

LAWS OF BRUNEI

REVISED EDITION 1984

CHAPTER 120

WOMEN AND GIRLS PROTECTION

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Selling or hiring for purpose of prostitution
4. Traffic in women and girls
5. Living on or trading in prostitution
6. Suppression of brothels
7. Determination of tenancy of premises on conviction for permitting use as brothel, etc.
8. Trials in camera in certain cases.
9. Trial of offences
10. Detention pending judicial proceedings
11. Commissioner may examine women and girls and the person in charge of them
12. Security on departure of woman or girl from Brunei
13. Provision for maintaining places of safety

14. Girl under 21 used or trained for immoral purposes etc.
 15. Commissioner may order the detention of woman or girl in certain cases
 16. Women and girls detained to be subject to rules
 17. Removal of woman or girl to another place of safety
 18. Commissioner may cause persons to be photographed and finger printed
 19. Powers to summon and examine persons in certain circumstances
 20. Power of search
 21. Provision as to service of processes etc.
 22. Presumption arising out of warrants
 23. Security bond
 24. Discharge Committee
 25. Rules
 26. Appeal
-

WOMEN AND GIRLS PROTECTION ACT

An Act relating to the protection of women and girls and to make provision for the suppression of brothels 21 of 1972

Commencement: 19th April 1973

1. This Act may be cited as the Women and Girls Protection Act. Short title

2. In this Act unless there is something repugnant in the context — Interpre-
tation

“brothel” means a house or place occupied or used by any 2 or more women or girls for the purposes of prostitution;

“owner” of a house means the person for the time being receiving the rent of the premises, whether on his own account or as agent or trustee for any other person, or who could receive the same if such premises were let to a tenant;

“occupier” of a place means the tenant, sub-tenant, or lessee thereof or any person in charge of the place whether or not he is in actual occupation and whether he has or has no powers to let or sub-let;

“place” means any building, house, office, flat, room or cubicle or any part thereof, and any open or enclosed space and includes a ship, boat or any vessel, whether afloat or not, and any vehicles;

“place of safety” means any place of safety established under the provisions of section 13 of this Act;

“Commissioner” means the Director of Welfare, Youth and Sports and will include such other per-

sons as may be declared by the Minister and by notification in the *Gazette* to be vested with powers conferred upon the Commissioner by this Act;

“prostitute” means a female who offers her body for promiscuous sexual intercourse for hire, whether in money or in kind;

“marriage” means any valid marriage under any law, religion, custom or usage recognised in Brunei.

3. (1) Any person who —

Selling or
hiring for
purpose of
prostitution

(a) sells, lets to hire or otherwise disposes of or buys or hires or otherwise obtains possession of any woman or girl with intent that such woman or girl shall be employed or used for the purpose of prostitution either within or without Brunei, or knowing or having reason to believe that such woman or girl will be so employed or used; or

(b) procures any woman or girl under the age of 21 years, or any woman or girl of or above that age being a prostitute or of known immoral character to have either within or without Brunei carnal connection except by way of marriage with any other person or for the purpose of prostitution either within or without Brunei; or

(c) by threats or intimidation procures any woman or girl to have carnal connection either within or without Brunei except by way of marriage with any male person; or

False pre-
tences etc.

(d) by or under any false pretence, false representation, or fraudulent or deceitful means made or used either within or without Brunei, brings or assists in bringing into Brunei any woman or girl with intent that such woman or girl shall be em-

ployed or used for the purpose of prostitution either within or without Brunei, or knowing or having reason to believe that such woman or girl will be employed or used; or

(e) brings into Brunei, receives or harbours any woman or girl under the age of 21 years or any woman or girl of or above that age not being a prostitute or of known immoral character, knowing or having reason to believe that such woman or girl has been procured for the purpose of having carnal connection, except by way of marriage, with any other person or for the purpose of prostitution either within or without Brunei and with intent to aid such purpose; or

Harbouring

(f) knowing or having reason to believe that any woman or girl has been procured by threats or intimidation for the purpose of having carnal connection, except by way of marriage, either within or without Brunei, receives or harbours such woman or girl with intent to aid such purpose; or

(g) knowing or having reason to believe that any woman or girl has been brought into Brunei in breach of paragraph (d), or has been sold or purchased in breach of paragraph (a), receives or harbours such woman or girl with intent that she shall be employed or used for the purpose of prostitution either within or without Brunei; or

(h) detains any woman or girl in a brothel against her will; or

Detention in a brothel

(i) detains any woman or girl in any place against her will with intent that she may be employed or used for the purpose of prostitution or for any unlawful or immoral purpose; or

Detention in any place for prostitution, etc.

(j) Deleted.

Attempt

(k) attempts to do any act in contravention of this section,

shall be guilty of an offence: Penalty, imprisonment for 5 years and a fine of \$20,000.

Male offenders may be whipped

(2) Any male person who is convicted under subsection (1) (a), (b), (c), (d), (e), (f) or (g) may, at the discretion of the Court and in addition to any other punishment which may be awarded in respect of such offence, be sentenced to be whipped.

Presumptions

(3) For the purposes of this section it shall be presumed until the contrary is proved that —

(a) a person who takes or causes to be taken into a brothel any woman or girl has disposed of such woman or girl with the intent or knowledge in subsection (1) (a) mentioned;

(b) a person who receives any woman or girl into a brothel or harbours any woman and girl in a brothel has obtained possession of such woman or girl with the intent or knowledge in subsection (1) (a) mentioned;

(c) a person has detained a woman or girl in any brothel or in any place against her will if, with intent to compel or induce her to remain therein, such person —

(i) withholds from such woman or girl any wearing apparel or other property belonging to her or any wearing apparel commonly or last used by her; or

- (ii) where wearing apparel has been lent or supplied to such woman or girl, threatens such woman or girl with legal proceedings if she takes away such wearing apparel; or
- (iii) threatens such woman or girl with legal proceedings for the recovery of any debt or uses any other threat whatsoever.

4. (1) Any person who buys, sells, procures, traffics in, or imports into Brunei for the purpose of such traffic, and whether or not for the purpose of present or subsequent prostitution, any woman or girl, shall be liable to imprisonment of either description for 5 years and to a fine of \$20,000.

Traffic in
women and
girls

(2) No person shall be charged with an offence under this section if he satisfies the Commissioner that the woman or girl brought into or taken out of Brunei by him or intended to be brought into or taken out of Brunei by him was so brought into or taken out of Brunei or is intended to be so brought into or taken out of Brunei for the purpose of her marriage or adoption and that such marriage or adoption can be solemnised or made and has been or will be solemnised or made under the laws and customs for the time being in force in Brunei.

5. (1) Any person who —

Living on or
trading in
prostitution

(a) knowingly lives wholly or in part on the earnings of prostitution of any other person; or

(b) in any public place persistently solicit or importunes on behalf of a woman or girl, for immoral purposes,

shall be liable to imprisonment of either description for 5 years and to a fine of \$20,000.

(2) Any male person convicted under this section may at the discretion of the Court and in addition to any term of imprisonment awarded in respect of the said offence be sentenced to be whipped.

(3) Where any person is proved to live with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person or generally, he shall, unless he can satisfy the Court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

(4) If a magistrate upon information has reason to suspect that any house or any part of a house is used by a female for the purposes of prostitution and that any person residing in or frequenting the house is living wholly or in part on the earnings of the prostitute, such magistrate may issue a warrant authorising any police officer to enter and search the house and to arrest such person.

Suppression
of brothels

6. Any person who —

(a) keeps or manages or acts or assists in the management of a brothel; or

(b) being the tenant, lessee, occupier, or the person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel; or

(c) being the owner of any premises, or the agent of such owner, lets the same or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel,

or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

shall be liable to imprisonment for one year and to a fine of \$5,000; and on a second or subsequent conviction shall be liable to imprisonment for 5 years and to a fine of \$20,000. Any person being the tenant, lessee, occupier or person in charge of any place who lets such place or any part thereof shall notwithstanding such letting be guilty of an offence under this section if the place or any part thereof is used as a brothel, unless he proves that he has no knowledge that the place or such part thereof is used as a brothel.

7. Upon the conviction, after the commencement of this Act, of the tenant, lessee or occupier of any premises of any offence under paragraph (a), or (b) section 6 in respect of such premises or any part thereof the owner shall be entitled to require the person so convicted to assign the lease or other contract of tenancy under which the said premises are held by him to some person approved by the owner (which approval shall not unreasonably withheld) or to deliver up possession of the premises to the owner, and in the event of the person so convicted failing within one month to assign the lease or other contract of tenancy or to deliver up possession as aforesaid, the owner shall be entitled to determine the lease or other contract of tenancy but without prejudice to the rights or remedies of any party to such lease or contract accrued before the date of such determination. If the owner should so determine the lease or other contract of tenancy, the Court which has convicted the tenant, lessee or occupier shall have the power to make a summary order for delivery of possession to the owner.

Determina-
tion of tenan-
cy of premis-
es on convic-
tion for per-
mitting use as
brothel, etc.

8. (1) When any person is charged with or convicted of having committed any offence against this Act or section 354 or 375, or section 354 and 511 or section 375 and 511 of the Penal Code in respect of any woman or girl, the Court:

Trials in
camera in
certain cases
Cap. 22

(a) conducting a preliminary inquiry; or

(b) trying such offence; or

(c) hearing any appeal; or

(d) hearing any point reserved by a judge of the High Court or by a magistrate;

may order that all proceedings before it shall be dealt with in camera.

(2) Whenever any such order is made, the Court shall not be deemed an open Court, and the Court shall order that no person shall have access to or remain in such Court except such persons as are necessary for the purposes of the proceedings.

(3) The Court shall order proceedings before it to be dealt with in camera in any case where the girl in respect of whom an offence under this Act, or under sections 354 or 375, or sections 354 and 511, or sections 375 and 511 of the Penal Code is alleged to have been committed has not attained the age of 16 years.

(4) No newspaper report of any proceedings under this section in any court shall reveal the name or address, or include any particulars calculated to lead to the identification of any woman or girl in respect of whom the offence is alleged to be committed, nor shall any picture be published in any newspaper as being or including a picture of any such woman or girl.

(5) Any person who publishes any matter in contravention of this section shall be guilty of an offence and shall be liable on conviction to imprisonment for 3 years and to a fine of \$10,000.

Trial of
offences

9. No prosecution shall be instituted in respect of an offence against this Act without the previous sanction of the Public Prosecutor or his Deputy.

10. (1) Any Court inquiring into or trying an offence punishable under this Act or under sections 354, 375 or 498 of the Penal Code or defined in sections 360 or 361 of the Penal Code may order any woman or girl in respect of whom the offence is alleged to have been committed to be detained temporarily until the determination of the proceedings against the person accused.

Detention pending judicial proceedings

Cap. 22

(2) Where any order is made under subsection (1) the Commissioner shall receive such a woman or girl and shall put her in a place of safety and shall there detain her for such time as may be ordered by the Court or until the determination of the proceedings.

11. (1) The Commissioner or any person authorised in that behalf by the Commissioner in writing may require any woman or girl and any person who may appear to have the custody or control of such woman or girl to appear before the Commissioner at any reasonable time and at any convenient place and the Commissioner may examine such woman or girl as to her reasons for entering or being in Brunei and may examine such person respecting such woman or girl, and such woman or girl and such person shall be legally bound to answer such questions truly to the best of their ability.

Commissioner may examine women and girls and the person in charge of them

(2) If the Commissioner has reasonable cause to believe that any woman or girl —

(a) has been brought into Brunei either after having been purchased or by fraud, misrepresentation or any false pretence for the purpose of prostitution or of being sent from Brunei; or

(b) has been purchased either within or without Brunei for the purpose of being trained or disposed of as a prostitute; or

(c) is being detained against her will for the purpose of prostitution or of being sent from Brunei for immoral purposes,

he may require any person in whose custody or under whose control she appears to be to furnish him with copies of her and such person's own photographs and to furnish security to the satisfaction of the Commissioner that such woman or girl will not leave Brunei without the previous consent in writing of the Commissioner, and will not be trained or disposed of as a prostitute or for immoral purposes, and will not whether by way of adoption or otherwise, be transferred to the care or custody of any other person without the previous consent in writing of the Commissioner, and that she will be produced before the Commissioner whenever he requires it.

(3) In default of such photographs and security being given, the Commissioner may, by warrant under his hand, order such woman or girl to be removed to a place of safety and there detained until she can be returned to the place from whence she was brought or until other proper provision can be made for her protection.

Security on
departure of
woman or girl
from Brunei

12. (1) Whenever the Commissioner is of opinion that it is in the interest of such woman or girl as is referred to in section 11 that such woman or girl should be permitted to leave Brunei, the Commissioner may grant such permission upon being supplied with such photographs as he may require and upon security being given to his satisfaction that the person in whose custody or control such woman or girl appears to be will bring such woman or girl before an officer of Government within such period and at such destination as may be specified in the bond.

(2) The giving of such further security shall not relieve any person who furnished the security required by section 11 from any obligation under the conditions of the bond entered into under that section other than the condi-

tion relating to departure from Brunei, unless the Commissioner obtains fresh security conditioned in the manner specified in section 11.

(3) A certificate under the hand of the officer of Government referred to in subsection (1) that such woman or girl has not been brought before him shall in any legal proceedings be conclusive evidence to that effect, unless the Court requires such officer to be called as a witness.

13. (1) The Minister may provide such land as shall be necessary and erect thereon suitable buildings as a place of safety for the purpose of carrying out the provisions of this Act and may defray the cost of the care, maintenance and education of all women and girls detained therein.

Provision for maintaining places of safety

(2) Any buildings erected in Brunei as a place of safety under the provisions of this section shall be declared by the Minister, by notification in the *Gazette*, to be a place of safety for the purposes of carrying out the provisions of this Act, and no place not so declared shall be used as a place of safety for the purposes of this Act.

14. (1) If the Commissioner has reasonable cause to suspect that any girl under the age of 21 years is being trained or used for immoral purposes or lives in or frequents any brothel or is habitually in the company of prostitutes or brothel keepers or procuresses or persons employed or living in brothels or persons directly interested in the business carried on in brothels or by prostitutes, he may, by warrant under his hand, order such girl to be removed to a place of safety and there temporarily detained until an inquiry has been held by him.

Girl under 21 used or trained for immoral purposes etc.

(2) If the Commissioner after holding such inquiry is satisfied that such girl comes within subsection (1) he may, by warrant under his hand, order such girl to be detained in the place of safety until further order or until she attains the age of 21 years or marries, whichever first happens:

Detention after inquiry

Provided that instead of making such order or detention as aforesaid, the Commissioner may release such girl after such arrangements as the Commissioner may deem necessary have been made for her welfare during such time as she would have been liable to be detained.

Commissioner may order the detention of woman or girl in certain cases

15. The Commissioner may, by warrant under his hand, order the detention in a place of safety any woman or girl —

(a) whose detention in a place of safety is requested in writing by her lawful guardian;

(b) whom the Commissioner considers to need protection and whose lawful guardian cannot be found;

(c) whom the Commissioner believes to have been ill-treated and to need protection; or

(d) whom the Commissioner considers to be in moral danger.

Women and girls detained to be subject to rules

16. (1) Every woman or girl detained under this Act shall be subject to such Rules as are prescribed by the Commissioner.

(2) Every woman or girl detained or ordered to be detained under this Act who leaves any place in which she is detained otherwise than in accordance with such Rules may be arrested and taken back to such place by any police officer or by any officer authorised thereto either specially or in general by the Commissioner.

(3) Any person who induces or assists any woman or girl so detained as aforesaid to leave the place in which she is detained, otherwise than in accordance with such Rules, shall be liable to a fine of \$1,000 and to imprisonment for 6 months.

17. Every woman or girl detained in a place of safety under this Act may be removed by order of the Commissioner from such place of safety to any other place of safety and the order of removal may be carried out in such manner as is prescribed in such order.

Removal of woman or girl to another place of safety

18. Whenever the Commissioner, after inquiry, has reason to believe that a breach of any of the provisions of this Act is about to be or has been committed by any person, the Commissioner may direct that such person be photographed and his or her finger impressions taken at such time and place and in such manner as the Commissioner may think fit, and the person so directed shall submit to be photographed and to have his or her finger impressions taken at such time and place and in such manner as the Commissioner thinks fit, and in default of so doing shall be liable to a fine of \$1,200 and to imprisonment for 6 months.

Commissioner may cause persons to be photographed and finger printed

19. (1) The Commissioner may summon any person who he has reason to believe can give any information —

Powers to summon and examine persons in certain circumstances

(a) respecting any woman or girl who he has reasonable cause to believe is or may be liable to be dealt with under section 11, 14 or 15; or

(b) respecting any premises or part thereof which he has reasonable cause to believe are or is being used as a brothel or for the purpose of habitual prostitution.

(2) The person so summoned shall attend at the hour and place specified in the summons and shall produce all documents in his custody, possession or power relating to such woman or girl or premises or part thereof, as the case may be, and shall answer truthfully all questions which the Commissioner may put to him respecting any such woman or girl or such premises or part thereof or in any way relating to the matter being inquired into, and where the inquiry relates to any woman or girl, such person shall also if so

required by the Commissioner, produce such woman or girl in the absence of reasonable excuse, proof whereof shall lie on such person.

(3) The Commissioner shall at any inquiry held by him make complete notes of the evidence taken by him upon such inquiry and of his decision thereon and shall furnish to the High Court a copy of such notes when called upon to do so by order of a judge of such Court, suppressing in such copy the name of any person from whom information has been derived if he thinks it expedient to do so.

Cap. 22

(4) The Commissioner shall be deemed to be a public servant within the meaning of the Penal Code and may administer affirmations or oaths to and examine on affirmation or oath any person summoned before him for the purposes of this Act.

(5) Any person summoned who fails to attend at the hour and place specified in the summons or to do any of the other acts referred to in subsection (2) shall be liable to a fine of \$1,200.

(6) The Commissioner shall not be compellable in any judicial proceeding to answer any question as to the grounds of his decision in any case dealt with by him under this Act or as to anything which came to his knowledge in any inquiry made by him as Commissioner.

(7) The Commissioner may during or after such inquiry as is referred to in subsection (1) arrest or cause to be arrested any person reasonably suspected of being liable to prosecution for any offence under this Act committed in respect of such woman or girl or such premises or part thereof and may seize and detain any articles or any books, documents or accounts which he may have reason to believe relate to such offence.

20. (1) The Commissioner or a Police Officer not below the rank of Inspector generally or specially authorised for that purpose in writing by the Commissioner or any other officer so authorised may enter, and for that purpose use force if necessary, and search any place where the Commissioner or any officer so authorised has reasonable cause to believe that there is any woman or girl who is or may be liable to be dealt with under section 11, 14 or 15 or in which he has reasonable cause to believe that an offence under this Act has been or is being committed, and any person in any such place and may remove any such woman or girl to a place of safety to be there detained until her case is inquired into:

Power of
search

Provided that no female shall be searched except by a female and with due regard to decency.

(2) The Commissioner or such officer as aforesaid may enter, and for that purpose use force if necessary and search any place for the purpose of ascertaining whether there is therein any woman or girl who is or may be liable to be dealt with under section 11, 14 or 15 or whether any offence under this Act is being committed, and may remove any such woman or girl to a place of safety to be there detained until her case is inquired into.

(3) The Commissioner or such officer as aforesaid may during or after any such search as is referred to in subsections (1) and (2) arrest or cause to be arrested any person reasonably believe of being liable to prosecution for an offence under this Act committed in respect of such woman or girl and may seize and detain any articles or any books, documents or accounts which he may have reason to believe relate to such offence.

Power of
arrest and
seizure

(4) Any person who refuses the Commissioner or such officer as aforesaid access to any such place, or otherwise obstructs or hinders him in effecting an entrance or in

removing any such woman or girl shall be liable to a fine of \$2,000 and to imprisonment for 6 months.

(5) Any person who obstructs or hinders the Commissioner or such officer as aforesaid in seizing or detaining such articles, books, documents or accounts shall be liable to a fine of \$1,000 and to imprisonment for 3 months.

Provision as to service of processes etc.

21. (1) All processes, notices and other documents issued under this Act shall be deemed to have been validly and effectually served if served on the person intended to be served or if he cannot be found, if, in the presence of 2 witnesses, affixed to some conspicuous part of his habitual place of residence by any person authorised in that behalf by the Commissioner.

Arrest without warrant

(2) The Commissioner and any officer of his department and all police officers may arrest without warrant and take before a magistrate any person found committing any offence punishable under this Act.

Presumption arising out of warrants

22. (1) Every warrant of summons purporting to be issued in pursuance of this Act and to be under the hand of the Commissioner shall be received in evidence in any Court without further proof and shall be *prima facie* evidence of the facts therein stated.

(2) All acts done in pursuance of such warrant or summons shall be deemed to have been authorised by law.

Security bond

23. (1) All security bonds made in pursuance of the provisions of this Act shall be made with the Commissioner.

(2) All money forfeited by the Commissioner on any bond shall be paid to the Treasury for the benefit of the public revenue.

(3) The Commissioner may for reasons to be recorded by him in writing, refuse to accept as surety in any

bond under the provisions of this Act any person whom he has reason to suspect or to believe to be in any way connected with the buying or selling of women or girls for immoral purposes or to be otherwise an unfit person. Any person aggrieved by a refusal of the Commissioner under this subsection may make an application in the matter to the High Court, and such Court may either confirm the refusal of the Commissioner or may make such other order as to it may seem fit.

24. (1) The Minister may appoint for a place of safety a Discharge Committee which shall advise and make recommendations to the Commissioner on the discharge and after-care of women and girls in such place of safety.

Discharge
Committee

(2) A Discharge Committee may be appointed in respect of one or more places of safety as the Minister thinks fit.

(3) A Discharge Committee shall consist of 5 persons a majority of whom shall be women.

(4) The Discharge Committee shall review all cases of women or girls when they have been detained for 6 months, and may, after such review, recommend to the Commissioner that any child or young person shall be discharged or released on conditional parole licence.

(5) The Commissioner on the advice of the Discharge Committee and notwithstanding any order made by any court, shall have power to order the discharge or the release on parole licence of any woman or girl who has been detained in a place of safety for 6 months, at any time before the completion of her full period of detention and on such conditions as may be stated by him in such order.

(6) Any woman or girl released from a place of safety on conditional parole licence by order of the Commissioner, who breaks the conditions of her parole licence,

shall be brought before the Commissioner who shall have power to order the return of such woman or girl to the place of safety from which she was released, to be detained there for the unexpired portion of her original period of detention, except where the woman or girl concerned, by reason of any act of omission committed whilst on licence, renders herself liable to prosecution for any offence, in which case she shall be brought before the appropriate court.

Rules

25. (1) The Minister may make Rules for and in respect of all or any of the following purposes or matters —

(a) the care, detention, temporary absence, maintenance and education of women and girls detained under this Act;

(b) the manner and conditions in and under which the powers conferred by this Act shall be exercised by the persons on whom such powers are conferred;

(c) the composition, duties, functions and procedure of the Discharge Committee; and

(d) generally in relation to any matters, whether similar or not to those above mentioned, as to which it is expedient to make Rules for carrying into effect the objects of this Act.

(2) All such Rules when made shall be published in the *Gazette* and from the date of such publication shall have the same force and effect as if enacted in this Act.

(3) Any person who contravenes or fails to comply with any such Rules shall be liable to a fine of \$2,000 and to imprisonment for 6 months.

26. An appeal shall lie from any order made by the Commissioner under section 11, 14 or 15 to the Minister whose decision shall be final and shall not be questioned in any court. Appeal

SUBSIDIARY LEGISLATION

NOTE. There is no Subsidiary Legislation.