

LAWS OF BRUNEI

CHAPTER 133
INTERNAL SECURITY ACT

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LAWS OF BRUNEI
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CHAPTER 133
INTERNAL SECURITY
ARRANGEMENT OF SECTIONS

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INTERNAL SECURITY ACT

An Act to provide for the internal security of Brunei Darussalam, preventive detention, the prevention of subversion, the suppression of organised violence against persons and property in specific areas of Brunei Darussalam, and for matters incidental thereto

Commencement: 1st April 1983
[S 9/83]

PART I

PRELIMINARY

Citation.

1. This Act may be cited as the Internal Security Act.

Interpretation.

2. In this Act, unless the context otherwise requires —

“advisory board” means an advisory board constituted under section 5;

[S 38/05]

“ammunition” means ammunition for any firearm as hereafter defined and includes grenades, bombs and other like missiles whether capable of use with such firearm or not and any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing;

“Commissioner of Police” includes a Deputy Commissioner of Police and any gazetted police officer for the time being lawfully authorised to exercise the powers and perform the duties conferred or imposed upon the Commissioner of Police by this Act;

“controlled area” means any area declared to be a controlled area under section 32;

“danger area” means any area declared to be a danger area under section 31;

“document” includes any substance on which is recorded any matter, whether by letters, figures, marks, pictorial or other representation, or by more than one of these means;

“entertainment” means any game, sport, diversion, concert or amusement of any kind to which the public has or is intended to have access and in which members of the public may or may not take part, whether on payment or otherwise;

“exhibition” includes every display of goods, books, pictures, films or articles to which the public has or is intended to have access, whether on payment or otherwise;

“explosive” —

(a) means gunpowder, nitroglycerine, dynamite gun cotton, blasting powder, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect;

(b) includes fog-signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions and every adaption or preparation of an explosive as above defined; and

(c) includes any material for making any explosive and any apparatus, machine, implement or material used or intended to be used or adapted for causing or aiding in causing any explosion in or with any explosive, and any part of any such apparatus, machine or implement;

“firearm” means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or other missile and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing, and includes any component part of any such weapon as aforesaid;

“offence against this Act” includes an offence against any regulations made under section 53;

“officer commanding a Police District” means the officer appointed to perform the duties of that office and when such officer is unable through absence, illness or otherwise to perform his duties, means the police officer present and acting in the Police District who is next in rank below such officer appointed as aforesaid;

“police force” has the same meaning as in the Royal Brunei Police Force Act (Chapter 50), and includes —

(a) the Brunei Volunteer Police Force, or any part thereof, when on active service; and

(b) any auxiliary or special police force constituted under any written law for the time being in force, or any part of any such force, when on active service;

“police officer” means any member of the police force;

“prison officer” has the same meaning as in the Prisons Act (Chapter 51);

“promoter” in the case of an entertainment or exhibition promoted by a society, includes the secretary and officials of such society and, in the case of a society organised or having its headquarters outside Brunei Darussalam, the officials in Brunei Darussalam of such society;

“proprietor” includes the owner, tenant or other person in possession or control of premises and any person who receives payment for the use of premises;

“protected place” means any place or premises in relation to which an order made under section 33 is in force;

“public place” includes any highway, public street, public road, public park or garden, any sea beach, river, waterway, public bridge, lane, footway, square, court, alley or passage, whether a thoroughfare or not, any unalienated land, any theatre or place of public entertainment of any kind or other place of general resort admission to which is obtained by payment or to which the public have access, and any open space (whether enclosed or

unenclosed) to which for the time being the public have or are permitted to have access, whether on payment or otherwise;

“public road” means any public highway or any road over which the public have a right of way or are granted access, and includes every road, street, bridge, passage, footway or square over which the public have a right of way or are granted access;

“security area” means any area in respect of which a proclamation under section 30 is for the time being in force;

“security force” means the police force, the Royal Brunei Armed Forces, any other armed force for the time being of Brunei Darussalam, or any visiting force present for the time being in Brunei Darussalam by virtue of any written law or by virtue of any lawful arrangement made by or on behalf of Brunei Darussalam;

“supplies” includes ammunition, explosives, firearms, money, food, drink, clothing, medicines, drugs or any other stores, instruments, commodities, articles or things whatsoever;

“terrorist” means any person who —

(a) by the use of any firearm, explosive or ammunition acts in a manner prejudicial to the public safety or to the maintenance of public order or incites to violence or counsels disobedience to the law or to any lawful order;

(b) carries or has in his possession or under his control any firearm, ammunition or explosive without lawful authority therefor; or

(c) demands, collects or receives any supplies for the use of any person who intends or is about to act, or has recently acted, in a manner prejudicial to public safety or the maintenance of public order.

(2) Any reference in this Act to a vehicle (however described), vessel or aircraft shall not include any vehicle, vessel or aircraft for the time being employed for the purposes of any security force.

PART II

GENERAL PROVISIONS RELATING TO INTERNAL SECURITY

Chapter I

Powers of preventive detention

Power to order detention.

3. (1) If His Majesty the Sultan and Yang Di-Pertuan is satisfied with respect to any person that, in order to prevent that person from acting in any manner prejudicial to the security of Brunei Darussalam or any part thereof or to the maintenance of public order or essential services therein, it is necessary to do so, the Minister* shall make an order —

(a) directing that such person be detained for any period not exceeding 2 years; or

(b) for all or any of the following purposes —

- (i) for imposing upon that person such restrictions as may be specified in the order in respect of his activities and the places of his residence and employment;
- (ii) for prohibiting him from being out of doors between such hours as may be specified in the order, except under the authority of a written permit granted by such authority or person as may be so specified;
- (iii) for requiring him to notify his movements in such manner at such times and to such authority or person as may be specified in the order;
- (iv) for prohibiting him from addressing public meetings or from holding office in, or taking part in the activities of or acting as adviser to any organisation or association, or from taking part in any political activities;

* Transferred to the Minister of Law with effect from 1st January 1984 — [S 10/84]

* Further transferred to the Minister of Home Affairs with effect from 1st April 1987 — [S 14/87]

- (v) for prohibiting him from travelling beyond the limits of Brunei Darussalam or any part thereof specified in the order except in accordance with permission given to him by such authority or person as may be specified in such order,

and any order made under paragraph (b) shall be for such period, not exceeding 2 years, as may be specified therein, and may by such order be required to be supported by a bond.

(2) The Minister* may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, direct that the period of any order made under subsection (1) be extended for a further period or periods not exceeding 2 years at a time.

(3) For the purposes of subsection (1) “essential services” means any service, business, trade, undertaking, manufacture or calling included in Schedule 1.

(4) Every person detained in pursuance of an order made under subsection (1)(a) or of a direction given under subsection (2) shall be detained in such place as the Minister* may direct (hereinafter referred to as “a place of detention”) and in accordance with instructions issued by the Minister* and any rules made under subsection (5).

(5) His Majesty the Sultan and Yang Di-Pertuan may by rules provide for the maintenance and management of any place of detention and for the discipline of persons detained therein.

(6) Without prejudice to the generality of subsection (5) and notwithstanding anything in any other written law, rules made under subsection (5) may provide —

(a) for the appointment by the Director of Internal Security, with the approval of His Majesty the Sultan and Yang Di-Pertuan, of the Chief Superintendent and so many Superintendents, Senior Assistant Superintendents and subordinate officers for such places of detention as he may consider necessary;

[S 4/96; S 22/06]

* Transferred to the Minister of Law with effect from 1st January 1984 — [S 10/84]

* Further transferred to the Minister of Home Affairs with effect from 1st April 1987 — [S 14/87]

(b) for the appointment by the Director-General of Health Services of a medical officer and a dental officer for each place of detention;

[GN 274/02]

(c) for the functions and conditions of service of such officers;

(d) that all or any of such officers shall be deemed to be public servants within the meaning of the Penal Code (Chapter 22);

(e) for and regulate the use of any firearm or any other weapon by any such officer;

(f) that the Chief Superintendent may make and issue orders to be called “Standing Orders”, not inconsistent with this Act and such rules, regulating the discipline and administration of any place of detention;

[S 22/06]

(g) that a contravention of any such rule by any subordinate officer shall be an offence punishable by any one or more of the following penalties —

- (i) reprimand or severe reprimand;
- (ii) reduction in rank;
- (iii) dismissal or summary dismissal;
- (iv) forfeiture of pay or of arrears of pay;
- (v) extra duties or drills;
- (vi) payment of compensation in respect of Government property destroyed, lost or damaged;

(h) that the Chief Superintendent may impose any one or more of the penalties specified in paragraph (g) upon any subordinate officer guilty of a contravention of any such rule where such contravention makes such subordinate officer liable under such rules to such one or more penalties;

[S 22/06]

(i) for an appeal by any such subordinate officer to the Director of Internal Security against any penalty imposed on him by the Chief

Superintendent under any such rules made under paragraphs (g) and (h), and may authorise the Director of Internal Security to reduce or confirm such penalty;

[S 22/06]

(j) that, where it appears to the Chief Superintendent that an alleged offence ordinarily punishable with any one or more penalties within his competence under rules made under paragraphs (g) and (h) is of such a character as to require a more severe punishment than he is empowered to impose under such rules, he may direct that the subordinate officer accused of the offence be charged before a Court of a Magistrate;

[S 38/05; S 22/06]

(k) that a Court of a Magistrate shall have jurisdiction to try any subordinate officer charged before the court pursuant to any rule made under paragraph (j), and that any such subordinate officer who is convicted by the court pursuant to such rule and any rule made under this paragraph shall be liable to be sentenced by the court to any one or more of the following penalties —

- (i) imprisonment for a term not exceeding 6 months;
- (ii) a fine not exceeding \$1,000; and
- (iii) in respect of any Government property destroyed, lost or damaged, payment of compensation which shall be summarily ascertained by the court and recoverable as if it were a fine;

(l) that any subordinate officer who is convicted by a Court of a Magistrate of an offence under such rules shall (in addition to any penalty imposed by the court) be dismissed from his office by a Superintendent and that Superintendent may order that all arrears of pay due to such subordinate officer shall be forfeited by him;

(m) that a contravention of any rule by any detained person shall be an offence punishable by any one or more of the following penalties —

- (i) reprimand or severe reprimand;
- (ii) loss of any dietary or other privilege for any period;

- (iii) confinement in a punishment cell for a term not exceeding 90 days;
- (iv) any such other penalty (not being corporal punishment) as may be specified in any such rules;

(n) that any Superintendent may impose any one or more of the penalties specified in paragraph (m) upon any detained person found after due enquiry to be guilty of an offence under any such rule where such contravention makes such detained person liable under such rules to such one or more penalties;

(o) that a contravention of any such rule by any person shall be punishable on conviction before a Court of a Magistrate by imprisonment for 2 years and a fine of \$2,000, and that if the offender is an officer appointed under or by virtue of such rules he shall (in addition to any penalty imposed by the court in respect of such conviction) be liable to be dismissed from his office and to forfeit all arrears of pay;

(p) for the keeping and maintenance of books, records and journals in and for places of detention;

(q) for the regulation of the diet of detained persons;

(r) for visitors to and complaints and petitions from detained persons;

(s) for the retention and care of movable property of detained persons;

(t) for the searching of detained persons, visitors to detained persons and subordinate officers, and that no woman shall be searched except by a female officer;

(u) for the work, pay and privileges of detained persons;

(v) that a detained person who escapes from a place of detention or from any other custody may be retaken in the same manner as a person convicted of a crime against any written law may be retaken on an escape;

(w) for the regular medical inspection of places of detention and detained persons and for the care, custody and treatment of sick and mentally ill detained persons;

(x) for the appointment by the Minister* of any 2 or more persons to constitute a Board of Inspection for any place of detention and for the functions of such Board;

(y) for the inspection and disposal of all letters, parcels or other articles delivered to a place of detention for a detained person;

(z) for the disposal of any pay of any officer forfeited under such rules;

(za) for the continuance in office under such rules of any officer or Board of Inspection appointed in respect of any place of detention under any law relating to any place of detention and in force immediately before the commencement of this Act, and the continuance in force under such rules of any Standing Orders or other instrument in force, and made under any such law in force, immediately before such commencement; and

(zb) for such other matters as His Majesty the Sultan and Yang Di-Pertuan may consider expedient for the maintenance and management of any place of detention and for the discipline of persons detained therein.

Detention order may be suspended.

4. At any time after an order has been made under section 3(1)(a) or after such an order has been extended by a direction under section 3(2) in respect of any person the Minister* may direct that the operation of such order be suspended subject to the execution of a bond and to such conditions —

(a) imposing upon that person such restrictions as may be specified in the direction in respect of his activities and the places of his residence and employment;

(b) prohibiting him from being out of doors between such hours as may be so specified, except under the authority of a written permit granted by such authority or person as may be so specified;

(c) requiring him to notify his movements in such manner at such times and to such authority or person as may be so specified;

* Transferred to the Minister of Law with effect from 1st January 1984 — [S 10/84]

* Further transferred to the Minister of Home Affairs with effect from 1st April 1987 — [S 14/87]

(d) prohibiting him from travelling beyond the limits of Brunei Darussalam or any part thereof specified in the direction except in accordance with permission given to him by such authority or person as may be so specified;

(e) prohibiting him from addressing public meetings or from holding office in, or taking part in the activities of or acting as adviser to any organisation or association, or from taking part in any political activities;

(f) permitting him to return to the country to which he belongs or to any other place to which he wishes to proceed provided that the Government of such place consents to receive him,

as the Minister* sees fit; and the Minister* may revoke any such directions if he is satisfied that the person against whom the order was made has failed to observe any condition so imposed or that it is necessary in the public interest that such direction should be revoked.

Service of detention order.

5. (1) A copy of every order made by the Minister* under section 3(1)(a) shall as soon as may be after the making thereof be served on the person to whom it relates, and every such person shall be entitled to make representations against the order to an advisory board.

[S 38/05]

(1A) For the purpose of enabling a person to make representations under subsection (1) he shall, within 14 days of the service on him of the order —

(a) be informed of his right to make representations to an advisory board under subsection (1); and

(b) be furnished by the Minister with a statement in writing of —

(i) the grounds on which the order is made;

(ii) the allegations of fact on which the order is based; and

* Transferred to the Minister of Law with effect from 1st January 1984 — [S 10/84]

* Further transferred to the Minister of Home Affairs with effect from 1st April 1987 — [S 14/87]

- (iii) such other particulars, if any, as he may in the opinion of the Minister reasonably require in order to make representations against the order to the advisory board.

[S 38/05]

(1B) His Majesty the Sultan and Yang Di-Pertuan may make rules as to the manner in which representations may be made under this section and for regulating the procedure of advisory boards.

[S 38/05]

(2) For the purposes of this Chapter, there shall be one or more advisory boards consisting in each case of a Chairman and not less than 3 other members appointed by His Majesty the Sultan and Yang Di-Pertuan. The Chairman and 2 other members of a board shall constitute a *quorum*.

(3) In addition to the Chairman, His Majesty the Sultan and Yang Di-Pertuan may appoint a Deputy Chairman who shall preside over a board at any time when the Chairman is unable to do so.

(4) An advisory board shall be appointed by His Majesty the Sultan and Yang Di-Pertuan to enquire into the grounds of every order made by the Minister under section 3(1)(a) and after making such enquiry, the advisory board shall make recommendations on whether and under what conditions the order made by the Minister under that paragraph (including any order extended with the approval of His Majesty the Sultan and Yang Di-Pertuan under section 3(2)) should be cancelled or suspended.

[S 38/05]

(5) All questions before a board shall be determined by a majority of the votes of the presiding Chairman or Deputy Chairman, as the case may be, and of any other members present and voting. In the case of an equality of votes the Chairman or Deputy Chairman, as the case may be, shall have a casting vote.

Report of advisory board.

6. (1) Whenever an advisory board has been appointed by His Majesty the Sultan and Yang Di-Pertuan to enquire into the grounds of every order made by the Minister under section 3(1)(a), the advisory board shall, within 3 months of the date of such appointment or within such period as may be specified by His Majesty the Sultan and Yang Di-Pertuan, complete its

enquiry and forthwith submit its recommendations thereon to His Majesty the Sultan and Yang Di-Pertuan.

[S 38/05]

(2) Upon considering the recommendations of the advisory board under this section His Majesty the Sultan and Yang Di-Pertuan may give the Minister* such directions, if any, as he thinks fit regarding the order made by the Minister*; and every decision of His Majesty the Sultan and Yang Di-Pertuan thereon shall be final, and shall not be called in question in, or be subject to any review by or appeal to, any court.

[S 38/05]

Review. [S 38/05]

6A. (1) Every order or direction made or given by the Minister under sections 3 or 4 (including any order extended with the approval of His Majesty the Sultan and Yang Di-Pertuan under section 3(2)) shall, so long as it remains in force, be reviewed by an advisory board at intervals of not more than one year, and the first of such reviews to take place in the case of a person who —

(a) is detained in a place of detention, not more than one year from the date on which his representations against the order were considered by an advisory board or, where no such representations have been made, not more than 15 months from the date on which that person was detained in pursuance of the order;

(b) is not detained in a place of detention, where the order has been made under section 3(1), not more than one year from the date on which the order was served on him;

(c) has been released from a place of detention in pursuance of a direction under section 4, not more than one year from the date of his release.

(2) The advisory board shall, on completing every review under subsection (1), forthwith submit to the Minister a written report of every such review, and may make therein such recommendations as it thinks fit.

* Transferred to the Minister of Law with effect from 1st January 1984 — [S 10/84]

* Further transferred to the Minister of Home Affairs with effect from 1st April 1987 — [S 14/87]

Power to summon witnesses.

7. Every advisory board shall, for the purposes of this Act, but without prejudice to section 9, have all the powers of a court for the summoning and examination of witnesses, the administration of oaths or affirmations, and for compelling the production of documents.

Member of advisory board deemed to be a public servant.

8. Every member of an advisory board shall be deemed to be a public servant within the meaning of the Penal Code (Chapter 22), and shall have in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duty under this Chapter the like protection and privileges as are by law given to a judge in the execution of his office.

Disclosure of information.

9. Nothing in this Chapter or in any rules made thereunder shall require the Minister* or any member of an advisory board or any public servant to disclose facts or to produce documents whose disclosure or production he considers to be against the national interest.

Power to order removal.

10. (1) The Minister* may by order direct the removal from any place of detention to another place of detention to be specified in such order of any person detained to be specified in such order of any person detained in pursuance of the provisions of this Chapter.

(2) Any person in the course of removal under subsection (1) shall be deemed to be in lawful custody.

Power to order production of detained persons.

11. (1) Notwithstanding any order of any court or other authority whatsoever, on proof to his satisfaction that the presence at any place of any person detained under this Chapter or lawfully in the custody of the police or confined in any prison whether under this Chapter or under an order of any court or otherwise howsoever, is required —

(a) in the interests of justice;

* Transferred to the Minister of Law with effect from 1st January 1984 — [S 10/84]

* Further transferred to the Minister of Home Affairs with effect from 1st April 1987 — [S 14/87]

- (b) for the purpose of any public or other inquiry;
- (c) in the national interests; or
- (d) in the interests of the person so detained, in custody or confined,

the Minister* may order that such person be taken to that place.

(2) Any person in the course of being taken to any place under subsection (1) and while at such place shall be kept in such custody as the Minister* may direct and while in that custody shall be deemed to be in lawful custody.

Saving in respect of prosecution of persons detained.

12. The detention of any person under this Chapter shall be without prejudice to the taking of any criminal proceeding against such person, whether during or after the period of his detention.

Chapter II

Control of entertainments and exhibitions

Power to require information.

13. (1) The promoter and every person concerned in the promotion of any entertainment or exhibition and the proprietor of any premises upon which any such entertainment or exhibition is held or is intended to be held shall, upon receiving the order in writing of the Minister** or of any officer authorised by the Minister** in that behalf, furnish to the Minister** or such officer such information as he may specify relating to the following matters —

- (a) particulars of persons concerned in the promotion of such entertainment or exhibition and the interests represented by such persons;

* Transferred to the Minister of Law with effect from 1st January 1984 — [S 10/84]

* Further transferred to the Minister of Home Affairs with effect from 1st April 1987 — [S 14/87]

** Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

(b) particulars of the persons who have agreed to participate or participated in such entertainment or exhibition or have been invited to do so and the interests represented by such persons;

(c) the purposes of which any profits from the entertainment or exhibition are intended to be or have been applied; and

(d) such other matters as the Minister* may direct.

(2) Any person furnishing as true information required under subsection (1) which he knows or has reason to believe to be false or incomplete shall be guilty of an offence under section 22.

(3) If any entertainment or exhibition in respect of which information has been furnished under subsection (1) is conducted in any manner contrary to the information so furnished the person by whom such information was furnished shall be guilty of an offence under section 22.

Power to impose conditions.

14. (1) The Minister* may, if he is satisfied that it is necessary to do so in order to ensure that any entertainment or exhibition shall not be an entertainment or exhibition to which section 16 would apply, by order in writing require the promoter and every person concerned in the promotion of the entertainment or exhibition and the proprietor of any premises upon which any such entertainment or exhibition is held or is intended to be held to observe such conditions relating to the holding of such entertainment or exhibition as he may specify.

(2) Every person who commits any breach of or fails to comply with any condition imposed under subsection (1) shall be guilty of an offence under section 22:

Provided that no person shall be convicted of an offence under this section if he proves that the breach of or failure to comply with any condition in respect of which he is charged was done without his authority, consent and knowledge, and without any want of due care or caution on his part.

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

(3) The Minister* may, if in any particular case he thinks it necessary, require any person in respect of whom an order under subsection (1) has been made to enter into a bond, with or without sureties, in such sum as the Minister* may direct, that the conditions contained in such order shall be observed.

Promoter etc. to be in attendance at entertainment or exhibition.

15. (1) The promoter and every person concerned in the promotion of any entertainment or exhibition which is the subject of an order under section 14 and the proprietor of any premises upon which any such entertainment or exhibition is held shall severally, and either personally or by a duly authorised agent approved in that behalf by a police officer not below the rank of inspector, be present throughout the period of every performance or display of every such entertainment or exhibition.

[S 38/05]

(2) The Minister* may by writing exempt any person either absolutely or subject to such conditions as the Minister* may prescribe from the provisions of subsection (1).

Power to prohibit certain entertainments or exhibitions.

16. (1) The Minister* may by order prohibit the holding of or may direct the closing of any entertainment or exhibition if —

(a) he is satisfied that such entertainment or exhibition is or is likely to be in any way detrimental to the national interest; or

(b) there has been in respect of such entertainment or exhibition any refusal of or failure to furnish any information required to be furnished under section 13, or if any information so furnished is false or incomplete; or

(c) there has been in respect of such entertainment or exhibition any breach of or failure to comply with any condition imposed under section 14.

(2) The promoter and every person concerned in the promotion of any entertainment or exhibition which is held or continued in contravention of an order under subsection (1) and the proprietor of any premises upon which such exhibition is held shall be guilty of an offence under section 22:

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

Provided that no person shall be convicted of an offence under this section if he proves that the entertainment or exhibition in respect of which he is charged was promoted or continued without his authority, consent and knowledge and without any want of due care or caution on his part.

Powers of entry and investigation.

17. (1) Any police officer not below the rank of inspector or any person authorised by the Minister* in writing in that behalf may without warrant enter any premises upon which any entertainment or exhibition is being held or is intended to be held with a view to ascertaining whether the provisions of this Chapter or of any order made thereunder are being complied with, and may make such investigation and inspection of such premises and call upon any person to produce such articles, books, accounts, tickets or other documents or things and to furnish any information as such officer or person may consider necessary for such purpose:

Provided that any person not in uniform purporting to exercise any powers under this paragraph shall on demand produce his written authority to exercise such powers to any person lawfully demanding the same.

(2) Any person who —

(a) obstructs any officer or authorised person lawfully exercising any powers conferred on him by or under subsection (1) in entering or inspecting any premises or delays in producing any articles, books, accounts, tickets or other documents or things which he has been called upon by such officer or authorised person to produce and which are or ought to be in the ordinary course of business in his power to produce;

(b) refuses to furnish any information which he may be required to furnish by such officer or authorised person or who, being required to furnish information by such officer or authorised person, furnishes false or misleading information; or

(c) obstructs the seizure of any document or other thing under section 19, or the closure of any entertainment or exhibition under section 20,

shall be guilty of an offence under section 22.

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

Search.

18. (1) Any officer or person authorised to exercise the powers of entry or investigation under section 17 may, without warrant and with or without assistance, enter any premises if he considers it to be necessary and has reason to believe that an offence under this Chapter or any order made thereunder has been committed, and may search such place and any person whom he reasonably believes to be concerned in the management or promotion of any entertainment or exhibition or to be a servant or agent of the promoter or of the proprietor of such premises.

(2) No woman shall be searched under this section except by a woman.

Powers of seizure.

19. Any officer or person authorised to exercise the powers of entry or investigation under section 17 may seize any document or other thing in respect of which he reasonably believes an offence to have been committed under this Chapter or any order made thereunder or which he reasonably believes to be or to contain evidence relating to such an offence:

Provided that nothing in this section shall be deemed to affect the powers of a police officer under the provisions of the Criminal Procedure Code (Chapter 7).

Powers of closure.

20. Any officer or person authorised to exercise the powers of entry or investigation under section 17 may, without prejudice to the exercise of the powers conferred on him by that section, forthwith take such steps as he may consider necessary to close any entertainment or exhibition which he is satisfied is kept open in contravention of any order under sections 14 or 16.

Liability of principal for acts of servant.

21. For the purposes of this Chapter and any order made thereunder, every person shall be liable for every act, omission, neglect or default of any agent or servant employed by him, as fully and effectually as if such act, omission, neglect or default were done or committed by such person; provided that nothing in this section shall affect the liability of such agent or servant, and provided that the liability of a principal shall not extend to imprisonment if he proves that he was not privy to the offence.

Abetment and penalty.

22. Any person who contravenes or fails to comply with any provision of this Chapter or any order made or any condition imposed thereunder, or abets such contravention or failure, shall be guilty of an offence: Penalty, imprisonment for 5 years and a fine of \$30,000.

[S 9/91]

Chapter III**Other powers for the prevention of subversion****Power relating to appointments.**

23. (1) In this section —

“appointing authority” means in relation to an appointment of any person, body or authority authorised under any written law to make that appointment, but does not include His Majesty the Sultan Yang Di-Pertuan in Council or the Minister*;

“appointment” means in relation to an appointing authority any appointment which that appointing authority is authorised to make under any written law; and

“controlled appointment” means an appointment which is for the time being subject to an order made under subsection (2).

(2) Notwithstanding anything to the contrary in any other written law, the Minister* may by order require any appointing authority to comply with this section in relation to any appointment.

(3) Before exercising any authority to recruit any person for or make any controlled appointment the appointing authority shall —

(a) submit to the Minister* —

(i) a list of the names of the persons from whom such appointment is intended to be made by the appointing authority; and

(ii) such other information as the Minister* may require; and

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

(b) apply for and obtain the written approval of the Minister* in respect of the recruitment and appointment of the person selected by the appointing authority for such recruitment and appointment.

(4) The Minister* shall give his approval under subsection (3)(b) unless he is of the opinion that the appointment to the controlled appointment in question of the person selected by the appointing authority would be prejudicial to the interests of Brunei Darussalam.

(5) A decision of the Minister* to give or refuse his approval under subsections (3)(b) and (4) shall be final and shall not be called in question in, or be subject to any review by or appeal to, any court.

[S 38/05]

(6) No purported recruitment or purported appointment of any person shall be valid for any purpose if the prior approval of the Minister* has not been obtained under subsections (3)(b) and (4) in respect of that person.

(7) No person who receives, or acquires any knowledge of any part of the contents of, any communication from the Minister* under subsections (3)(b) or (4) shall make any disclosure, otherwise than in the course of the his official duty, to any other person in relating to that communication.

Power to close schools or educational institutions.

24. (1) In this section —

“school” means —

(a) a place where 10 or more persons are or are habitually taught, whether in one or more classes; or

(b) in the case of a correspondance school, the place or places where instruction is prepared or where answers are examined or corrected,

but does not include any place where the teaching is of a purely religious character, or for a purely religious purpose;

“educational institution” means any place (including a school) where, in the carrying on of the work of any organisation or institution, persons are or are habitually taught, whether in one or more classes, but does not include any place where the teaching

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

is of a purely religious character, or for a purely religious purpose.

(2) The Minister*, if he is satisfied at any time that a school or educational institution is being used —

(a) for a purpose detrimental to the interests of Brunei Darussalam or of the public;

(b) for purpose of instruction detrimental to the interests of the public or of the pupils; or

(c) as a meeting-place of an unlawful society,

and that the circumstances so require, may make an order closing such school or educational institution for such period, not exceeding 6 months at any one time, as may be specified in the order.

(3) The managers or governors of any school or educational institution, aggrieved by any order made under subsection (2), may within one month of the date of the order make an objection against such order to His Majesty the Sultan and Yang Di-Pertuan whose decision thereon shall be final, and shall not be called in question in, or be subject to any review by or appeal to, any court.

[S 38/05]

Power to control admission to institutions of higher education. [S 38/05]

24A. (1) The Minister, where there appear to him to be reasonable grounds for believing that an applicant to be admitted as a student of an institution of higher education in Brunei Darussalam to which this section applies would be likely to promote, or otherwise participate in, any action prejudicial to the interests or security of Brunei Darussalam or any part thereof, may by order in writing forbid him from being so admitted.

(2) Any person whose application to be admitted as a student has been the subject of an order under subsection (1) may, within one month beginning with the date on which he is notified of the order, appeal against it to His Majesty the Sultan and Yang Di-Pertuan whose decision thereon shall be final, and shall not be called in question in, or be subject to any review by or appeal to, any court.

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

(3) The institutions of higher education to which this section applies are as follows —

- (a) Universiti Brunei Darussalam;
- (b) Institute Technology Brunei; or
- (c) any other institution of higher education which the Minister may designate by notification published in the *Gazette*,

and references in this section to a person's admission as a student to any such institution are references to his registration or enrolment for attendance at any course of study provided by the institution.

Powers in relation to pupils etc. visiting Brunei Darussalam.

25. (1) The Minister* may, from time to time, by order in writing forbid, except in accordance with his written permission —

- (a) the pupils, students, teachers or members;
- (b) any class of pupils, students, teachers or members; or
- (c) any named pupil, student, teacher and member,

of any school, college, educational institution or student's union or association, as the case may be, specified in the order and situated or established outside Brunei Darussalam to enter into or travel within Brunei Darussalam as a group, or as one of a group of 5 or more such pupils, students, teachers, or members, or, for the purpose affecting as one of a group of such persons some common object within Brunei Darussalam, or otherwise to enter into or travel therein.

(2) The Commissioner of Police may, in accordance with the written permission of the Minister* under subsection (1), grant permission subject to such conditions (if any) as he may think fit to impose, and he may further require as a condition precedent thereto that a pupil, student, teacher or member to whom he proposes to grant such permission or the parent of a pupil, student or member or such other person as the Commissioner of Police thinks satisfactory, shall furnish such security by bond or otherwise as the Commissioner of Police may think sufficient to secure the due observance and fulfilment of the conditions imposed.

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

- (3) Where the Commissioner of Police has reason to believe that —
- (a) any person —
- (i) is a pupil, student, teacher or member affected by an order made under subsection (1);
 - (ii) has entered Brunei Darussalam from a place outside and has not since the date of such entry continuously remained in Brunei Darussalam for a period exceeding 3 months;
 - (iii) is not the holder of a valid identity card which bears an address in Brunei Darussalam and has been issued to him in Brunei Darussalam in accordance with the provisions of any written law relating to identity cards; and
- [S 38/05]*
- (iv) has contravened or intends to contravene the provisions of any such order;
- (b) any person having obtained written permission under subsection (1) has failed to observe any condition imposed upon him under subsection (2) in respect of such permission,

the Commissioner of Police may by order in writing —

(A) direct that such person be required to leave Brunei Darussalam within such time as may be specified in the order and thereafter remain out of Brunei Darussalam for a period of 6 months from the date of the service of the order upon him, or for such lesser period as the Commissioner of Police may specify in the order; or

(B) direct that such person be taken into custody and, as speedily as may be, removed from Brunei Darussalam, and that such person may lawfully be detained for so long as may be necessary for his removal to take effect and that he shall remain out of Brunei Darussalam for a period of 6 months from the date of his removal pursuant to the order.

(4) Any person who contravenes or fails to obey the provisions of any order made under this section or who commits a breach of any condition imposed under subsection (2) shall be guilty of an offence against this Part.

(5) The provisions of this section shall not operate to authorise the removal from Brunei Darussalam of any person who is a Bruneian ordinarily resident in Brunei Darussalam.

Chapter IV

Miscellaneous

Attempts to commit offences and assisting offenders.

26. (1) Without prejudice to the operation of Chapter V and XXIII of the Penal Code (Chapter 22), any person who attempts to commit, or does any act preparatory to the commission of an offence against this Part shall be deemed to be guilty of that offence against this Part.

[S 38/05]

(2) No person, knowing or having reasonable cause to believe that another person has committed an offence against this Part, shall give that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for that offence.

Abetment and general penalty.

27. Any person who contravenes or fails to comply with any provision of this Part or any order made or any direction or instruction given or requirement imposed thereunder or abets such contravention or failure for which no special penalty is provided shall be guilty of an offence: Penalty, imprisonment for 3 years and a fine of \$10,000.

[S 9/91]

Arrest.

28. Any police officer may without warrant arrest any person found or reasonably suspected of committing or attempting to commit or of procuring or abetting any person to commit an offence against this Part, or suspected of being a person ordered in pursuance of this Part to be detained.

Enforcement of bonds.

29. (1) Where any person is required to enter into a bond under sections 3(1)(b), 4 or 14(3), such bond may be enforced by any magistrate on the

application of any police officer not below the rank of inspector, in the same manner as under the provisions of the Criminal Procedure Code (Chapter 7), a Court of a Magistrate may enforce a bond required by such court to be executed under the provisions of that Code.

(2) Nothing in this section shall be deemed to prevent the penalty or any part thereof of any such bond from being recovered on behalf of Government by suit or action in any civil court of competent jurisdiction, from the person entering into such bond or from his sureties.

PART III

SPECIAL PROVISIONS RELATING TO SECURITY AREAS

Chapter I

Security areas

Proclamation of security areas.

30. (1) If in the opinion of His Majesty the Sultan and Yang Di-Pertuan public security in any area in Brunei Darussalam is seriously disturbed or threatened by reason of any action taken or threatened by any substantial body of persons, whether inside or outside Brunei Darussalam, to cause a substantial number of citizens to fear organised violence against persons or property, he may, if he considers it to be necessary for the purpose of suppressing such organised violence, proclaim such area as a security area for the purposes of this Part.

(2) Every proclamation made under subsection (1) shall apply only to such area as is therein specified and shall remain in force until it is cancelled by His Majesty the Sultan and Yang Di-Pertuan:

Provided that such cancellation shall be without prejudice to anything previously done by virtue of the proclamation.

(3) A proclamation made under subsection (1) shall be published in such manner as the Minister* thinks necessary for bringing it to the notice of all persons who in his opinion ought to have notice thereof and shall have effect as soon as such notice has been given, without publication in the *Gazette*.

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

(4) A copy of every proclamation made under subsection (1) shall be published in the *Gazette* as soon as possible after it has been made.

Chapter II

Powers relating to the preservation of public security

Danger areas.

31. (1) The Minister* may, if he considers it necessary or expedient in the public security so to do, by order declare any area within a security area to be a danger area.

(2) The limits and extent of every danger area shall be demarcated at the site by such means as will, in the opinion of the Minister*, make apparent to persons in or about the area concerned that such area has been declared a danger area.

(3) No person shall enter or remain in a danger area, and any person who fails to comply with the provisions of this subsection shall be guilty of an offence against this Part:

Provided that this subsection shall not apply to a member of any security force in the performance of his duty, or to any person accompanied by such a member.

(4) Any member of any security force may within a danger area take such measures, including means dangerous or fatal to human life, as he considers necessary to ensure that no person prohibited from entering or remaining in a danger area shall enter or remain in such area.

(5) No claim of any kind shall accrue to, or in respect of any injury sustained by, any person as a result of his having entered or remained in a danger area in contravention of subsection (3):

Provided that this subsection shall not preclude the award of compensation under any regulations made under section 53 if, in the particular circumstances under which the person sustaining the injury entered or remained in a danger area, the authority empowered to award compensation thereunder considers it equitable to award such compensation.

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

(6) Where any land, building or other immovable property is within a danger area, a claim for compensation in respect of such land, building or other immovable property may be made in the manner prescribed by regulation made under section 53.

(7) Without prejudice to section 62(1), a copy of every order made under subsection (1) shall be published in the *Gazette* as soon as possible after it has been made.

Controlled areas.

32. (1) The Minister* may, if he considers it expedient in the public security so to do, by order declare any area within a security area to be a controlled area, and in the same or any subsequent order may declare any specified part of such controlled area to be a residential part.

(2) Every such order shall declare that —

(a) after the expiration of a period to be specified in the order (which shall not be less than 7 days from the date thereof) and subject to any exemption for which provision may be made by the same or by a subsequent order and to any conditions upon which such exemption may be granted, no person shall reside or continue to reside in any part of a controlled area other than a residential part; and

(b) between such hours or at such times as may be specified in the order and subject to any exemption for which provision may be made by the same or by a subsequent order and to any conditions upon which such exemption may be granted, no person shall enter or remain in any part of the controlled area other than a residential part.

(3) Any person who contravenes any provision of an order made under this section shall be guilty of an offence against this Part.

(4) No order under this section shall apply to —

(a) any member of any security force when acting in the course of his duty; or

(b) any person or class of persons exempted from the provisions of such order by the Commissioner of Police or the officer commanding the Police District.

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

(5) Without prejudice to section 62(1), a copy of every order made under subsection (1) shall be published in the *Gazette* as soon as possible after it has been made.

Protected place.

33. (1) If, as respects any place or premises in any security area, it appears to the Commissioner of Police to be necessary or expedient in the interests of public security or order, or for the maintenance of supplies or services essential to the life of the community, that special precautions should be taken to prevent the entry of unauthorised persons, he may by order declare such place or premises to be a protected place for the purposes of this Part; and so long as the order is in force, no person shall, subject to any exemption for which provision may be made in the order, enter or remain in that place or those premises without the permission of such authority or person as may be specified in the order.

(2) Where, in pursuance of this section, any person is granted permission to be in a protected place, that person shall, while acting under such permission, comply with such directions for regulating his conduct as may be given by the Commissioner of Police or by the authority or person granting the permission.

(3) Any police officer, or any person authorised in that behalf by the officer commanding the Police District may search any person entering or seeking to enter, or being in a protected place, and may detain any such person for the purpose of searching him.

(4) If any person is in a protected place in contravention of this section, or while in such a place, fails to comply with any directions given under this section, then without prejudice to any proceedings which may be taken against him he may be removed from the place by any police officer or any person authorised in that behalf by the occupier of the premises.

(5) Any person who is in a protected place in contravention of this section or who on being challenged by a police officer wilfully fails to stop or who unlawfully refuses to submit to search shall be guilty of an offence against this Part.

(6) It shall be lawful for the Commissioner of Police to take or cause to be taken such steps as he may deem necessary for the protection of any protected place, and such steps may extend to the taking of defensive

measures which involve or may involve danger to the life of any person entering or attempting to enter the protected place.

(7) Where any measures involving such danger as aforesaid are adopted, the Commissioner of Police shall cause such precautions to be taken, including the prominent display of warning notices, as he deems reasonably necessary to prevent inadvertent or accidental entry into any protected place, and where such precautions have been duly taken, no person shall be entitled to compensation or damages in respect of injury received or death caused as a result of any unauthorised entry into any such protected place.

(8) For the purposes of this section, “police officer” shall include any —

(a) member of any other security force;

(b) prison officer;

(c) other person performing the duties of guard or watchman in a protected place, the appointment of whom has been either specially or generally authorised by the Commissioner of Police.

(9) No woman shall be searched under this section except by a woman.

Exclusion of persons.

34. The officer commanding a Police District may by order in writing exclude any person or persons from the Police District under his command or from any part thereof, if such District or part is within a security area.

Curfew.

35. (1) The Commissioner of Police may, by order designate the whole or part of a security area, as a curfew area.

(2) Every person within a curfew area shall remain within doors, or within such part of the curfew area as may be defined in the order, between such hours as may be specified in the order, unless in possession of a written permit in that behalf issued by a police officer of or above the rank of Inspector.

- (3) No order under this section shall apply to any —
- (a) member of a security force when acting in the course of his duty;
 - (b) person or class of persons exempted from the provisions of such order by the Commissioner of Police or the officer commanding the Police District.

Power to take possession of land or buildings.

36. (1) The Minister* may, if it appears to him to be necessary or expedient so to do in the interests of public security, or for the accommodation of any security force, take possession of any land or of any building or part of a building in any security area and may give such directions as appear to him necessary or expedient in connection with the taking of possession of that land or building.

(2) Any police officer may take such steps and use such force as appears to him to be reasonably necessary for securing compliance with directions given to any person under subsection (1).

(3) While any land or building is in the possession of the Minister* by virtue of this section, the land or building may, notwithstanding any restriction imposed on the use thereof (whether by any written law or other instrument or otherwise), be used by, or under the authority of, the Minister* for such purpose, and in such manner, as the Minister* thinks expedient in the interests of public security or for the accommodation of any security force; and the Minister*, so far as appears to him to be necessary or expedient in connection with the taking of possession or use of the land or building in pursuance of this subsection may —

(a) do, or authorise persons using the land or building as aforesaid to do, in relation to the land or building, anything any person having an interest in the land or building would be entitled to do by virtue of that interest; and

(b) by order provide for prohibiting or restricting the exercise of rights of way over the land or building, and of other rights relating thereto which are enjoyed by any person, whether by virtue of an interest in land or otherwise.

(4) The owner or occupier of any land or building shall, if requested by or on behalf of the Minister* so to do, furnish to such authority or person

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

as may be specified in the request such information in his possession relating to the land or building (being information which may reasonably be demanded of him in connection with the execution of this section) as may be so specified.

(5) For the purposes of this section there shall be one or more advisory committees consisting of persons appointed by the Minister* and any such committee may make rules for the conduct of its proceedings.

(6) Any person aggrieved by reason of the taking possession of any land or building under the provisions of this section may within 14 days after such possession has been taken give notice of his objection thereto to an advisory committee appointed under subsection (5).

(7) The Chairman of an advisory committee to which such notice has been given by an aggrieved person shall inform any person on whose behalf possession of such land or building has been taken, and the advisory committee shall thereupon consider the objection made by the aggrieved person and any grounds which may be put forward against such objections by the person on whose behalf such possession has been taken, and shall forward its recommendations to the Minister*.

(8) The Minister* after considering the recommendations of the advisory committee shall give such directions thereon as he may think fit.

Power to order destruction of certain unoccupied buildings.

37. (1) Where in any security area any building or structure is left unoccupied by reason of the operation of any order made under this Chapter, the officer commanding the Police District in which such building or structure is situated may, if it appears to him to be —

(a) likely that such building or structure will if left standing be used by any person or persons who intend, or are about, to act or have recently acted in a manner prejudicial to public security or by any other person who is likely to harbour any such persons; and

(b) impracticable in any other way to prevent such use,

destroy or authorise the destruction of such building or structure.

(2) Compensation shall be payable in respect of the destruction of any building or structure under this section if the claimant satisfied the Minister* that —

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

(a) such building or structure was erected by or with the consent of the person lawfully entitled to the land on which the same was erected; and

(b) such building or structure was not liable to forfeiture under any regulations made under section 53:

Provided that compensation may be paid to the owner or occupier of any building or structure erected by or with the consent of the person lawfully entitled to the land on which it was erected, notwithstanding that such building or structure is liable to forfeiture under any regulations made under section 53, if such owner or occupier satisfied the Minister* that the building or structure was used by persons who intend, or are about, to act or have recently acted, in a manner prejudicial to public security or that such persons were being or had been harboured by his servant or agent, as the case may be, without his knowledge or consent, and that he exercised all due diligence to prevent such building or structure being so used or the harbouring of such persons, as the case may be.

(3) Any compensation payable under this section shall be assessed in accordance with regulations made under section 53.

Power to control roads etc.

38. (1) Any officer commanding a Police District or any person duly authorised by any such officer may by order, or by giving directions, or in any other manner, regulate, restrict, control or prohibit the use of any road or waterway in any security area by any person or class of persons or any vehicle or vessel or type or description of vehicle or vessel or close any road or waterway in such area.

(2) Any officer commanding a Police District may, by the issue of permits to which conditions may be attached or in any other manner, regulate, restrict, control or prohibit the travelling by any person or class of persons in any motor car, motor bus or vehicle of any description in any security area, and may similarly regulate, restrict, control or prohibit the travelling by any person in any vessel in such area.

* Transferred to the Minister of Home Affairs with effect from 1st January 1984 — [S 10/84]

Power to seize rice and other food.

39. (1) When on duty, any police officer of or above the rank of Corporal or any member of any other security force of or above the rating or rank of leading rate or non-commissioned officer, as the case may be, or any person authorised in writing so to do by the officer commanding the Police District may seize any rice or any other article of food in any security area which by reason of its quantity or its situation is or is likely to or may become available to any person who intend or are about to act or have recently acted in a manner prejudicial to public security or to the maintenance of public order.

(2) Any such police officer or member of any such force as aforesaid may without warrant enter and search any premises if he suspects that any rice or any food liable to seizure under this section is likely to be found on such premises.

(3) When on duty any police officer or any member of any other security force or any person who is authorised in writing so to do by the officer commanding the Police District may stop and search any vehicle, vessel or individual in any security area, whether in a public place or not, if he suspects that any rice or any food liable to seizure under this section is likely to be found on such vehicle, vessel or individual.

(4) No woman shall be searched under this section except by a woman.

Chapter III**Offences relating to security areas****Offences relating to firearms, ammunition and explosives.**

40. (1) Any person who without lawful excuse, the onus of proving which shall be on such person, in any security area carries or has in his possession or under his control —

(a) any firearm without lawful authority therefor; or

(b) any ammunition or explosive without lawful authority therefor,

shall be guilty of an offence: Penalty, death.

(2) A person shall be deemed to have lawful authority for the purposes of this section only if he is a —

(a) member of any security force, or a prison officer, and in every such case is carrying or is in possession of or has under his control such firearm, ammunition or explosive in or in connection with the performance of his duty;

(b) person duly licensed, or authorised without a licence, under the provisions of any written law for the time being in force to carry, possess or have under his control such firearm, ammunition or explosive; or

(c) person exempted from the provisions of this section, or is a member of any class of persons so exempted, by the Commissioner of Police by notification in the *Gazette*:

Provided that no person shall be deemed to have lawful authority for the purposes of this section or to be exempt from this section if he carries or has in his possession or under his control any such firearm, ammunition or explosive for the purpose of using the same in a manner prejudicial to public security or the maintenance of public order.

(3) A person shall be deemed to have lawful excuse for the purposes of this section only if he proves —

(a) that he acquired such firearm, ammunition or explosive in a lawful manner and for a lawful purpose; and

(b) that he has not at any time while carrying or having in his possession or under his control such firearm, ammunition or explosive, acted in a manner prejudicial to public security or the maintenance of public order.

(4) A person charged with an offence against this section shall not be granted bail.

Consorting with persons carrying or having possession of arms or explosives.

41. (1) Any person who in any security area consorts with or is found in the company of another person who is carrying or has in his possession or under his control any firearm, ammunition or explosive in contravention of

the provisions of section 40, in circumstances which raise a reasonable presumption that he intends, or is about, to act, or has recently acted, with such other person in a manner prejudicial to public security or the maintenance of public order shall be guilty of an offence: Penalty, death.

[S 9/91]

(2) Any person who in any security area consorts with, or is found in the company of, another person who is carrying or has in his possession, or under his control any firearm, ammunition or explosive in contravention of the provisions of section 40, in circumstances which raise reasonable presumption that he knew that such other person was carrying or had in his possession or under his control any such firearm, ammunition or explosive, shall be guilty of an offence: Penalty, imprisonment for 15 years.

[S 9/91]

(3) Where, in any prosecution for an offence under this section, it is established to the satisfaction of the court that the accused person was consorting with or in the company of any person who was carrying or had in his possession or under his control any firearm, ammunition or explosive, it shall be presumed, until the contrary is proved, that such last mentioned person was carrying or had in his possession or under his control such firearm, ammunition or explosive in contravention of the provisions of section 40.

Supplies.

42. (1) Any person who whether within or outside a security area demands, collects or receives any supplies from any other person in circumstances which raise a reasonable presumption that he intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that the supplies so demanded, collected or received are intended for the use of any person who intends or is about, so to act, or has recently so acted, or for the use of any terrorist, shall be guilty of an offence: Penalty, imprisonment for life.

(2) Any person who whether within or outside a security area is found in possession of any supplies for which he cannot satisfactorily account in circumstances which raise a reasonable presumption that such supplies are intended for the use of any person who intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that such supplies are intended for the use of any terrorist, shall be guilty of an offence: Penalty, imprisonment for life.

(3) Any person who whether within or outside a security area provides, whether directly, or indirectly, any supplies to any other person in circumstances which raise a reasonable presumption that such other person intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that the supplies so provided are intended for the use of any person who intends or is about, so to act, or has recently so acted, or that such supplies are intended for the use of any terrorist, shall be guilty of an offence: Penalty, imprisonment for life:

Provided that no person shall be convicted of any offence against this subsection if he proves that prior to being charged with or accused of such offence by a police officer or a person in authority he voluntarily gave full information of the offence to a police officer.

(4) In any charge for an offence against any provision of this section it shall not be necessary to specify the person or persons from whom any supplies were demanded, collected or received or to whom any supplies were provided or intended to be provided.

Failure to report offences or to give information.

43. Any person who, whether within or outside a security area, while any proclamation under section 30 is in force —

(a) knowing or having reasonable cause to believe that another person has committed an offence against this Part fails to report the same to a police officer; or

(b) having in his possession any information as to the present or intended movements or whereabouts of any person whom he knows or has reasonable cause to believe to be a terrorist fails to report the same to a police officer,

shall be guilty of an offence: Penalty, imprisonment for 10 years:

Provided that no person shall be convicted of any offence against this section if he proves that, prior to being charged with or accused of such offence by a police officer or a person in authority, he voluntarily gave full information of such other offence or of such movements or whereabouts to a police officer.

Attempt to commit offences and assisting offenders.

44. (1) Without prejudice to the operation of Chapters V and XXIII of the Penal Code (Chapter 22), any person who, whether within or outside a security area, attempts to commit, or does any act preparatory to the commission of an offence against this Part shall be deemed to be guilty of that offence against this Part.

(2) No person, knowing or having reasonable cause to believe that another person has committed an offence against this Part, shall give that other person any assistance, whether within or outside a security area, with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for that offence.

Abetment and general penalty.

45. Any person who contravenes or fails to comply with any provision of this Part, or any order made or direction given or requirement imposed thereunder or, whether within or outside a security area, abets such contravention or failure for which no special penalty is provided (without prejudice to any special provision contained in this Part or in any regulations made under section 53) shall be guilty of an offence: Penalty, imprisonment for 5 years and a fine of \$30,000.

[S 9/91]

Chapter IV

Powers of police and others

Arrest.

46. (1) Any police officer may without warrant arrest any person found or reasonably suspected of committing or attempting to commit or of procuring or abetting any person to commit an offence against this Part.

(2) The powers conferred upon a police officer by subsection (1) may be exercised by any member of any other security force, by any person performing the duties of guard or watchman in a protected place, and by any other person generally authorised in that behalf by the Commissioner of Police.

Powers of search.

47. (1) When on duty any police officer or any member of any other security force or any person who is authorised in writing so to do by the officer commanding a Police District, may without warrant and with or without assistance 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 Part as likely to be found in such vehicle, vessel or aircraft or on such individual, and may seize any article or material so found.

(2) When on duty any police officer of or above the rank of corporal or any member of any other security force of or above the rating or rank of leading rate or non-commissioned officer, as the case may be, or any person authorised in writing so to do by the officer commanding a Police District may without warrant and with or without assistance 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 Part is likely to be found on such premises or place and may seize any article or material so found.

(3) No woman shall be searched under this section except by a woman.

Power to dispense with inquests.

48. Notwithstanding anything to the contrary in any written law, in any security area —

(a) a magistrate or coroner may dispense with the holding of an inquest on the dead body of any member of a security force; and

(b) where the magistrate or coroner responsible for holding an inquest upon the body of any person is satisfied that such person has been killed in a security area as a result of operations by any security force for the purpose of suppressing organised violence, the magistrate or coroner, as the case may be, may dispense with the holding of an inquest on the body of such person.

Medical officers of security forces to be regarded as medical officers for purposes of inquests.

49. Chapter XXX and section 380A of the Criminal Procedure Code (Chapter 7) shall, in respect of any inquest concerning any death in any

security area, have effect as if reference therein to a Government medical officer and to a medical officer included reference in each case to a medical officer of any security force when acting in the course of his duty:

Provided that no such medical officer of a security force shall, without his consent, be required by any order or otherwise to perform a post-mortem examination of any body.

Chapter V

General

Compensation.

50. (1) Where in the exercise of the powers conferred by section 36 or by any regulations made under section 53, possession is taken of any land, building or other structure or of any movable property or of any space or accommodation in any vehicle, vessel or aircraft, compensation in respect of such possession shall be assessed in accordance with regulations made under section 53.

(2) For the avoidance of doubt it is hereby declared that no compensation shall be payable to any person in respect of any damage or injury to his person or property caused by or consequent upon any act authorised by this Part or any regulations made under section 53, unless provision for such compensation is made by this Part or any such regulations.

Application of section 94 of Chapter 22.

51. Section 94 of the Penal Code (Chapter 22) (which relates to an act to which a person is compelled by threats) shall have effect as if an offence punishable with death under this Part were an offence against the State punishable with death included in Chapter VI of the Penal Code (Chapter 22).

Extension of right of private defence.

52. The right of private defence of property conferred by section 103 of the Penal Code (Chapter 22) shall be deemed to extend to any mischief by fire or explosive committed on a motor vehicle in any security area, as it

applies to mischief by fire committed on a building used as a human dwelling or as a place for the custody of property.

Chapter VI

Regulations

Power to make regulations.

53. (1) When a proclamation has been made under section 30, His Majesty the Sultan and Yang Di-Pertuan may make, in respect of any security area, any regulations whatsoever which he considers desirable for the public security.

(2) Without prejudice to the generality of the foregoing power, regulations may be made under subsection (1) in respect of —

(a) the assessment and payment of remuneration, compensation and allowances in respect of any act done under this Act or any regulations made thereunder or in respect of any injury occasioned by or resulting from any proclamation under section 30;

(b) the restriction of the movement of persons in any security area;

(c) processions and meetings in any security area;

(d) the supply and distribution of food, water, fuel, light and other necessities in any security area;

(e) the declaration of fences or barriers surrounding any area in a security area as perimeter fences, and the regulation of traffic and supplies from within and outside any such area;

(f) the eviction of persons unlawfully in occupation of land within any security area;

(g) the seizure, occupation and forfeiture of land, buildings and other structures and movable property within any security area belonging to or used by persons who intend or are about to act or have acted in a manner prejudicial to the public security of Brunei Darussalam, or belonging to or used by persons who are harbouring

or have harboured or who by their servants or agents are harbouring or have harboured any such persons;

[S 38/05]

(h) the appropriation, control, forfeiture, disposition and use of property in any security area;

(i) the requisition of space or accommodation in any vehicle, vessel or aircraft within any security area;

(j) the destruction of buildings and other structures within any security area;

(k) the clearance of lands within any security area and the recovery of the costs of and the payment of compensation in respect of such clearance;

(l) the payment of gratuities to workmen injured or to the dependants of workmen killed by acts of terrorism in any security area;

(m) the restriction and prohibition in any security area of foodstuffs and other supplies;

(n) the restriction of persons or any class of persons and the control of occupations and industries within any security area;

(o) the modification, amendment, suppression or the suspension of the provisions of any written law in any security area;

(p) the entry into and search of any premises or place and the arrest, search and interrogation of persons within any security area;

(q) the formation of tribunals and other bodies for the purpose of deciding any matters specified in such regulations, but having no powers to inflict fines or imprisonment;

(r) the prescription of fees and other payments;

(s) any other matter in respect of which it is in the opinion of His Majesty the Sultan and Yang Di-Pertuan desirable in the interests of public security that regulations should be made.

(3) Any regulations made under this section may provide that a contravention thereof shall be punishable by imprisonment for 5 years and a fine of \$30,000.

[S 9/91]

(4) Any regulations made under this section shall —

(a) unless His Majesty the Sultan and Yang Di-Pertuan otherwise directs, come into force on the day on which they are made, and shall then continue in force so long as the proclamation under section 30 is in force, unless sooner revoked; and

(b) have effect only within the security area or areas to which the said proclamation applies.

(5) All subsidiary legislation under this Part in force in any security area immediately before the cancellation of the proclamation under section 30 applicable to such area shall cease to have effect in such area upon such cancellation, but without prejudice to the taking or continuance of any proceedings in respect of anything previously done or omitted to be done, or to the payment of any compensation or allowance thereunder.

PART IV

MISCELLANEOUS PROVISIONS

Seizability and bailability of offences.

54. (1) Every offence against this Act shall be seizable for the purposes of the Criminal Procedure Code (Chapter 7).

(2) Bail shall be discretionary in respect of every offence against this Act other than an offence under section 40.

Power to detain suspected persons.

55. (1) Any police officer may without warrant arrest and detain pending enquiries any person in respect of whom he has reason to believe that —

(a) there are grounds which would justify his detention under section 3; and

(b) he has acted or is about to act or is likely to act in any manner prejudicial to the security of Brunei Darussalam or any part thereof.

(2) Any police officer may without warrant arrest and detain pending enquiries any person, who upon being questioned by such officer fails to satisfy such officer as to his identity or as to the purposes of which he is in the place where he is found, and whom such officer suspects of having acted or being about to act in any manner prejudicial to the security of Brunei Darussalam or any part thereof.

(3) 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 of Police who may authorise the detention of a person under this section for a period not exceeding 48 hours in all.

(4) Notwithstanding subsection (3), if an officer of or above the rank of Superintendent of Police is satisfied that the necessary enquiries cannot be completed within the period of 48 hours prescribed by that subsection he may authorise the further detention of any person detained under this section for an additional period not exceeding 28 days.

(5) Any officer giving any authorisation under subsection (4) shall forthwith report the circumstances thereof to the Commissioner of Police; and where such authorisation authorises detention for any period exceeding 14 days the Commissioner of Police shall forthwith report the circumstances thereof to the Minister*.

(6) The powers conferred upon a police officer by subsections (1) and (2) may be exercised by any member of any other security force, by any person performing the duties of guard or watchman in a protected place, and by any other person generally authorised in that behalf under section 3 of the Protected Areas and Protected Places Act (Chapter 147).

[S 38/05]

(7) 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*.

* Transferred to the Minister of Law with effect from 1st January 1984 — [S 10/84]

* Further transferred to the Minister of Home Affairs with effect from 1st April 1987 — [S 14/87]

Use of lethal weapons in effecting arrests.

56. (1) Notwithstanding anything to the contrary contained in any other written law it shall be lawful for any police officer in order to —

(a) effect the arrest of any person liable to detention under any order made under section 3;

(b) effect the arrest of any person liable to arrest and detention under sections 55(1) or (2);

(c) effect the arrest of any person whom he has, in all the circumstances of the case, reasonable grounds for suspecting to have committed an offence against this Act or against any provision of any written law specified in Schedule 2;

(d) overcome forcible resistance offered by any person to such arrest; or

(e) prevent the escape from arrest or the rescue of any person arrested as aforesaid,

to use such force as, in the circumstances of the case, may be reasonably necessary, which force may extend to the use of lethal weapons.

(2) Every person arrested for any of the offences referred to in subsection (1) shall as soon as possible after his arrest be clearly warned of his liability to be shot at if he endeavours to escape from custody.

(3) The powers conferred upon a police officer by subsection (1) may be exercised by any member of any other security force, and by any person performing the duties of guard or watchman in a protected place, and by any other person generally authorised in that behalf by the Commissioner of Police.

(4) Nothing in this section contained shall derogate from the right of private defence contained in sections 96 to 106 of the Penal Code (Chapter 22).

Power of Director of Internal Security and authorised persons. [S 17/95]

56A. (1) In the administration of this Act and of any written law specified in Schedule 2A, and of any subsidiary legislation made thereunder, the

powers conferred upon the Commissioner of Police by this Act may, notwithstanding any provision of this Act or of any of those written laws, as the case may be, be exercised by the Director of Internal Security.

(2) In the administration of this Act and of any written law specified in Schedule 2A, and of any subsidiary legislation made thereunder, the powers conferred upon any police officer (other than the Commissioner of Police) by this Act, or by the Criminal Procedure Code (Chapter 7) in relation to a seizable offence, may, notwithstanding any provision of this Act or of any of those written laws, as the case may be, be exercised by the Director of Internal Security and any person authorised by him in writing in that behalf either generally or in a particular case.

(3) Notwithstanding any provision of this Act and of any other written law —

(a) the Director of Internal Security; and

(b) any person authorised by him under subsection (1), to the extent ordered by him,

may carry and use a firearm and ammunition for the effectual discharge of his duties under this Act.

(4) Any person authorised by the Director of Internal Security under subsection (1) shall be deemed to be a public servant within the meaning of section 21 of the Penal Code (Chapter 22).

[S 38/05]

Admission of statements in evidence.

57. (1) Where any person is charged with any offence against this Act or against any written law specified in Schedule 3 any statement, whether such statement amounts to a confession or not or is oral or in writing, made at any time, whether before or after such person is charged and whether in the course of a police investigation or not and whether or not wholly or partly in answer to questions, by such person to or in the hearing of any police officer of or above the rank of inspector and whether or not interpreted to him by any other police officer or any other person concerned or not, in the arrest, shall notwithstanding anything to the contrary contained in any written law be admissible at his trial in evidence and, if such person tenders himself as a witness, any statement may be used in cross examination and for the purpose of impeaching his credit.

(2) Notwithstanding subsection (1), no statement shall be admissible or used as aforesaid under that subsection —

(a) if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against such person, proceeding from a person in authority and sufficient in the opinion of the court to give such person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceeding against him; or

(b) in the case of a statement made by such person after his arrest, unless the court is satisfied that a caution was administered to him in the following words or words to the like effect:

“It is my duty to warn you that you are not obliged to say anything or to answer any question, but anything you say, whether in answer to a question or not, may be given in evidence”:

Provided that a statement made by any person before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of no such caution having been given if it has been given as soon as possible.

(3) Notwithstanding anything to the contrary contained in any written law a person accused of an offence to which subsection (1) applies shall not be bound to answer any question relating to such case after a caution has been administered to him under subsection 2(b).

Inspection of bankers' books.

58. The Minister* may, if he is satisfied that any evidence of the commission of an offence against this Act or against any written law for the time being specified in Schedule 3 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 books kept therein, and may take copies of any entry in any such book.

* Transferred to the Minister of Law with effect from 1st January 1984 — [S 10/84]

* Further transferred to the Minister of Home Affairs with effect from 1st April 1987 — [S 14/87]

Disposal of property.

59. (1) Any article or material coming into the possession of a police officer under section 47 may be disposed of in such manner as the Commissioner of Police may order; and in default of any such order in relation to any such property subsection (2) shall apply thereto.

(2) Subject to subsection (1), the provisions of the Criminal Procedure Code (Chapter 7) relating to the disposal of property the subject of an offence shall apply to any property coming into the possession of a police officer or any other person having any functions in connection with the operation of this Act which such officer or person has reasonable ground for believing to be evidence of the commission of an offence against this Act; and in relation to any such property any reference therein to a police officer shall have effect as if it included a reference to any such person.

(3) Nothing in this section shall be taken to prejudice any right to retain or dispose of property which may exist in law apart from the provisions of this section.

Jurisdiction of Court of a Magistrate.

60. Without prejudice to the jurisdiction of the High Court, a Court of a Magistrate shall have jurisdiction to try any offence against this Act, other than an offence punishable with death or imprisonment for life, and to impose any penalty prescribed therefor not exceeding 7 years imprisonment and a fine of \$30,000.

[S 9/91]

Restriction on prosecution.

61. A prosecution for any offence against this Act shall not be instituted except with the consent of the Public Prosecutor —

(a) subject to the law relating to criminal procedure, a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Public Prosecutor to the institution of a prosecution for the offence has not been obtained, but the case shall not be further prosecuted until that consent has been obtained; and

(b) when a person is brought before a court under this section before the Public Prosecutor has consented to the prosecution the charge shall be explained to him but he shall not be called upon to plead, and the law relating to criminal procedure shall be modified accordingly.

Publicity of orders.

62. (1) Notwithstanding section 16 of the Interpretation and General Clauses Act (Chapter 4) (which relates to publication), when any order, rule or regulation is made or direction or instruction is given under this Act, the Minister or other authority making such order, rule or regulation or giving such direction or instruction shall cause notice of its effect to be given as soon as may be in such manner as he thinks necessary for bringing it to the notice of all persons who in his opinion ought to have notice of it, and such order, rule, regulation, direction or instruction shall have effect as soon as notice as aforesaid has been given, without publication in the *Gazette*.

(2) Without prejudice to any special provisions contained in this Act, or in any rules or regulations made thereunder, a notice to be served on any person for the purposes of any section may be served by leaving it at, or by sending it by post in a letter addressed to that person at his last or usual place of abode or place of business.

(3) Any order or regulation made or any direction or instruction given under this Act may at any time during its continuance be cancelled by the person empowered to make such order or regulation or to give such direction or instruction, but without prejudice to the previous validity thereof or to anything done thereunder or to the power of such person to make a fresh order or regulation or give a fresh direction or instruction under such provisions.

Application of other laws.

63. Nothing in this Act shall affect any other law relating to criminal offences:

Provided that no person shall be punished twice for the same offence.

Application of section 36 of Chapter 4.

64. For the avoidance of doubt it is hereby declared that section 36 of the Interpretation and General Clauses Act (Chapter 4) (which contains provisions as to offences under 2 or more laws) shall apply to this Act.

Amendment of Schedules.

65. The Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan may, by notification in the Government *Gazette*, amend any Schedule.

[S 17/95; S 38/05]

Transitional orders.

66. Where an order (hereinafter referred to as “the transitional order”) is made under section 3(1)(a) in respect of a person who, immediately before the date on which the transitional order takes effect, is detained under an order made or made and extended under Order 8 of the Emergency Orders, 1962 [E 17/62], a copy of the transitional order shall be served on such person as soon as may be after the making thereof, and in all other respects the transitional order shall be treated as if it were a direction under section 3(2) extending a previous order made under section 3(1)(a), and as if the period of detention (not exceeding 2 years) authorised by the transitional order were the further period for which such previous order has been extended by, and from the date of, the transitional order.

[S 38/05]

SCHEDULE 1

(section 3(3))

ESSENTIAL SERVICES

1. Water services.
2. Electricity services.
3. Public health services.
4. Fire and rescue services.

[S 38/05]

- 5. Prison services.
- 6. Postal services.
- 7. Telephone services.
- 8. Telegraph services.
- 9. Radio communication services, including broadcasting and television services.
- 10. Port, dock and harbour services and undertakings.
- 11. Public transport services by land, sea or air.
- 12. Bulk distribution of fuel and lubricants.

SCHEDULE 2

(section 56(1))

SPECIFIED LAWS

FORCIBLE ARREST OF SUSPECTS

Penal Code (Chapter 22) sections 435 and 436

SCHEDULE 2A

[S 17/95]

(sections 56A(1) and (2))

SPECIFIED LAWS

Chapter 21	—	Emergency Regulations Act
Chapter 24	—	Sedition Act
Chapter 25	—	Undesirable Publications Act
Chapter 122	—	Registration of Guests Act
Chapter 148	—	Public Order Act

SCHEDULE 3

(sections 57 and 58)

SPECIFIED LAWS

ADMISSION OF STATEMENTS AND INSPECTION
OF BANKERS' BOOKS

1. Societies Order, 2005 (S 1/05) — Any offence under sections 41, 42(a) and (b), 43, 46(1) or 49(1) and (3).
2. Sedition Act (Chapter 24) — Any offence under the Act.
3. National Registration Act (Chapter 19) — Any offence under any regulations made under the Act.
4. Any abetment of or attempt to commit any offence specified in this Schedule.

