill and other forms of intellectual property;
- (viii) internet hosting or related services;

(b) funds or other financial assets in any form, including electronic or digital evidencing title to, or interest in, such assets, and includes –

- (i) cash, cheques, claims on money, drafts, money orders, bearer instruments, and other payment instruments;

- (ii) deposits with financial institutions or other entities and balances on accounts including fixed or term deposit accounts, balances on share trading accounts with banks, brokerage firms or other investment trading accounts;
 - (iii) debts and debt obligations, including trade debts, other accounts receivable, notes receivable, and other claims of money on others;
 - (iv) equity and other financial interest in a sole trader or partnership;
 - (v) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
 - (vi) interest, dividends or other income on or value accruing from or generated by assets;
 - (vii) credit, right of set-off, guarantees, performance bonds or other financial commitments;
 - (viii) letters of credit, bills of lading, bills of sale; notes receivable and other documents evidencing interest in funds or financial resources and any other instruments of export-financing;
 - (ix) insurance and reinsurance;
- (c) assets owned or controlled directly or indirectly by a designated person, by them or by persons acting on their behalf or at their direction;
- (d) ransoms paid to –
- (i) entities associated with Al-Qaida designated by the Al-Qaida Sanctions Committee on the Al-Qaida Sanctions List;
 - (ii) entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan designated by the 1988 Sanctions Committee on the 1988 Sanctions List; *[S 87/2012]*

“public transportation system” means all conveyances, facilities, buildings and objects (whether publicly or privately owned) used in or for services that are available to the public for the transportation of persons or cargo;

“Resolution 1267” means Resolution 1267 (1999) of the United Nations Security Council adopted on 15th October 1999; *[S 87/2012]*

“Resolution 1373” means Resolution 1373 (2001) of the United Nations Security Council adopted on 28th September 2001; *[S 87/2012]*

“Resolution 1988” means Resolution 1988 (2011) of the United Nations Security Council adopted on 17th June 2011; *[S 87/2012]*

“Resolution 1989” means Resolution 1989 (2011) of the United Nations Security Council adopted on 17th June 2011; *[S 87/2012]*

“State or government facility” means any conveyance or facility (whether permanent or temporary) used or occupied by any of the following persons in connection with their official duties –

- (a) a representative of any government;
- (b) the Head of State of any country;
- (c) the Prime Minister or a minister of any country;
- (d) a member of the legislature or judiciary of any country;
- (e) an official or employee of any government or of any intergovernmental organisation;

“suspicious transaction report” means a report required to be submitted under section 47;

“terrorism financing offence” means –

- (a) any offence under section 4, 5, 6, 7 or 8;
- (b) conspiracy to commit any of those offences;

- (c) inciting another to commit any of those offences;
- (d) attempting to commit any of those offences; or
- (e) aiding, abetting, counselling or procuring the commission of any of those offences;

“terrorist” means any person who directly or indirectly, unlawfully and willfully – *[S 48/2012]*

- (a) commits, or attempts to commit, any terrorist act;
- (b) prepares for any terrorist act;
- (c) participates in or facilitates the commission of any terrorist act;
- (d) promotes or encourages any terrorist act; or
- (e) is otherwise concerned in any terrorist act,

and includes any person declared in an order made under section 65 to be a terrorist;

“terrorist entity” means any entity owned or controlled by any terrorist or group of terrorists and includes an association of such entities;

“terrorist group” means –

- (a) any group of terrorists that –
 - (i) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully;
 - (ii) participates as an accomplice in terrorists acts (whether or not the terrorist act occurs);
 - (iii) organises or directs other to commit terrorists acts (whether or not the terrorist act occurs); or
 - (iv) abets, contributes, counsels or procures the commission of terrorist acts by a group of persons acting with a common purpose where the abetment, contribution, counseling or procurement is made intentionally and with the aim of furthering the terrorist act or with the

knowledge of the intention of the group to commit a terrorist act (whether or not the terrorist act occurs); or

(b) any class of person declared to be a terrorist group under section 65(1) by the Minister; [S 48/2012]

“transaction” means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, or the arrangement thereof, and includes –

(a) the opening of an account;

(b) any deposit, withdrawal, exchange or transfer of funds in any currency whether in cash or by cheque, payment order or other instrument or by electronic or other non-physical means;

(c) the use of a safety deposit box or any other form of safe deposit;

(d) entering into any fiduciary relationship;

(e) any payment made or received in satisfaction, in whole or in part, of any contractual or other legal obligation;

(f) establishing or creating an entity or legal arrangement; or

(g) such other transaction as may be specified by the Authority.

“1988 Sanctions List” means the 1988 Sanctions List established pursuant to Resolution 1267 and Resolution 1988 and any subsequent or successor resolution; [S 87/2012]

(2) Subject to subsection (3), in this Order, “terrorist act” means –

(a) an act or omission in or outside Brunei Darussalam which constitutes an offence within the scope of a counter-terrorism convention; or

(b) the use or threat of action (whether in Brunei Darussalam or elsewhere) –

(i) where the action –

(A) involves serious violence against any person;

(B) involves serious damage to property;

(C) endangers any person’s life;

- (D) creates a serious risk to the health or safety of the public or a section of the public;
 - (E) involves the use of firearms or explosives;
 - (F) involves releasing into the environment or any part thereof, or distributing or otherwise exposing the public or any part thereof to –
 - (I) any dangerous, hazardous, radioactive or harmful substance;
 - (II) any toxic chemical;
 - (III) any microbial or other biological agent or toxin; or
 - (IV) any nuclear material;
 - (G) is designed to disrupt any public computer system or the provision of services directly related to communications infrastructure, banking or any financial services, public utilities, public transportation or public key infrastructure;
 - (H) is designed to disrupt the provision of essential emergency services; or
 - (I) involves prejudice to public security or national defence;
- (ii) where the use or threat is intended or reasonably regarded as intending to –
- (A) influence or compel the Government, any other government or any international organisation to do or abstain from doing any act; or
 - (B) intimidate the public or a section of the public.

(3) Notwithstanding anything in subsection (2), a terrorist act does not include the activities undertaken by military forces of a State in the exercise of their official duties, to the extent that those activities are governed by other rules of international law.

(4) In this Order, any reference to a terrorist act includes any act referred to in section 17(2) or (3).

(5) For the purposes of subsection (2) –

(a) a reference to any person or property is a reference to any person or property wherever situated, within or outside Brunei Darussalam; and

(b) a reference to the public includes a reference to the public of a country other than Brunei Darussalam.

PART II OFFENCES

Commission of terrorist acts.

3. Any person who commits, or participates in the commission of, a terrorist act is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

4. *(Repealed by S 48/2012)*

Provision or collection of property to commit terrorist acts, for terrorist group or terrorist.

4. (1) Any person who –

(a) provides;

(b) collects;

(c) receives;

(d) possesses; or

(e) makes available,

by any means, directly or indirectly, any property, intending, knowing, or having reasonable grounds to suspect, that the property will be used in whole or in part –

(i) to commit a terrorist act or facilitate the commission of a terrorist act;

(ii) by a terrorist group; or

(iii) by a terrorist,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

(2) A person commits an offence under subsection (1) even if –

(a) a terrorist act does not occur;

(b) the funds will not be used to facilitate, or to engage in, a specific terrorist act; or

(c) the funds will be used to facilitate, or to engage in, more than one terrorist act.

[S 48/2012]

Provision of services for commission of terrorist acts.

5. (1) Any person who, directly or indirectly, provides or makes available, financial or other related services –

(a) intending that they be used, in whole or in part, for the purpose of committing or facilitating the commission of, a terrorist act or for the purpose of benefiting any person who is committing or facilitating the commission of a terrorist act; or

(b) knowing that in whole or in part, they will be used by, or will benefit, a terrorist group,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

Use of property for commission of terrorist acts.

6. Any person who –

(a) uses property, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act; or

(b) possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of committing or facilitating the commission of a terrorist act,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

Arrangement for acquisition, retention or control of terrorist property.

7. Any person who knowingly enters into, or becomes concerned in, an arrangement which facilitates the acquisition, retention or control by or on behalf of another person of terrorist property –

- (a) by concealment;
- (b) by a removal out of jurisdiction;
- (c) by transfer to a nominee; or
- (d) in any other way,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

Dealing with terrorist property.

8. Any person who knowingly –

- (a) deals, directly or indirectly, in any terrorist property;
- (b) acquires or possesses terrorist property;
- (c) enters into or facilitates, directly or indirectly, any transaction in respect of terrorist property;
- (d) converts, conceals or disguises terrorist property; or
- (e) provides financial or other services in respect of terrorist property at the direction of a terrorist group,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

Soliciting and giving support to terrorist or terrorist groups or for commission of terrorist acts.

[S 48/2012]

9. (1) Any person who knowingly –

- (a) solicits support for, or gives support to, any a terrorist or terrorist group,
or
- (b) solicits support for, or gives support to, the commission of a terrorist act,

[S 48/2012]

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

(2) In this section, “support” includes but is not limited to –

(a) an offer to provide, or the provision of, forged or falsified travel documents to a terrorist or a member of a terrorist group; *[S 48/2012]*

(b) an offer to provide, or the provision of a skill or an expertise for the benefit of, at the direction of or in association with a terrorist or a terrorist group; or *[S 48/2012]*

(c) entering or remaining in any country for the benefit of, or at the direction of or in association with a terrorist or a terrorist group. *[S 48/2012]*

Harbouring of persons committing terrorist acts.

10. Any person who harbours or conceals, or prevents, hinders or interferes with the apprehension of, any other person knowing, or having reason to believe that such other person –

(a) has committed or is planning or likely to commit a terrorist act; or

(b) is a member of a terrorist group,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

Recruitment of persons to be members of terrorist groups or to participate in terrorist acts.

11. (1) Any person who knowingly agrees to recruit, or recruits, another person –

(a) to be a member of a terrorist group; or

(b) to participate in the commission of a terrorist act,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

(2) Any person who knowingly agrees to receive, or receives, such recruitment under subsection (1) is also guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

(3) For the purposes of this section, “recruit” or “recruits” includes abet, induce, incite, instigate, encourage and solicit. [S 48/2012]

Providing training and instruction to terrorist groups and persons committing terrorist acts.

12. Any person who knowingly provides training or instruction, or agrees to provide training or instruction –

- (a) in the making or use of any explosive or other lethal device;
- (b) in carrying out a terrorist act; or
- (c) in the practice of military exercises or movements,

to a member of a terrorist group or a person engaging in, or preparing to engage in, the commission of a terrorist act is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

Abetment, promotion or solicitation of property for commission of terrorist acts.

13. Any person who, knowingly –

- (a) abets or promotes the commission of a terrorist act;
- (b) abets or promotes membership in a terrorist group; or
- (c) solicits property for the benefit of a terrorist group or for the commission of a terrorist act,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

Providing facilities in support of terrorist acts.

14. Any person who being –

- (a) the owner, occupier, lessee or person in charge of any building, premises, room or place knowingly permits a meeting of persons to be held in that building, premises, room or place;
- (b) the owner, charterer, lessee, operator, agent or a person in charge of a vessel or an aircraft knowingly permits that vessel or aircraft to be used;

(c) the owner, lessee or person in charge of any equipment or facility that allows for recording or conferencing or meetings via technology knowingly permits that equipment or facility to be used,

for the purposes of committing an offence under section 16, or planning, promoting or supporting the commission of a terrorist act, is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

Membership of terrorist groups.

15. (1) Any person who –

- (a) is a member of; or
- (b) professes to be a member of,

a terrorist group is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

(2) It shall be a defence for a person charged with an offence under subsection (1) to prove –

- (a) that the entity in respect of which the charge is brought was not a terrorist group at or on the date that he became a member of, or professed to be a member of, that entity; or
- (b) that he has not taken part in the activities of that entity, after it became a terrorist group.

(3) Where any articles of, or relating to, or purporting to relate to, any terrorist group is found in the possession, custody or under the control of any person, it shall be presumed, until the contrary is proved, that such person is a member of the terrorist group.

[S 48/2012]

(4) For the purposes of this section, a member of the terrorist group includes –

- (a) a person who has taken steps to become a member of the terrorist group;
- and
- (b) in the case of a body corporate, a director or an officer of the body corporate.

[S 48/2012]

Arrangements of meetings in support of terrorist groups.

16. (1) Any person who arranges, manages or assists in arranging or managing a meeting which he knows is held for the purpose of –

- (a) supporting a terrorist group; or
- (b) furthering the activities of a terrorist group,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

(2) In this section –

“meeting” means –

- (a) a meeting of 2 or more persons, whether or not the public is admitted; or

- (b) a meeting by teleconferencing involving 2 or more persons;

“teleconferencing” includes the use of telephone, computer or video equipment.

Prohibition against false threats of terrorists acts.

17. (1) No person shall communicate or make available by any means any information which he knows or believes to be false to any person with the intention of inducing him or in any other person a false belief that a terrorist act has been, is being or will be carried out.

(2) No person shall place any article or substance in any place with the intention of inducing in some other person a false belief that –

- (a) the article or substance is likely to explode or ignite and thereby cause personal injury or damage to property; or

- (b) the article contains or the substance consists of any –

- (i) dangerous, hazardous, radioactive or harmful substance;

- (ii) toxic chemical;

- (iii) microbial or other biological agent or toxin; or

- (iv) nuclear material,

that is likely to cause death, disease, personal injury or damage to property.

(3) No person shall dispatch or transport any article or substance by any means with the intention of inducing in some other person a false belief that –

(a) the article or substance is likely to explode or ignite and thereby cause personal injury or damage to property; or

(b) the article contains or the substance consists of any –

(i) dangerous, hazardous, radioactive or harmful substance;

(ii) toxic chemical;

(iii) microbial or other biological agent or toxin; or

(iv) nuclear material,

that is likely to cause death, disease, personal injury or damage to property.

(4) For the purposes of this section, a reference to a person inducing in any other person a false belief does not require that first-mentioned person to have any particular person in mind as the person in whom he intends to induce that false belief.

(5) Any person who contravenes this section is guilty of an offence and liable on conviction to a fine not exceeding \$100,000, imprisonment for a term not exceeding 10 years or both.

Terrorist bombing.

18. (1) Any person who intentionally and without lawful excuse delivers, places, discharges or detonates an explosive or other lethal device in, into or against –

(a) a place of public use;

(b) a State or government facility;

(c) a public transportation system; or

(d) an infrastructure facility,

with intent to cause death or serious bodily injury, or extensive destruction of such place, facility or system that results in or is likely to result in major economic loss, is guilty of an offence and liable on conviction –

(i) if he had intended to cause death or serious bodily injury and death is caused, be punished with death; or

(ii) in any other case, be punished with life imprisonment.

- (2) Subsection (1) does not apply to –
- (a) the activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law; or
 - (b) activities undertaken by military forces of a State in the exercise of their official duties, to the extent that those activities are governed by other rules of international law.

Information about terrorist acts.

19. (1) Any person in Brunei Darussalam who has information which he knows or believes may be of material assistance –

- (a) in preventing the commission by another person of a terrorist act; or
 - (b) in securing the apprehension, prosecution or conviction of another person, in Brunei Darussalam, for an offence punishable under this Order or an offence under any other written law where the act or omission also constitutes a terrorist act,
- and who fails to disclose the information immediately to a police officer is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 5 years or both.

(2) No criminal or civil proceedings shall lie against a person for any disclosure made in good faith under this section.

(3) A person who makes a disclosure in good faith under this section shall not be treated as being in breach of any restriction upon the disclosure of information imposed by law, contract or rules of professional conduct.

PART III
INVESTIGATION OF OFFENCES

Power of arrest.

20. Any police officer may arrest without warrant any person whom he reasonably suspects of committing or attempting to commit an offence under this Order.

Power to detain suspected persons.

21. (1) Any police officer may without warrant arrest and detain pending enquiries any person in respect of whom he has reason to believe to have committed an offence under this Order.

(2) No person shall be detained under this section for a period exceeding 24 hours except with the authority of a police officer of or above the rank of Assistant Superintendent or for a period of up to 48 hours –

Provided that if an officer of or above the rank of Superintendent of Police is satisfied that the necessary enquiries can not be completed within the aforesaid period of 48 hours, he may authorise the further detention of such person for an additional period not exceeding 14 days and shall, on giving such authorisation, forthwith report the circumstances to the Commissioner of Police.

(3) Any person detained under the powers conferred by this section shall be deemed to be in lawful custody and may be detained in any prison or in any police station or in any other similar place authorised generally or specially by the Minister.

Power to enter and search.

22. (1) Notwithstanding anything to the contrary contained in any written law it shall be lawful for any police officer of or above the rank of Assistant Superintendent, or a police officer of any rank specially authorised by a police officer of or above the rank of Assistant Superintendent, in order to effect arrest of any person under this Order, to enter and search any place and in order to effect an entrance into such place to break open any outer or inner door or windows of any such place if he cannot otherwise obtain thereto.

(2) In this section, “place” includes any vehicle, vessel or aircraft, whether in a public place or not.

Power to search.

23. (1) Any police officer may without warrant stop and search any vehicle, vessel, aircraft or individual, whether in a public place or not, if he suspects that any article or material being evidence of the commission of an offence against this Order is likely to be found in such vehicle, vessel or aircraft or on such individual, and may seize any article or material so found.

(2) Any police officer of or above the rank of corporal may without warrant enter and search any premises or place if he suspects that any article or material being evidence of the commission of any offence against this Order is likely to be found on such premises or place and may seize any article or material so found.

Inspection of banker’s books.

24. (1) The Public Prosecutor may, if he is satisfied that any evidence of the commission of an offence against this Order is likely to be found in any banker’s book, by order authorise any police officer to inspect any such book, and a police officer so authorised may, at all reasonable times, enter the bank specified in the order and inspect the banker’s book kept therein, and may take copies of any entry in any such book.

(2) In this section, “banker’s books” include ledgers, day books, cash books, account books and all other books used in the ordinary business of a bank, whether these records are in written form or are kept on microfilm, magnetic tape or any other form of mechanical or electronic data retrieval system.

Power to intercept communications.

25. (1) Notwithstanding the provisions of any other written law, the Public Prosecutor, if he considers that it is likely to contain any information which is relevant for the purpose of any investigation into an offence under this Order, may, on the application of an officer of or above the rank of Superintendent of Police, authorise any police officer –

(a) to intercept, detain and open any postal article in the course of transmission by post;

(b) to intercept any message transmitted or received by any telecommunication; or

(c) to intercept, listen to and record any conversation by any telecommunication, and listen to the recording of the intercepted conversation.

(2) When any person is charged with an offence under this Order, any information obtained by a police officer under subsection (1), whether before or after such person is charged, shall be admissible at his trial in evidence.

(3) An authorisation by the Public Prosecutor under subsection (1) may be given either orally or in writing; but if an oral authorisation is given, the Public Prosecutor shall, as soon as practicable, reduce the authorisation into writing.

(4) A certificate by the Public Prosecutor stating that the action taken by the police officer under subsection (1) had been authorised by him under that subsection shall be conclusive evidence that it had been so authorised, and such certificate shall be admissible in evidence without proof of signature thereof.

(5) No person shall be under any duty, obligation or liability, or be in any manner compelled, to disclose in any proceedings the procedure, method, manner or means, or any matter related thereto, of any thing done under subsection (1)(a), (b) or (c).

(6) In this section –

“postal article” has the same meaning as in the Post Office Act (Chapter 52);

“Public Prosecutor” means the Public Prosecutor personally;

“telecommunication” has the same meaning as in the Telecommunications Order, 2001 (S 38/2001).

Exercise of powers by authorised officers.

26. (1) Subject to this section, the powers conferred upon a police officer under sections 20 to 25 may be exercised by any officer authorised in writing by the Director of Internal Security in that behalf.

(2) The powers conferred upon a police officer of or above the rank of Assistant Superintendent under sections 21 and 22 may be exercised by the Director, the Deputy Director or an Assistant Director of Internal Security.

(3) The powers conferred upon an officer of or above the rank of Superintendent of Police under the proviso to section 21(2) and under section 25 may be exercised by the Director of Internal Security.

(4) Where the power conferred upon an officer of or above the rank of Superintendent of Police under the proviso to section 21(2) is exercised by an authorised officer in accordance with this section, the duty to report to the Commissioner of Police under those sections shall be read as a duty to report in a similar manner to the Director.

PART IV

SEIZURE, FREEZING AND CONFISCATION OF TERRORIST PROPERTY

Application for warrant for seizure and order for restraint of property.

27. (1) A Judge of the High Court may, on an *ex parte* application by the Attorney General, after considering the application in Chambers and if satisfied that there is in any building, receptacle or place any property in respect of which an order of forfeiture may be made under section 40, issue –

(a) if the property is situated in Brunei Darussalam, a warrant authorising any police officer, or person named in the warrant –

(i) to search the building, receptacle or place for that property; and

(ii) to seize that property and any other property which that police officer or person believes, on reasonable grounds, that an order of forfeiture may be made under section 40; or

(b) whether the property is situated in or outside Brunei Darussalam, a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the order.

(2) For the purpose of subsection (1)(b), dealing with any interest in any property held by any person includes (without prejudice to the generality of the expression) –

(a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and

(b) removing the property from Brunei Darussalam.

(3) A restraint order issued under subsection (1)(b) may be subject to such conditions as the Judge thinks fit.

(4) A copy of a restraint order issued under subsection (1)(b) shall be served on the person to whom the order is addressed in such manner as the Judge directs or as provided in Rules of Court.

Contents of application for warrant or order.

28. An affidavit in support of an application by the Attorney General under section 27 may be sworn on information and belief.

Undertakings for warrant or order.

29. Before issuing a warrant under section 27(1)(a) or an order under section 27(1)(b), the Judge may require the Attorney General to give such undertakings as the Judge considers appropriate with respect to the payment of damages or costs, or both, in relation to the issuance and execution of the warrant or the making and execution of the restraint order.

Contravention of order.

30. Any person on whom an order issued under section 27(1)(b) is served under section 27(4) who, while the order is in force, contravenes the order is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 5 years or both.

Appointment of manager etc.

31. On an application under section 27, at the request of the Attorney General, if the Judge is of the opinion that the circumstances so require, he may by order –

- (a) appoint a person to take control of, and manage or otherwise deal with, all or part of the property in accordance with the directions of the Judge; and
- (b) require any person having possession of that property to give possession of the property to the person appointed under paragraph (a).

Power to manage.

32. (1) The power to manage or otherwise deal with property under section 31 includes –

- (a) in the case of perishable or rapidly depreciating property, the power to sell that property; and
- (b) in the case of property that has little or no value, the power to destroy that property.

(2) Before a person appointed under section 31 destroys property referred to in subsection (1)(b), he shall apply to a Judge for a destruction order.

(3) Before making a destruction order in relation to any property, the Judge shall require notice in accordance with subsection (4) to be given to, and may hear, any person who, in the opinion of the Judge, appears to have a valid interest in the property.

(4) A notice under subsection (3) shall be given in the manner that the Judge directs or as provided in Rules of Court.

(5) The Judge may order that property be destroyed if he is satisfied that the property has little or no financial or other value.

Cessation of order or appointment.

33. An order issued under section 27(1)(b) or 31 remains in effect until –

- (a) it is revoked or varied under section 34 or 35;
- (b) it ceases to be in force under section 36; or
- (c) the property that is the subject of the order is returned to an applicant in accordance with the law or forfeited to the Government.

Application by Attorney General to revoke or vary warrant or order.

34. The Attorney General may at any time apply to a Judge to revoke or vary a warrant or order issued or made under this Part.

Application by interested person to revoke or vary warrant or order.

35. (1) Any person who has an interest in the property that was seized under a warrant issued under section 27(1)(a) or in respect of which a restraint order was issued under section 27(1)(b) may, at any time, apply to a Judge –

- (a) for an order under subsection (4); or
- (b) for permission to examine the property.

(2) Where an application is made under subsection (1)(a) –

- (a) the application shall not, without the consent of the Attorney General, be heard by a Judge unless the applicant has given to the Attorney General at least 2 clear days notice in writing of the application; and
- (b) the Judge may require notice of the application to be given to and may hear any person who, in the opinion of the Judge, appears to have a valid interest in the property.

(3) The Judge may, on an application made to him under subsection (1)(b), order that the applicant be permitted to examine the property subject to such conditions as appear to the Judge to be necessary or desirable to ensure that the property is safeguarded and preserved for any purpose for which it may subsequently be required.

(4) On an application made under subsection (1)(a) in respect of any property and after hearing the applicant and the Attorney General and any other person to whom notice was given under subsection (2)(b), the Judge may order that the property or part thereof be returned to the applicant or, in the case of a restraint order issued under section 27(1)(b), revoke the order, vary the order to exclude the property or any interest in the property or part thereof from the application of the order or make the order subject to such reasonable conditions as the Judge thinks fit –

(a) if the applicant enters into a recognisance before the Judge, with or without sureties, in such amount and with such conditions, if any, as the Judge directs and where the Judge considers it appropriate, deposits with the Judge such sum of money or other valuable security as he directs;

(b) if the condition referred to in subsection (6) is satisfied; or

(c) for the purpose of –

(i) meeting the reasonable living expenses of the person who was in possession of the property at the time the warrant was executed or the order was made or any person who, in the opinion of the Judge, has a valid interest in the property and of the dependants of that person; or

(ii) meeting the reasonable business and legal expenses of a person referred to in sub-paragraph (i),

if the Judge is satisfied that the applicant has no other assets or means available for the purposes set out in this paragraph and that no other person appears to be the lawful owner of or lawfully entitled to possession of the property.

(5) For the purpose of determining the reasonableness of expenses referred to in subsection (4)(c), the Attorney General may, at the hearing of the application, make representations as to what would constitute the reasonableness of the expenses.

(6) An order under subsection (4)(b) in respect of property may be made by a Judge if he is satisfied –

(a) where the application is made by –

- (i) a person charged with a terrorism financing offence; or
- (ii) any person who acquired title to or a right of possession of that property from a person referred to in sub-paragraph (i) under circumstances that give rise to a reasonable inference that the title or right was transferred from that person for the purpose of avoiding the forfeiture of the property,

that a warrant should not have been issued under section 27(1)(a) or a restraint order should not have been issued under section 27(1)(b) in respect of the property; or

(b) in any other case, that the applicant is the lawful owner of or lawfully entitled to possession of the property and appears innocent of any complicity in any terrorism financing offence or of any collusion in relation to such an offence, and that no other person appears to be the lawful owner of or lawfully entitled to possession of the property,

and that the property will no longer be required for the purpose of any investigation or as evidence in any proceedings.

Expiration of warrants and restraint orders.

36. (1) Subject to this section, where property has been seized under a warrant issued under section 27(1)(a) or is the subject of a restraint order issued under section 27(1)(b), the property may be detained or the order may continue in force, as the case may be, for a period not exceeding one year from the seizure or the issuance of the order, as the case may be.

(2) The property may continue to be detained, or the order may continue in force, for a period exceeding one year if proceedings are instituted in respect of which the property detained may be forfeited.

(3) The property may continue to be detained or the order may continue in force for a period or periods exceeding one year if the continuation is, on application made by the Attorney General, ordered by a Judge, where the Judge is satisfied that the property is required, after the expiration of the period or periods, for the purpose of this Order or any other written law respecting forfeiture or for the purpose of any investigation or as evidence in any proceedings.

Application for forfeiture of property.

37. The Attorney General may make an application to a Judge for an order of forfeiture in respect of –

- (a) property owned or controlled by or on behalf of any terrorist or terrorist entity; or
- (b) property that has been or will be used, in whole or in part, to facilitate or carry out a terrorist act.

Contents of application for forfeiture of property.

38. An affidavit in support of an application by the Attorney General under section 37 may be sworn or affirmed on information and belief.

Respondents and notice.

39. (1) The Attorney General is required to name as a respondent to an application under section 37 only those persons who are known to own or control the property that is the subject of the application.

(2) The Attorney General shall give notice of an application under section 37 to named respondents in such a manner as the Judge directs or as provided in Rules of Court.

(3) On an application under section 37, a Judge may require notice to be given to any person who, in the opinion of the Judge, appears to have an interest in the property, and any such person shall be entitled to be added as a respondent to the application.

Order for forfeiture of property.

40. (1) If a Judge is satisfied on a balance of probabilities that property is property referred to in section 37(a) or (b), the Judge shall order that the property be forfeited to the Government.

(2) For the purposes of subsection (1). where the property owned or controlled by any terrorist or terrorist entity has been mixed with other property (whether the property of the terrorist or terrorist entity), the order of forfeiture shall relate to the portion of the mixed property which represents the property owned or controlled by the terrorist or terrorist entity.

Implementation of forfeiture orders.

41. (1) Where any property is ordered to be forfeited to the Government under section 40, the Judge may make such other provision as appears to the Judge to be necessary for giving effect to the order, and, in particular, may –

(a) require any of the forfeited property to be paid or handed over to the proper officer;

(b) direct any of the forfeited property (other than money) or land to be sold or otherwise disposed of in such manner as the Judge may direct and the proceeds, if any, to be paid to the proper officer;

(c) appoint a receiver to take possession, subject to such conditions and exceptions as may be specified by the Judge, of any of the forfeited property, to realise it in such manner as the Judge may direct and to pay the proceeds to the proper officer.

(2) For the purposes of subsection (1) –

(a) a reference to the proceeds of the sale, disposal or realisation of property is a reference to the proceeds after deduction of the costs of sale, disposal or realisation; and

(b) “proper officer” means any person authorised by the Authority to receive the relevant property.

Order refusing forfeiture of property.

42. (1) Where a Judge refuses an application under section 37 in respect of any property, the Judge shall make an order that describes the property and declares that it is not property referred to in that section.

(2) If a Judge is satisfied that any respondent referred to in section 39 has an interest in any property that is subject to an application, has exercised reasonable care to ensure that the property would not be used to facilitate or carry out a terrorist act, and is not a member of a terrorist entity, the Judge shall –

- (a) order that the interest is not affected by the forfeiture; and
- (b) declare the nature and extent of the interest referred to in paragraph (a).

Application to set aside order of forfeiture.

43. (1) A person who claims an interest in any property that was forfeited and who did not receive notice under section 39(3) may apply to a Judge to vary or set aside an order made under section 40(1) not later than 60 days after the day on which the forfeiture order was made.

(2) A Judge shall not extend the period set out in subsection (1).

Interim preservation rights.

44. Pending any appeal of an order made under section 40 –

- (a) any property seized under a warrant issued under section 27(1)(a) shall continue to be detained;
- (b) any property restrained under an order issued under section 27(1)(b) shall continue to be restrained; and
- (c) any person appointed to control, manage or otherwise deal with that property under section 31 shall continue in that capacity.

Voidable transfers.

45. A Judge may –

- (a) prior to ordering any property to be forfeited under section 40; and

(b) in the case of any property in respect of which a restraint order was issued under section 27(1)(b), where the order was served in accordance with section 27(4),

set aside any conveyance or transfer of the property that occurred after the seizure of the property or the service of the order under section 27(4), unless the conveyance or transfer was for valuable consideration to a person acting in good faith.

Other forfeiture provisions unaffected.

46. This Part shall not affect the operation of any other written law relating to the forfeiture of property.

**PART V
PROVISION AND SHARING OF INFORMATION**

Obligation of financial institutions and designated non-financial businesses and professions to report suspicious transactions.

47. (1) Subject to subsection (2), financial institutions, designated non-financial businesses and professions, and their respective directors, principals, officers, partners, professionals and employees, that suspect or have reasonable grounds to suspect that a transaction involving property is related or linked to, or is to be used for, terrorism, terrorist acts, terrorists or terrorist groups or those who finance terrorism shall submit promptly after forming a suspicion a report setting forth the suspicions to the Financial Intelligence Unit. This obligation shall also apply to attempted transactions.

(2) Notwithstanding subsection (1), advocates and solicitors, notaries, other independent legal professions and accountants are required to submit reports only when –

(a) they engage, on behalf of or for a client, in a financial transaction associated with an activity specified in relation to such professionals under section 2; and

(b) the relevant information upon which the suspicion is based was not received from or obtained on a client –

- (i) in the course of ascertaining the legal position of their client; or
- (ii) in performing their task of defending or representing that client in, or concerning judicial, administrative, arbitration or mediation proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after proceedings.

(3) The Financial Intelligence Unit may order the suspension of a transaction for a period not exceeding 3 business days if it considers necessary by reason of the seriousness or urgency of the case.

(4) The relevant supervisory authorities of designated non-financial businesses and professions shall inform the Financial Intelligence Unit if, in the course of their responsibilities, they discover facts that could be related to terrorist financing.

(5) The Authority shall issue directions or guidelines on the procedures for and from which the reports shall be submitted and shall publish guidelines in order to assist financial institutions and designated non-financial businesses and professions to fulfill their obligations under this section.

Protection of identity of persons and information relating to suspicious transaction reports.

48. (1) Except for purposes of the due administration of this Order, no person shall disclose any information that will identify or is likely to identify the person who prepared or made a suspicious transaction report, or handled the underlying transaction.

(2) No person shall be required to disclose a suspicious transaction report or any information contained in the report or provided in connection with it, or the identity of the person preparing or making such report or handling the underlying transaction in any judicial proceeding unless a Judge of the High Court is satisfied that the disclosure of the information is necessary in the interests of justice.

Exemption from liability for good faith reporting of suspicious transactions.

49. No criminal, civil, disciplinary or administrative proceedings for breach of banking or professional secrecy or contract shall lie against financial institutions and designated non-financial businesses and professions or their respective directors, principals, officers, partners, professionals or employees who in good faith submit reports or provide information in accordance with this Order.

Failure in regard to suspicious transaction reporting.

50. Any person who fails to submit a report to the Financial Intelligence Unit as required by section 47 is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 5 years or both.

Action regarding reports or other information received.

51. When the Financial Intelligence Unit has reasonable grounds to suspect that property is related to, or intended for, the financing of terrorism, or is terrorist property, it shall forward the relevant information to the Commissioner of Police and any such person as the Minister may authorise of that fact or information and provide such further information relating to the property as the Commissioner of Police or such authorised person may require. *[S 87/2012]*

Access to information.

52. (1) In relation to any information it has received in accordance with its functions, the Financial Intelligence Unit is authorised to obtain from any entity or person, subject to the reporting obligation set forth in section 47, any additional information that the Financial Intelligence Unit deems necessary to carry out its functions. The information requested shall be provided within the time limits set and the form specified by the Financial Intelligence Unit.

(2) The Financial Intelligence Unit is authorised to access and review information on-site that belongs to or is in the custody of financial institutions and designated non-financial businesses and professions which is necessary to the fulfillment of the functions of the Financial Intelligence Unit.

(3) Subsection (2) shall be applied subject to the restrictions in the definition of “designated non-financial businesses and professions” in section 2 and subject to section 47(2).

Obligations regarding confidentiality and use of information.

53. (1) Every person who has duties for or within the Financial Intelligence Unit is required to keep confidential any information obtained within the scope of his duties, even after the cessation of those duties, except as otherwise provided in this Order or as ordered by a court. Such persons may only use such information for the purposes provided for and in accordance with this Order.

(2) Any current or past employee of the Financial Intelligence Unit or other person who has duties for or within the Financial Intelligence Unit who intentionally reveals information the confidentiality of which is required to be protected by subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 5 years or both.

Sharing of information with foreign counterpart agencies.

54. (1) The Financial Intelligence Unit may share information with any foreign counterpart agency that performs similar functions based upon reciprocity or mutual agreement on the basis of cooperation arrangements entered into between the Financial Intelligence Unit and such foreign counterpart agency.

(2) The Financial Intelligence Unit may make inquiries on behalf of a foreign counterpart agency where the inquiry may be relevant to the foreign counterpart agency’s analysis of a matter involving suspected terrorist property or potential financing of terrorism.

(3) Without prejudice to the generality of subsection (2), the Financial Intelligence Unit may –

(a) search its own databases, including information related to reports of suspicious transactions, and other databases to which the Financial Intelligence Unit had direct or indirect access, including law enforcement databases, public databases, administrative databases and commercially available databases;

(b) obtain from financial institutions and designated non-financial businesses and professions that is relevant in connection with such request;

(c) obtain from competent authorities information that is relevant in connection with such request to the extent the Financial Intelligence Unit could obtain such information in a domestic matter; and

(d) take any other action in support of the request of the foreign counterpart agency that is consistent with the authority of the Financial Intelligence Unit in a domestic matter.

PART VI GENERAL

Tipping-off.

55. (1) A person is guilty of an offence if –

(a) he knows or has reasonable grounds for suspecting that the police is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted under or for the purposes of this Order or any regulations made thereunder; and

(b) he discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation.

(2) A person is guilty of an offence if –

(a) he knows or has reasonable grounds for suspecting that a disclosure has been made to the police concerning an offence which is being committed or is about to be committed under this Order; and

(b) he discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure.

(3) Nothing in subsection (1) or (2) makes it an offence for a person to disclose information or any other matter to an advocate and solicitor for the purposes of legal advice or for an advocate and solicitor to disclose any information or other matter –

(a) to, or to a representative of, a client of his connection with the giving by him of legal advice to that client; or

(b) to any person –

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

(4) Subsection (3) does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(5) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding 5 years, a fine or both.

(6) The Commissioner of Police or any other person authorised by the Minister under section 59 shall not be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement or intended enforcement, of any provision of this Order or of any other written law relating to any offence to which this Order applies.

[S 87/2012]

Extra-territoriality.

56. Any person who, outside Brunei Darussalam, commits an act or omission that, if committed in Brunei Darussalam, would constitute an offence under this Order is deemed to commit the act or omission in Brunei Darussalam and may be proceeded against, charged, tried and punished accordingly.

General prohibition.

57. (1) No person shall knowingly do anything that causes, assists or promotes, or is intended to cause, assist or promote, any act or thing prohibited under this Order.

(2) Any person who contravenes this section is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 30 years or both.

Attempts and abetment.

58. Any person who attempts to commit any offence punishable under this Order, or abets the commission of any such offence, is guilty of that offence and liable on conviction to the penalties provided for such first-mentioned offence.

Duty to provide information.

59. (1) Any person who in Brunei Darussalam, and any citizen of Brunei Darussalam who outside Brunei Darussalam, has –

(a) possession, custody or control of any property which to his knowledge is property belonging to any terrorist or any designated person; or for which there are reasonable grounds to believe or suspect is property belonging to any terrorist or any designated person; *[S 87/2012]*

(b) possession, custody or control of any property belonging to any terrorist any terrorist entity or any designated person; or *[S 87/2012]*

(c) information which he knows or suspects to concern any transaction or proposed transaction in respect of any property belonging to any terrorist, any terrorist entity or any designated person, *[S 87/2012]*

shall immediately inform the officer in charge of the nearest police station in Brunei Darussalam or to any police officer in Brunei Darussalam, and any such other person as the Minister may authorise of that fact or information and provide such further information relating to the property, transaction or proposed transaction as the Commissioner of Police or such authorised person may require. *[S 87/2012]*

(2) Any person who fails to disclose the information immediately to the officer in charge of the nearest police station in Brunei Darussalam, any police officer in Brunei Darussalam or such authorised person is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 5 years or both. *[S 87/2012]*

(3) No criminal or civil proceedings shall lie against a person for any disclosure made in good faith under this section.

(4) A person who makes a disclosure in good faith under this section shall not be treated as being in breach of any restriction upon the disclosure of information imposed by law, contract or rules of professional conduct.

Offences by body corporate.

60. Where an offence against this Order or any regulations made thereunder committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any – *[S 87/2012]*

(a) director, manager, secretary or other similar officer of that body corporate, or of any person who was purporting to act in that capacity; or

(b) other person who holds a controlling interest in that body corporate, he, as well as the body corporate, is also guilty of that offence and liable to be proceeded against and punished accordingly.

Offences under other written laws.

61. Nothing in this Order or any regulations made thereunder shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an offence under this Order or any regulations made thereunder, or from being liable under that other written law to any punishment or penalty higher or other than that provided by this Order or the regulations, but no person shall be punished twice for the same offence.

Consent of Public Prosecutor.

62. (1) No prosecution shall be instituted under this Order or any regulations made thereunder without the written consent of the Public Prosecutor.

(2) Notwithstanding that consent has not been given in relation to the offence in accordance with subsection (1) –

(a) a person may be arrested for an offence under this Order;

(b) a warrant for the arrest of any person in respect of any offence under this Order may be issued and executed;

(c) a person may be charged with an offence under this Order; and

(d) a person charged with any offence under this Order may be remanded in custody or granted bail,

but no further steps in the proceedings in relation to the offence shall be taken until the written consent of the Public Prosecutor has been obtained.

Immunity from proceedings.

63. No action, suit or other legal proceedings shall lie against any –

(a) party to a contract for failing, neglecting or refusing to carry out any act required by that contract; or

(b) person for failing, neglecting or refusing to carry out any act under any written law,

where such failure, neglect or refusal is solely attributable to, or occasioned by, the provisions of this Order or any regulations made thereunder.

Protection of persons for acts done under Order.

64. No person shall be liable in respect of any act done by him in the execution or purported execution of this Order or any regulations made thereunder if he did it in the honest belief that his duty under this Order or any regulations made thereunder required or entitled him to do it.

Power to declare person or class of person a terrorist or terrorist group. [S 48/2012]

65. (1) The Minister may, by order published in the *Gazette*, declare any person or any class of person named and described therein to be a terrorist or terrorist group for the purposes of this Order – [S 48/2012]

Provided that he may make such an order in respect of any person or any class of person only if he believes that such person or class of person has been concerned in any terrorist act.

(2) The Minister may at any time amend any order made under subsection (1).

(3) An application may be made to the Minister to revoke an order made in respect of any person or class of person under subsection (1) by –

- (a) that person or any member of that class of person; or
- (b) any other person affected by the making of an order in respect of that person or class of person.

(4) The Minister, shall, after giving an applicant under subsection (3) an opportunity to be heard, make a decision which shall be final and shall not be called in question by any court on any ground whatsoever.

Directions and guidelines to discharge Brunei Darussalam’s obligations.

66. (1) The relevant regulatory or supervisory authority may issue such directions and guidelines to any person or any class of person under their regulation or supervision as they consider necessary in order to discharge or facilitate the discharge of any obligation by virtue of a resolution or decision of the United Nations Security Council relating to terrorism.

(2) Any person or any member of a class of person to whom a direction or guideline has been issued shall comply with it notwithstanding any other duty imposed on him by any written law, rule of law or contract; and in carrying out any act in compliance with that direction or guideline he shall not be treated as being in breach of any such written law, rule of law or contract.

(3) No person or any class of person shall disclose any direction or guideline issued to him if the relevant regulatory or supervisory authority has notified him that they are of the opinion that any such disclosure would be against the public interest.

(4) Any person or any member of a class of person who fails or refuses to comply with a direction or guideline issued to him, or who discloses a direction or guideline issued to him in contravention of subsection (3), is guilty of an offence and liable on conviction to a fine not exceeding \$20,000.

(5) The relevant regulatory or supervisory authority shall report to the Minister on the action taken under this section every 6 months or as the Minister may require.

Directions and regulations to prevent terrorist financing.

67. (1) The Authority may issue such directions or make such regulations concerning any person or any class of person as the Authority considers necessary for the prevention of the financing of terrorism.

(2) Any person or any member of a class of person who fails or refuses to comply with any direction issued under subsection (1), or contravenes any regulations made under that subsection, is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000 and in the case of a continuing offence, to a further fine of \$100,000 for every day during which the offence continues after conviction.

Seizability and bailability of offences.

68. (1) Subject to subsection (2), every offence against this Order shall be seizable and non-bailable for the purposes of the Criminal Procedure Code (Chapter 7).

(2) Any person charged with an offence under section 18 shall not be granted bail.

Amendment of Schedule.

69. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, amend the Schedule.

Regulations.

70. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as he considers necessary or expedient for giving effect to or carrying out the provisions of this Order, and for the due administration thereof, including (without prejudice to the generality of the foregoing) provision for –

(a) the apprehension and trial of persons in breach of or contravening the regulations;

(b) empowering any person or class of person to exercise, when investigating any offence under this Order or any regulations made thereunder, all or any of the powers of a police officer under the Criminal Procedure Code (Chapter 7) in relation to seizable offences;

(c) the freezing, forfeiture and seizure of property of any person;

[S 87/2012]

(d) measures for the prevention of the financing of terrorism including the designation of any person.

[S 87/2012]

(2) Such regulations may include such incidental, consequential and supplementary provisions as the Minister considers necessary or expedient.

(3) Any regulations made under this section shall not be invalid by reason only of that fact that they deal with any matter provided for by any other written law, or because of repugnancy to or inconsistency with any other written law.

(4) Any person who fails or refuses to comply with or contravenes any regulations made under this section is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000 and in the case of a continuing offence, to a further fine of \$100,000 for every day during which the offence continues after conviction.”

[S 87/2012]

Repeal of Chapter 197.

71. (1) Subject to subsection (2), the Anti-Terrorism (Financial and Other Measures) Act is repealed.

(2) Any thing done under that Act and in force immediately before the date of commencement of this Order and so far as it is not inconsistent with this Order shall continue to be in force as if done under this Order, but the Minister may at any time, with the approval of His Majesty the Sultan and Yang Di-Pertuan, amend or revoke any such thing.

SCHEDULE

(section 2(1))

COUNTER-TERRORISM CONVENTIONS

1. Convention on Offences and certain Other Acts committed on Board Aircraft signed at Tokyo on 14th September 1963.
2. Convention for the Suppression of Unlawful Seizure of Aircraft done at The Hague on 16th December 1970.
3. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation done at Montreal on 23rd September 1971.
4. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14th December 1973.
5. International Convention against the taking of Hostages adopted by the General Assembly of the United Nations on 17th December 1979.
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation done at Montreal on 24th February 1988.
7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation done at Rome on 10th March 1988.
8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf done at Rome on 10th March 1988.

9. Convention on the Marking of Plastic Explosives for the Purposes of Detection signed at Montreal on 1st March 1991.
10. International Convention for the Suppression of Terrorist Bombings adopted by the General Assembly of the United Nations on 15th December 1997.
11. International Convention for the Suppression of the Financing of Terrorism adopted by the General Assembly of the United Nations on 9th December 1999.

Made this 16th. day of Syaaban, 1432 Hijriah corresponding to the 18th. day of July, 2011 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.**