

# **LAWS OF BRUNEI**

## **CHAPTER 17 IMMIGRATION**

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**LAWS OF BRUNEI**

**REVISED EDITION 2023**

**CHAPTER 17**

**IMMIGRATION**

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# IMMIGRATION ACT

## An Act to regulate immigration into Brunei Darussalam

*Commencement: 1st July 1958*  
*[S 41/1958]*

### PART 1

#### PRELIMINARY

##### Citation

1. This Act may be cited as the Immigration Act.

##### Interpretation

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

“aircraft” includes flying boat;

“authorised airport” means respectively an airport, a landing place or a point of entry declared to be an authorised airport, landing place or point of entry, as the case may be, under section 5(1);

“authorised landing place” means respectively an airport, a landing place or a point of entry declared to be an authorised airport, landing place or point of entry, as the case may be, under section 5(1);

“authorised point of entry” means respectively an airport, a landing place or a point of entry declared to be an authorised airport, landing place or point of entry, as the case may be, under section 5(1);

“Controller” means the Controller of Immigration appointed under section 3;

“crew” includes every seaman on a vessel, and every person employed in the operation of an aircraft or in any service rendered to the crew or passengers of such aircraft while in flight;

“employ” means to engage or use the service of any person, whether under a contract of service or otherwise, with or without remuneration;

“entry” means —

(a) in the case of a person arriving by sea, disembarking in Brunei Darussalam from the vessel in which he arrives;

(b) in the case of a person arriving at an authorised airport by air, leaving the precincts of such airport;

(c) in the case of a person who enters by land and proceeds to an immigration control post in accordance with section 26(1), leaving the precincts of such post for any purpose other than that of departing from Brunei Darussalam by an approved route for some place outside Brunei Darussalam; and

(d) in any other case, any entry into Brunei Darussalam by land, sea or air:

Provided that it shall not include in any case an entry made for the purpose of complying with this Act or an entry expressly or impliedly sanctioned by an Immigration Officer for the purpose of an enquiry, proceeding or detention under the provisions of this Act;

“Entry Permit” means a Permit to enter and includes a Permit to remain in Brunei Darussalam issued under the provisions of section 10(2);

“family” means wife and children under 18 years of age;

“flying boat” means any aircraft designed to alight, and alighting on water;

“harbour” includes the giving of food or shelter and the act of assisting a person in any way to evade apprehension;

“immigration control post” means a post established as such by the Controller at a place declared to be an immigration control post under section 5(1);

“immigration depot” means any place designated or authorised by the Controller for the examination, inspection or detention of persons under this Act;

“Immigration Officer” means the Controller and any person appointed under section 3 and includes a Senior Immigration Officer;

“immigration signal” means such signal as may be prescribed for vessels which arrive in Brunei Darussalam;



“master” means in relation to a vessel, any person having command thereof and in relation to an aircraft, the captain thereof;

“officer of customs” has the same meaning as in the Customs Order, 2006 (S 39/2006);

“pass” means any pass issued under the provisions of any regulations made under this Act entitling the holder thereof to enter and remain temporarily in Brunei Darussalam;

“passenger” means any person carried in a vessel or aircraft, other than any member of the crew;

“permit” includes an Entry Permit and Re-entry Permit;

*(deleted by S 22/2017);*

“prohibited immigrant” means a person declared to be a prohibited immigrant under section 8(1);

“Re-entry Permit” means a Permit to re-enter Brunei Darussalam issued under the provisions of section 11(2);

“Residence Permit” means a permit issued under the provisions of section 67(1) of the Immigration Enactment, 1956 (Enactment No. 23 of 1956);

“seaman” includes the master and any person carried in a vessel as a *bona fide* member of the staff employed in the operation or service of such vessel and, if such vessel has articles, entered on such articles;

“Senior Immigration Officer” means a Senior Immigration Officer and any other person of or above the rank of Assistant Controller appointed under section 3;

“stowaway” means a person who goes to sea secreted in a vessel without the consent of the master or other person in charge of the vessel or of a person entitled to give such consent and includes a person arriving in Brunei Darussalam on board any aircraft who is on board without the consent of the master or of a person entitled to give such consent;

“through passenger” means any passenger who arrives in Brunei Darussalam by a vessel or aircraft and who is continuing his journey in the same vessel or aircraft to a place outside Brunei Darussalam;

“transportation company” means any government, municipality, body corporate, or organisation, firm or person carrying or providing for the transit of passengers, whether by vessel, aircraft, railway, highway or otherwise, and includes any two or more such transporting companies co-operating in the business of carrying passengers;

“travel document” includes an internationally recognised passport, a certificate of identity and any similar document, issued by an authority recognised by the Controller.

### **Appointment of Controller and other officers**

3. His Majesty the Sultan and Yang Di-Pertuan may appoint a Controller of Immigration and such Deputy Controllers, Assistant Controllers, Senior Immigration Officers and other officers as he may consider necessary for the proper carrying out of the provisions of this Act.

### **Exercise of powers**

4. The powers and discretions vested in the Controller by this Act and the duties required to be discharged by him may, subject to such limitations as may be prescribed by regulations made under section 53, be exercised and discharged by a Deputy Controller, and by an Assistant Controller or a Senior Immigration Officer duly authorised in writing in that behalf by the Controller.

## PART 2

### ADMISSION INTO BRUNEI DARUSSALAM

#### **Entry into Brunei Darussalam**

5. (1) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan,\* may by notification published in the *Gazette*, prescribe approved routes and declare such immigration control posts, landing places, airports or points of entry, as he may consider to be necessary for the purposes of this Act to be immigration control posts, authorised landing places, airports or points of entry, as the case may be; and no person shall, unless compelled by accident or other reasonable cause, enter

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\* Transferred from His Majesty the Sultan and Yang Di-Pertuan in Council to the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st November 1989 — [S 54/1989]

Brunei Darussalam from any place outside Brunei Darussalam except at an authorised landing place, airport or point of entry.

(2) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan,\* may by notification published in the *Gazette*, prescribe approved routes and declare such immigration control posts, places of embarkation, authorised airport, authorised points of departures or authorised departing place, as the case may be; and no person shall, unless compelled by accident or other reasonable cause, leave Brunei Darussalam except at an authorised place of embarkation, airport, point of departure or place of departure.

(3) Any person who contravenes the provisions of subsection (1) or (2) is guilty of an offence.

### **Control of entry into Brunei Darussalam**

6. (1) No person other than a citizen of Brunei Darussalam shall enter Brunei Darussalam from any place outside Brunei Darussalam unless —

(a) he is in possession of a valid Entry Permit or Re-entry Permit lawfully issued to him under the provisions of section 10(2) or 11(2);

(b) his name is endorsed upon a valid Entry Permit or Re-entry Permit in accordance with the provisions of section 12 and that he is in the company of the holder of such permit;

(c) he is in possession of a valid pass lawfully issued to him to enter Brunei Darussalam;

(d) he is in possession of a valid Residence Permit lawfully issued to him; or

(e) he is exempted from the provisions of this section by an order made under section 54.

(2) Any person who has entered or remained in Brunei Darussalam in accordance with a pass lawfully issued under this Act shall complete an embarkation form and submit it together with his passport or other travel

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\* Transferred from His Majesty the Sultan and Yang Di-Pertuan in Council to the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st November 1989 — [S 54/1989]

document for examination by an Immigration Officer at the time he leaves Brunei Darussalam.

(3) Any person who contravenes the provisions of subsection (1) or (2) is guilty of an offence and —

(a) in the case of an offence under subsection (1), is liable on conviction to imprisonment for a term of not less than 3 months and not more than 2 years and whipping with not less than 3 strokes cumulatively:

Provided that no sentence of whipping shall be imposed on any person charged in court before 12th June 2004;

(b) in the case of an offence under subsection (2), is liable on conviction to a fine not exceeding \$4,000, imprisonment for a term not exceeding one year or both.

(4) The burden of proof that a person entered Brunei Darussalam without contravening subsection (1) shall lie upon that person, and in any prosecution for an offence against subsection (1), it shall not be necessary to specify in the charge the date, time, place or manner of the entry of such person into Brunei Darussalam, or the means of travel used for such entry.

### **Right of entry**

7. (1) A citizen of Brunei Darussalam shall be entitled to enter Brunei Darussalam without having obtained a permit or pass in that behalf under this Act.

(2) The burden of proof that any person is a citizen of Brunei Darussalam shall lie upon that person.

### **Prohibited immigrants**

8. (1) Any person who in the opinion of the Controller —

(a) is not a citizen of Brunei Darussalam; and

(b) is a member of any of the prohibited classes as defined in subsection (2),

is a prohibited immigrant and, subject to any exemption granted under the provisions of section 54, it shall be unlawful for him to enter Brunei Darussalam from any place outside Brunei Darussalam by land, sea or air unless he is in possession of a valid pass in that behalf issuable to a prohibited immigrant under the provisions of any regulations made under this Act.

(2) The following persons are members of the prohibited classes —

(a) any person who is unable to show that he has the means of supporting himself or his dependents, if any, or that he has definite employment awaiting him or who is likely to become a pauper or a charge on the public;

(b) any person suffering from mental disorder or being a mental defective;

(c) any person —

(i) who refuses to submit to a medical examination after being required to do so under the provisions of section 29; or

(ii) certified by a Government medical officer or a medical practitioner, after examination under the provisions of section 29, to be suffering from a contagious or infectious disease which makes his presence in Brunei Darussalam dangerous to the community;

(d) any person who —

(i) has been convicted in any country or state of an offence for which a sentence of imprisonment has been passed for any term;

(ii) has not received a free pardon; and

(iii) by reason of the circumstances connected with such conviction is deemed by the Controller to be an undesirable immigrant;

(e) any prostitute, or any person, who is living on or receiving, or who, prior to entering Brunei Darussalam, lived on or received, the proceeds of prostitution;

(f) any person who procures or attempts to bring into Brunei Darussalam prostitutes or women or girls for the purpose of prostitution or other immoral purposes;

(g) vagrants or habitual beggars;

(h) any person whose entry into or presence in Brunei Darussalam is, or at the time of his entry was, unlawful under this or any other written law for the time being in force;

(i) any person who believes in or advocates the overthrow by force or violence of the Government of Brunei Darussalam or of the government of any territory within the Commonwealth or of constituted law or authority or who disbelieves in or is opposed to organised government, or who advocates the assassination of public officials, or who advocates or teaches the unlawful destruction of property;

(j) any person who is a member of or affiliated with any organisation entertaining or teaching disbelief in or opposition to organised government or advocating or teaching the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or officers generally, of the government of Brunei Darussalam or of the government of any territory within the Commonwealth or of any other organised government, because of his or their official character, or advocating or teaching the unlawful destruction of property;

(k) any person who, in consequence of information received from any source deemed by the Controller to be reliable, or from any government, through official or diplomatic channels, is deemed by the Controller to be an undesirable immigrant;

(l) any person who has been removed from any country or state by the government of such country or state on repatriation for any reason whatever and who, by reason of the circumstances connected therewith, is deemed by the Controller to be an undesirable immigrant;

(m) any person who, being required by any written law for the time being in force to be in possession of valid travel documents, is not in possession of such documents or is in possession of forged or

altered travel documents which do not fully comply with any such written law;

(n) any person other than a citizen of Brunei Darussalam who is unable to show that he is willing and can, of right, return to some country outside Brunei Darussalam;

(o) the family and dependants of a prohibited immigrant; and

(p) any person prohibited by order made under section 9(1) from entering Brunei Darussalam.

(3) The burden of proof that any person seeking to enter Brunei Darussalam is not a prohibited immigrant shall lie upon that person.

(4) In any case where the Controller refuses to allow any person to enter Brunei Darussalam on the ground that such person is a prohibited immigrant, the Controller shall if so requested by the person, inform him of the class of prohibited immigrant of which, in the opinion of the Controller, he is a member.

(5) Subject to any exemption granted under section 54, if any prohibited immigrant enters Brunei Darussalam otherwise than in accordance with a valid pass lawfully issued to him, he is guilty of an offence.

(6) Any person in possession of an Entry Permit or Re-entry Permit, issued to him under the provisions of this Act and who, upon his arrival in Brunei Darussalam, is refused permission to enter upon the ground that he is a prohibited immigrant, may appeal against such refusal within such time and in such manner as may be prescribed, to the Minister whose decision is final:

Provided that, notwithstanding the provisions of sections 24, 25 and 26, any person who appeals against such refusal shall be permitted to disembark and shall be detained in an immigration depot pending the determination of his appeal, unless released on a pass issued at the discretion of the Controller of such conditions as to furnishing security or otherwise as the Controller may deem fit.

**Power to prohibit or limit entry into Brunei Darussalam**

9. (1) The Minister of Home Affairs, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may by order —

(a) where he deems it expedient to do so in the interests of public security or by reason of any economic, industrial, social, educational or other conditions in Brunei Darussalam —

- (i) prohibit, either for a stated period or permanently, the entry or re-entry into Brunei Darussalam of any person or class of persons;
- (ii) limit the number of persons of any class who may enter Brunei Darussalam within any period specified in the order; and
- (iii) limit the period during which any person or class of persons entering or re-entering Brunei Darussalam may remain therein:

Provided always that no order made under the provisions of this paragraph, except an order made in the interests of public security, applies to any person outside Brunei Darussalam at the time when such order is made and who is in possession of a valid Residence Permit or Re-entry Permit lawfully issued to him; and

(b) prohibit the entry into Brunei Darussalam of passengers brought to Brunei Darussalam by any transportation company which refuses or neglects, or has refused or neglected, to comply with the provisions of this Act.

(2) An order under subsection (1) does not apply to any citizen of Brunei Darussalam.

(3) Every order made under subsection (1)(a) which relates to a class of persons, and every order made under paragraph (b), shall be published in the *Gazette*.

(4) Any person who enters or re-enters, or remains in, Brunei Darussalam in contravention of any order made under subsection (1) is guilty of an offence.



## PART 3

## ENTRY AND RE-ENTRY PERMITS

**Entry Permits**

- 10.** (1) Any person seeking to —
- (a) enter Brunei Darussalam —
    - (i) who is not entitled so to enter under the provisions of section 7(1); or
    - (ii) by virtue of a valid pass to enter Brunei Darussalam lawfully issued to him; or
  - (b) remain in Brunei Darussalam after the expiration of such a pass,

may make application in that behalf in the manner prescribed to the Controller or to such other person whether within or outside Brunei Darussalam as may be prescribed or as the Controller may appoint for such purpose.

(2) Upon application made under subsection (1) and upon payment of the prescribed fees, the Controller shall, if satisfied that the applicant is not a prohibited immigrant, issue to such applicant an Entry Permit in the prescribed form:

Provided that the Controller may in any case in which he is satisfied that it would be prejudicial to public security in Brunei Darussalam to permit the applicant to enter or remain in Brunei Darussalam, refuse to issue an Entry Permit.

(3) Any person aggrieved by the refusal of the Controller to issue to him an Entry Permit under the provisions of the proviso of subsection (2) may within 30 days of the notification of such refusal to him, appeal by petition in writing to the Minister whose decision thereon is final.

**Re-entry Permits**

- 11.** (1) Any person lawfully resident in Brunei Darussalam not being —
- (a) the holder of a valid pass; or

(b) a citizen of Brunei Darussalam,

who seeks to leave Brunei Darussalam temporarily may make application to the Controller in the prescribed manner for the issue to him of a Re-entry Permit authorising him to re-enter Brunei Darussalam.

(2) Upon application being made under subsection (1) and upon payment of the prescribed fees, the Controller shall, if satisfied that the applicant is not a prohibited immigrant and that it would not be prejudicial to public security in Brunei Darussalam to do so, issue to such applicant a Re-entry Permit in the prescribed form.

(3) Any person aggrieved by the refusal of the Controller to issue to him a Re-entry Permit under the provisions of this section may within 30 days of the notification of such refusal to him, appeal by petition in writing to the Minister whose decision thereon is final.

### **Endorsement of name of wife and children on Entry and Re-entry Permits**

12. Subject to such conditions as may be prescribed, it shall be lawful for the Controller, on application made in that behalf in the prescribed form by the holder of, or by an applicant for, an Entry Permit or a Re-entry Permit, to endorse upon the permit issued to such person the name or names of the members of the family of such person.

### **Power to make enquiries**

13. The Controller may before the issue of an Entry Permit or Re-entry Permit under this Act, or before making any endorsement thereon under the provisions of section 12, make such enquiries or require the production of such evidence as he may think fit in order to satisfy himself as to the truth of any statement made in the application for the permit.

### **Cancellation of permits**

14. (1) When the holder of any Entry Permit or Re-entry Permit seeks to enter Brunei Darussalam accompanied by any child whose name is not endorsed upon the permit under the provisions of section 12 and who is not otherwise entitled to enter Brunei Darussalam under the provisions of this Act, the Controller may cancel the permit issued to such person.

(2) When upon the arrival in Brunei Darussalam of any person to whom an Entry Permit or Re-entry Permit has been issued, the Controller is satisfied, as a result of enquiries made under section 24, 25 or 26, or from other information, that any permit was issued as a result of any false representation or concealment of a material fact, the Controller may cancel the permit.

(3) When at any time, during the period of validity of an Entry Permit or Re-entry Permit, the Controller is satisfied that the holder of such Entry Permit or Re-entry Permit is a prohibited immigrant, the Controller shall cancel the permit.

(4) Where any person has entered Brunei Darussalam by virtue of an Entry Permit or a Re-entry Permit and the Controller is satisfied that —

(a) any material statement made in or in connection with the application for the permit was false or misleading; or

(b) the person is a member of any of the prohibited classes defined in section 8(2),

the Controller may, unless the person was entitled at the time of the entry, or has subsequently become entitled to enter Brunei Darussalam under the provisions of section 7(1), declare at any time within 2 years after the date of the entry, that the presence of the person in Brunei Darussalam is unlawful.

(5) On making any cancellation under subsection (2) or (3), or on making any declaration under subsection (4), the Controller shall, by notice which, if the address of the person is known, shall be sent to him at such address and otherwise shall be published in such manner as the Controller deems fit, inform the person affected thereby of the grounds on which such cancellation or declaration has been made and such person may appeal against the cancellation or declaration, as the case may be, within such time and such manner as may be prescribed to the Minister, whose decision is final.

### **Effect of cancellation or expiry of permit or pass**

**15.** (1) It shall be unlawful for any person to remain in Brunei Darussalam after —

(a) the cancellation of any Entry Permit or Re-entry Permit;

(b) the making of a declaration under section 14(4); or

(c) the expiration or cancellation of any pass relating to or issued to him,

unless he is otherwise entitled or authorised to remain in Brunei Darussalam under the provisions of this Act or of any regulations made thereunder.

(2) Any person who without reasonable cause contravenes the provisions of subsection (1) is guilty of an offence and —

(a) in the case where he remains unlawfully for a period not exceeding 90 days, is liable on conviction to a fine not exceeding \$4,000, imprisonment for a term not exceeding 6 months or both;

(b) in the case where he remains unlawfully for a period exceeding 90 days, is liable on conviction to imprisonment for a term of not less than 3 months and not more than 2 years and whipping with not less than 3 strokes cumulatively:

Provided that no sentence of whipping shall be imposed on any person charged in court before 12th June 2004.

#### PART 4

#### PROCEDURE ON ARRIVAL IN AND DEPARTURE FROM BRUNEI DARUSSALAM

##### **Immigration signal**

**16.** (1) Subject to the provisions of subsection (2), the master of every vessel which arrives in or is about to leave Brunei Darussalam shall hoist the prescribed immigration signal and shall exhibit such signal until authorised by a Senior Immigration Officer to haul it down.

(2) The provisions of subsection (1) do not apply to any vessel which plies solely between ports in Brunei Darussalam.

(3) The master of any vessel who contravenes or fails to comply with any of the provisions of subsection (1) is guilty of an offence.

**Vessel or flying boat to proceed to Immigration Anchorage or other place ordered by Immigration Officer**

17. (1) The Controller may, by notification published in the *Gazette*, declare any place in any river or within the territorial waters of Brunei Darussalam to be an Immigration Anchorage, either for vessels generally or for vessels of a class specified in the notification or for flying boats; and the master of any vessel or flying boat which arrives at or is about to leave a place where an Immigration Anchorage, either for vessels generally or for vessels of a class to which such vessel belongs or for flying boats, has been declared shall, subject to any directions given under subsection (3), forthwith navigate his vessel or flying boat to such anchorage and shall remain there until an Immigration Officer gives him permission to leave.

(2) No vessel or flying boat carrying passengers, other than a vessel which plies solely between ports in Brunei Darussalam, shall proceed to any place in Brunei Darussalam other than a place within which an Immigration Anchorage has been declared under subsection (1).

(3) The master of every vessel or flying boat which arrives in or is about to leave Brunei Darussalam shall, if so ordered by an Immigration Officer, anchor or tie up his vessel or flying boat at such place as may be ordered, and shall remain there until an Immigration Officer gives him permission to leave.

(4) The master of any vessel or flying boat who, without reasonable cause, contravenes or fails to comply with any provisions of this section or any order made or direction given thereunder is guilty of an offence.

**Aircraft arriving in or departing from Brunei Darussalam**

18. (1) The captain of every aircraft which arrives in or leaves Brunei Darussalam shall land his aircraft at, or fly his aircraft away from, an authorised airport.

(2) The captain of any aircraft who, without reasonable cause, contravenes or fails to comply with the provisions of subsection (1) is guilty of an offence.

(3) In this section, “land” includes alight on water.

**Persons not to board or leave vessel or flying boat until examination completed**

19. (1) Save under and in accordance with any authority granted by a Senior Immigration Officer, no person other than —

- (a) the pilot of the vessel;
- (b) any Government officer boarding the vessel or flying boat on duty;
- (c) the owner, charterer or agent of the vessel or flying boat; or
- (d) a Consular representative to Brunei Darussalam of the country or state to which the vessel or flying boat belongs, or if the vessel or flying boat belongs to a country within the Commonwealth, an accredited representative in Brunei Darussalam of the government of such country,

shall leave or board a vessel or flying boat arriving in Brunei Darussalam, nor may any person (other than the crew of a vessel carrying any such person) approach within 30 feet of the vessel or flying boat, until the vessel or flying boat has been examined by a Senior Immigration Officer and, in the case of a vessel, the immigration signal has been hauled down.

(2) Any person who contravenes any of the provisions of subsection (1) is guilty of an offence, and every such person leaving a vessel or flying boat in contravention of subsection (1) shall if so required by an Immigration Officer return forthwith to such vessel or flying boat and remain thereon and the master of the vessel or flying boat shall be bound to re-embark such person or board a vessel departing from Brunei Darussalam after it has been examined by an Immigration Officer just before its departure.

**Prohibition on disembarking from vessels or flying boats without permission of Immigration Officer**

20. (1) It shall be the duty of the master, owner, charterer or agent of every vessel or flying boat which arrives in Brunei Darussalam to prevent any person on board other than a person specified in section 19(1)(a), (b), (c) or (d) from disembarking from such vessel or flying boat until such disembarkation has been authorised by a Senior Immigration Officer, and for such purpose any means reasonably necessary may be used.

(2) When any person disembarks from any vessel or flying boat before such disembarkation has been authorised by a Senior Immigration Officer, such person, the master, owner, charterer or agent of such vessel or flying boat shall each be guilty of an offence and liable on conviction to a fine of \$4,000 and imprisonment for one year and —

(a) it shall be no defence to a prosecution under this section that the master, owner, charterer or agent did not permit or do anything to facilitate the disembarkation of any such person; and

(b) it shall be a good defence to a prosecution under this section that the master, owner, charterer or agent took every reasonable precaution to prevent the disembarkation of any such person.

(3) The master of the vessel or flying boat from which any person has disembarked before such disembarkation has been authorised by a Senior Immigration Officer shall be bound to re-embark such person and any master refusing to re-embark such person is guilty of an offence and liable on conviction to a fine of \$4,000 and imprisonment for one year.

### **Prohibition of removal of articles before examination**

**21.** (1) Except with the authority of a Senior Immigration Officer, no article or thing shall be removed or taken from, or put on board, any vessel or flying boat until such vessel or flying boat has been examined by a Senior Immigration Officer under section 19(1).

(2) Any person who contravenes the provisions of subsection (1) is guilty of an offence.

### **Production of certain lists and persons by masters of vessels**

**22.** (1) The master of every vessel arriving in or leaving Brunei Darussalam shall, whenever required to do so by a Senior Immigration Officer —

(a) exhibit to the officer a complete list of the members of the crew in such form, and containing such particulars, as may be prescribed;

(b) produce to the officer for inspection and interrogation all the members of the crew;

(c) furnish to the officer, in triplicate, identification cards of each member of the crew in such form as may be prescribed;

(d) submit to such search of his vessel as may be necessary to establish the presence or absence of other persons on board;

(e) produce his ship's papers; and

(f) report the presence on board of any stowaway or any unauthorised person or any person proceeding to any state or country on his removal from any other state or country by the competent authorities of the state or country.

(2) In the case of vessels carrying passengers, the master shall, in addition, produce —

(a) a complete list of all the passengers in such form, and containing such particulars, as may be prescribed;

(b) in relation to every passenger disembarking in or embarking from Brunei Darussalam, such particulars in such form as may be prescribed; and

(c) all passengers for inspection and interrogation.

(3) The master of any vessel who contravenes or fails to comply with any of the provisions of subsection (1) or (2), and any person who hinders or obstructs any search of a vessel under subsection (1)(d) is guilty of an offence.

(4) If any person is found on board a vessel whose presence should have, but has not, been reported in accordance with subsection (1)(f), the master of such vessel is guilty of an offence and liable on conviction to a fine of \$1,000 in respect of each such person.

(5) In any proceedings under this section, the certificate in writing of a Senior Immigration Officer who boards or examines any particular vessel to the effect that the vessel carried, on arrival in Brunei Darussalam, a total number of seamen corresponding in description to the particulars on the identification cards furnished under subsection (1)(c) shall be conclusive proof that such vessel did on arrival carry such number of seamen.



**Production of lists and persons by captain of aircraft**

23. (1) The captain of every aircraft arriving in or leaving Brunei Darussalam, shall whenever required to do so by a Senior Immigration Officer —

(a) produce a passenger list as prescribed under the provisions of section 22(2)(a) or in accordance with the provisions of Annex 9 to the Convention on International Civil Aviation;

(b) produce in relation to every passenger landing in or are departing from Brunei Darussalam, such particulars in such form as may be prescribed;

(c) produce a complete list of the members of the crew of his aircraft as prescribed under the provisions of section 22(1)(a) or in accordance with the provisions of Annex 9 to the Convention on International Civil Aviation;

(d) produce the members of the crew and passengers of such aircraft for inspection and interrogation as directed either generally or specifically by a Senior Immigration Officer;

(e) submit to such search of his aircraft as may be necessary to establish the presence or absence of such other persons as have not been produced under this subsection; and

(f) report the presence on board of any stowaway or any unauthorised person or any person proceeding to any state or country on his removal from any other state or country by the competent authorities of the state or country.

(2) The captain of any aircraft who contravenes or fails to comply with any of the provisions of subsection (1), and any person who hinders or obstructs any search of an aircraft under subsection (1)(e), is guilty of an offence.

(3) If any person is found on board an aircraft whose presence should have, but has not, been reported in accordance with subsection (1)(f), the captain of the aircraft is guilty of an offence and liable on conviction to a fine of \$1,000 in respect of each such person.

(4) In any proceedings under this section, the certificate in writing of a Senior Immigration Officer who boarded or examined any particular aircraft to the effect that the aircraft carried, on arrival in Brunei Darussalam, a total number of crew corresponding in description to the particulars on the list produced under subsection (1)(c), shall be conclusive proof that the aircraft did on arrival carry such number of crew.

### **Examination of persons arriving by sea**

24. (1) Every person arriving by sea intending to disembark in Brunei Darussalam shall appear before a Senior Immigration Officer at such time and place as the officer may direct, and the officer, after such examination as he may consider necessary, shall inform any person whom he considers to be prohibited from entering Brunei Darussalam under the provisions of this Act or of any regulations made thereunder of his finding, and such person, if still aboard the vessel, shall not disembark in Brunei Darussalam or, if disembarked for the purposes of the examination, shall return forthwith to the vessel and remain thereon; and the master of the vessel shall likewise forthwith be informed in writing by the Senior Immigration Officer of his finding and the master shall not permit such person to disembark in Brunei Darussalam, or, if such person has disembarked, whether for the purpose of examination or otherwise, shall be bound to re-embark him.

(2) Any person who —

(a) refuses or neglects to appear before a Senior Immigration Officer as required by subsection (1) or who leaves the place of examination without or otherwise than in accordance with the authorisation of the officer;

(b) after having been informed by a Senior Immigration Officer that he is prohibited from entering Brunei Darussalam, either disembarks in Brunei Darussalam or refuses or neglects to return forthwith to his vessel, as the case may be; or

(c) being the master of a vessel, permits any person to disembark in Brunei Darussalam, or refuses to re-embark any person, after being informed by a Senior Immigration Officer that such person is prohibited from entering Brunei Darussalam or that such person has refused or neglected to appear before a Senior Immigration Officer as required by subsection (1) or that he has left

the place of examination without or otherwise than in accordance with the authorisation of the officer,

is guilty of an offence.

(3) When any person either disembarks in Brunei Darussalam or refuses or neglects to return to his vessel, in contravention of the provisions of this section, an Immigration Officer may require such person to return to his vessel and may take such action, including the use of force, as may be reasonably necessary to compel such return, and the master of such vessel shall be bound to re-embark such person and to remove him from Brunei Darussalam.

(4) The master of a vessel may use such force as may be reasonably necessary to enable him to comply with the provisions of subsections (1) and (3).

### **Examination of persons arriving at authorised airport**

**25.** (1) Every person arriving by air at any authorised airport in Brunei Darussalam and intending to leave the precincts of such airport shall appear before a Senior Immigration Officer at such time and place as the officer may direct, and the officer, after such examination as he may consider necessary, shall inform any person whom he considers to be prohibited from entering Brunei Darussalam under the provisions of this Act or of any regulations made thereunder of his finding, and such person shall not leave the precincts of such airport except for a place approved by the officer, and shall leave and depart from Brunei Darussalam for a place outside Brunei Darussalam by the first available means in accordance with the instructions of the officer. The captain of the aircraft in which such person arrived shall, if so required by the officer, remove such person from Brunei Darussalam by the same aircraft.

(2) Any person who —

(a) refuses or neglects to appear before a Senior Immigration Officer as required by subsection (1) or who leaves the place of examination without or otherwise than in accordance with the authorisation of the officer;

(b) after having been informed by a Senior Immigration Officer that he is prohibited from entering Brunei Darussalam, leaves the precincts of an airport without the permission of the officer, or

refuses or neglects to proceed to or remain at a place approved by the officer;

(c) refuses or fails to leave Brunei Darussalam in accordance with the instructions of a Senior Immigration Officer given under subsection (1); or

(d) being the captain of the aircraft in which any person arrived in Brunei Darussalam, refuses or neglects to remove such person from Brunei Darussalam after being informed by a Senior Immigration Officer that such person is prohibited from entering Brunei Darussalam or that such person has refused or neglected to appear before a Senior Immigration Officer as required by subsection (1) or that he has left the place of examination without or otherwise than in accordance with the authorisation of the officer,

is guilty of an offence.

(3) When any person leaves the precincts of an airport in contravention of the provisions of this section or refuses to leave and depart from Brunei Darussalam in accordance with the instructions of the Senior Immigration Officer given under the provisions of subsection (1), the Senior Immigration Officer may take such action, including the use of force, as may be reasonably necessary to compel such person to return to the precincts of the airport or to comply with such instructions, as the case may be.

### **Examination of persons entering Brunei Darussalam by land or at place other than authorised airport**

**26.** (1) Every person who from a place outside Brunei Darussalam enters Brunei Darussalam by land shall enter at an authorised point of entry and shall proceed therefrom by an approved route, prescribed under section 5, to the nearest immigration control post and shall appear before the Senior Immigration Officer in charge of the post and shall if so required by the Senior Immigration Officer, furnish particulars about himself in such form as may be prescribed.

(2) Every person who from a place outside Brunei Darussalam arrives by sea or air in Brunei Darussalam at any place other than an authorised landing place or airport shall forthwith proceed to and appear before the nearest Senior Immigration Officer.

(3) The Senior Immigration Officer before whom any person appears in accordance with the provisions of this section shall, if he considers that such person is prohibited from entering Brunei Darussalam under the provisions of this Act or of any regulations made thereunder, inform such person of his finding and such person shall in accordance with the instructions of the officer forthwith leave and depart from Brunei Darussalam for a place outside Brunei Darussalam.

(4) Any person who contravenes or fails to comply with any of the provisions of this section is guilty of an offence.

### **Power to send person to immigration depot**

27. (1) When a Senior Immigration Officer is in doubt as to the right of any person to enter Brunei Darussalam, it shall be lawful for the officer to direct such person to an immigration depot and, in such case, such person shall proceed forthwith to the depot and shall remain there until permitted to leave by the officer:

Provided that such person shall not, except on the written order of the Controller, be so detained for any period exceeding 7 days:

And provided further that the Controller may, in his discretion, and pending the completion of enquiries regarding such person, release such person from the immigration depot on such terms and conditions as the Controller may deem fit, and for such purpose the Controller may issue to such person a pass in the prescribed form.

(2) Any person who refuses or neglects to comply with directions given by a Senior Immigration Officer under subsection (1) or who leaves an immigration depot in contravention of the provisions of that subsection, is guilty of an offence.

### **Interrogation of travellers**

28. (1) Any person who arrives in Brunei Darussalam from any place outside Brunei Darussalam or who is about to leave Brunei Darussalam by sea, land or air for any place outside Brunei Darussalam, shall fully and truthfully answer all questions and enquiries put to him by a Senior Immigration Officer tending directly or indirectly to establish his identity, nationality or occupation or bearing on any of the restrictions contained in this Act or in any regulations made thereunder or any absolute or conditional liability on his part to any military, naval or air force service under any state

or country whatsoever, and shall disclose and produce to any such officer on demand all documents in his possession relating to those matters.

(2) Notwithstanding the provisions of section 117 of the Criminal Procedure Code (Chapter 7) or of any law relating to evidence, all the answers and documents, and any statement made by any such person to a Senior Immigration Officer, whether the officer is a police officer or not, shall be admissible in evidence in any proceedings under this Act against the person making, disclosing or producing the same:

Provided that nothing in this section shall be construed as rendering any such answer inadmissible in any other proceedings in which they would otherwise be admissible.

(3) Any such person who —

(a) refuses to answer any question or enquiry put to him under subsection (1);

(b) knowingly gives any false or misleading answer to any such question or enquiry or knowingly makes a false or misleading statement to a Senior Immigration Officer;

(c) refuses or fails to produce any document in his possession when required to do so under subsection (1); or

(d) knowingly produces any false or misleading document,

is guilty of an offence.

### **Medical examination**

**29.** For the purpose of exercising his powers and carrying out his functions and duties under this Act or any regulations made thereunder, a Senior Immigration Officer may require any person who desires to enter Brunei Darussalam to submit to examination by a Government medical officer.

**Immigration Officer may give instructions to prevent evasion of examination**

30. (1) An Immigration Officer may give such instructions as may be reasonably necessary to ensure that no passenger or member of a crew evades examination either of his person or effects.

(2) Any person who without reasonable cause refuses or fails to comply with any instruction given under subsection (1) is guilty of an offence.

## PART 5

## REMOVAL FROM BRUNEI DARUSSALAM

**Removal of prohibited immigrants from Brunei Darussalam**

31. If during the examination of any person arriving in Brunei Darussalam or after such enquiry as may be necessary, such person is found to be a prohibited immigrant the Controller shall, subject to the provisions of any regulations made under this Act, prohibit such person from disembarking or may, in his discretion, detain him at an immigration depot or other place designated by the Controller until an opportunity arises to return him to his place of embarkation or to the country of his birth or citizenship.

**Removal of illegal immigrants**

32. (1) Any person who is convicted of an offence under section 5, 6, 8 or 9 is liable to be removed from the State by order of the Controller:

Provided that no person entitled to enter Brunei Darussalam under the provisions of section 7(1) convicted of an offence under section 5 shall be ordered to be removed from Brunei Darussalam under the provisions of this subsection.

(2) Nothing in this section is deemed to prevent the removal of any person to any place outside Brunei Darussalam under any law in force relating to fugitive offenders.

**Removal of persons unlawfully remaining in Brunei Darussalam**

33. (1) When the presence of any person in Brunei Darussalam is unlawful by reason of the provisions of section 15, such person shall,

whether or not any proceedings are taken against him in respect of any offence against this Act under that section, be liable to be removed from Brunei Darussalam by order of the Controller.

(2) Any person in respect of whom an order of removal has been made under the provisions of subsection (1) on the ground that his presence in Brunei Darussalam is unlawful by reason of the cancellation of an Entry Permit, Re-entry Permit or pass may, on payment of the prescribed fee, appeal to the Minister whose decision is final, in such manner and within such time as may be prescribed.

### **Detention of persons ordered to be removed**

**34.** (1) When any person is ordered to be removed from Brunei Darussalam under the provisions of this Act, it shall be lawful for the Controller to order such person to be detained in custody for such period as may be necessary for the purpose of making arrangements for his removal:

Provided that any person detained under this subsection who appeals under the provisions of section 33(2) against the order of removal may, in the discretion of the Controller, be released pending the determination of his appeal, on such conditions as to furnishing security or otherwise as the Controller may deem fit.

(2) Subject to the determination of any appeal under section 33, any person who is ordered to be removed from Brunei Darussalam may be placed on board a suitable vessel or aircraft by any police officer or Immigration Officer and may be lawfully detained on board such vessel or aircraft so long as the vessel or aircraft is within the limits of Brunei Darussalam.

(3) Any person who is detained in custody in pursuance of an order made by the Controller under subsection (1) may be so detained either in any prison, police station or immigration depot, or in any other place appointed for the purpose by the Controller.

### **Power to arrest person liable to removal**

**35.** Any person reasonably believed to be a person liable to removal from Brunei Darussalam under any of the provisions of this Act may be arrested without warrant by any Immigration Officer or police officer generally or specially authorised by the Controller in that behalf or by a police officer not below the rank of Inspector, and may be detained in any prison, police station



or immigration depot for a period not exceeding 14 days pending a decision as to whether an order for his removal should be made.

**Unlawful return after removal** [S 41/2020]

**36.** Any person who, having been removed or otherwise lawfully sent out of Brunei Darussalam under this Act and any person, other than a person entitled to enter Brunei Darussalam under section 7(1), having been removed or otherwise lawfully sent out of any territory within the Commonwealth, enters or resides in Brunei Darussalam without the written authority of the Controller under this section is guilty of an offence and liable on conviction to a fine not exceeding \$6,000, imprisonment for a term of not less than one year and not more than 3 years or both, and whipping with not less than 3 strokes cumulatively, and shall, in addition to any penalty for such offence, be liable to be removed or again removed, as the case may be, from Brunei Darussalam:

Provided that no sentence of whipping shall be imposed on any person charged in court before the commencement of the Immigration Act (Amendment) Order, 2020 (S 41/2020).

PART 6

GENERAL

**Performance of duties of Immigration Officers**

**37.** (1) Immigration Officers appointed under this Act shall perform the duties imposed on them by this Act or any regulations made thereunder, and shall also perform such duties as are required of them by the Controller, either directly or through any other officer; and no action taken by any such officer under or for any purpose of this Act is deemed to be invalid or unauthorised by reason only that it was not taken by the officer specially appointed or detailed for the purpose.

(2) Every Immigration Officer is deemed to be a public servant within the meaning of the Penal Code (Chapter 22).

**Authority of Immigration Officer to arrest**

**38.** (1) Every Immigration Officer appointed under this Act shall have the authority and powers of a police officer to enforce any of the provisions of this Act relating to arrest, detention or removal.

(2) Every Immigration Officer shall have the authority to appear in court and conduct any prosecution in respect of any offence against this Act or any regulations made thereunder.

(3) In any case relating to the commission of any offence against this Act, any immigration officer shall have the same power of investigation of a police officer under Chapter XIII of the Criminal Procedure Code (Chapter 7) in respect of a seizable offence.

#### **Power to summon witnesses etc.**

**39.** (1) The Controller may, for the purpose of any inquiry or appeal under this Act, summon and examine witnesses on oath or affirmation, and may require the production of documents relevant to the inquiry or appeal.

(2) Any person summoned as a witness under the provisions of subsection (1) who —

(a) without reasonable excuse fails to attend at the time and place mentioned in the summons; or

(b) having attended, refuses to answer any question that may lawfully be put to him or to produce any document which it is in his power to produce,

is guilty of an offence.

#### **Duty of police officers to execute orders**

**40.** All police officers shall, when so directed by a Senior Immigration Officer, receive and execute according to the tenor thereof any written order of the Controller, and any warrant of the Controller for the arrest, detention or removal of any person under the provisions of this Act.

#### **Departure of vessel or aircraft for Brunei Darussalam to be reported**

**41.** (1) On the departure of any vessel or aircraft from any place outside Brunei Darussalam on a voyage or flight to any place in Brunei Darussalam, the owner, charterer, agent or consignee within Brunei Darussalam of such vessel or aircraft shall forthwith inform a Senior Immigration Officer of —

(a) the place and approximate date and time of arrival in Brunei Darussalam of such vessel or aircraft; and

(b) the approximate number of passengers in such vessel or aircraft.

(2) Any such owner, charterer, agent or consignee who without reasonable cause fails to comply with the provisions of subsection (1) is guilty of an offence.

### **Restriction of discharge of member of crew**

42. (1) When any seaman is about to be or is discharged or paid off in Brunei Darussalam, the master, owner, charterer or agent shall as soon as practicable notify the Controller; and any such master, owner, charterer or agent who without reasonable cause fails to comply with the provisions of this subsection is guilty of an offence.

(2) No member of a crew who has been discharged or paid off shall be left in Brunei Darussalam unless either —

(a) he is a citizen of Brunei Darussalam; or

(b) he is in possession of a valid Entry Permit or Re-entry Permit or of a valid pass.

(3) In any instance of contravention of the provisions of subsection (2), the master, owner, charterer, agent or consignee of the vessel or aircraft in which the person concerned was employed is liable for the maintenance of such person and for the cost of his repatriation to his place of birth or citizenship or, if the master, owner, charterer, agent or consignee so elects, to such other place as may be approved by the Controller.

### **Signing on or bringing as one of crew any person with intent to land contrary to Act**

43. Any transportation company and any person, including the master and the owner of a vessel or aircraft arriving in Brunei Darussalam, who has knowingly signed on the ship's articles or brought to Brunei Darussalam as a member of the crew of such vessel or aircraft any person with intent to permit such person to enter Brunei Darussalam contrary to the provisions of this Act or of any regulations made thereunder, or who represents to an Immigration Officer that any such person is a *bona fide* member of the crew of such vessel or aircraft, is guilty of an offence and liable on conviction to a fine not exceeding \$4,000 and not less than \$200 in respect of each such person.

**Security to prevent unlawful landing**

44. (1) A Senior Immigration Officer may —

(a) demand security, whether by deposit or otherwise, from the master, owner, charterer, agent or consignee of any vessel or aircraft from which he has reasonable grounds to believe that any person is about to disembark in or enter Brunei Darussalam in contravention of the provisions of this Act or of any regulations made thereunder; and

(b) refuse to release the vessel or aircraft from examination until the security is furnished.

(2) The Controller may, if satisfied that any person has disembarked in or entered Brunei Darussalam from any vessel or aircraft, in respect of which security has been furnished under subsection (1), in contravention of any provisions of this Act or of any regulations made thereunder, direct the forfeiture of such security or any part thereof:

Provided that the Controller shall not direct the forfeiture of any security under this subsection if he is satisfied that the master, owner, charterer, agent or consignee took every reasonable precaution to prevent any person from so disembarking in or entering Brunei Darussalam.

(3) When a Senior Immigration Officer *in lieu* of requiring a deposit under the provisions of subsection (1) requires security by a bond with or without sureties, such bond shall be in the prescribed form.

**Reports as to persons failing to continue their journey**

45. (1) When any through passenger in or member of the crew of any vessel or aircraft fails to continue his journey in such vessel or aircraft in circumstances from which it may reasonably be inferred that the passenger or member of the crew has remained in Brunei Darussalam, the master of the vessel or aircraft, as the case may be, shall, as soon as practicable, notify a Senior Immigration Officer or a police officer of or above the rank of Corporal of the failure of such passenger or member of the crew to continue his journey.

(2) Any master who fails to comply with the provisions of subsection (1) is guilty of an offence.

**Repatriation**

46. (1) Any person residing in Brunei Darussalam who —
- (a) is not a citizen of Brunei Darussalam;
  - (b) is by reason of destitution, infirmity or mental incapacity, unable to obtain employment or to support himself and his family, if any;
  - (c) is unable to pay the cost of his passage and of the passages of the members of his family, if any, to the country of his birth or citizenship; and
  - (d) is or is likely to become a charge upon the public or a charitable institution,

may apply to the Controller for the repatriation of himself and his family, if any, at the cost of the Government.

(2) Upon such application, if the Controller is satisfied, after such enquiry as he deems necessary, that such person has or is about to become a charge on the public or on a charitable institution and is unable to pay the cost of the repatriation of himself and his family, if any, and that no government, organisation, company or person is liable or willing to pay such cost of repatriation, the Controller may authorise the payment of such cost subject to the condition specified in subsection (3).

(3) Any person repatriated at the cost of the Government shall enter into an undertaking in such form as may be prescribed, that he will not return to Brunei Darussalam without the consent in writing of the Controller. The consent shall be conditional upon such person refunding to the Controller all costs and charges incurred in the repatriation of such person and his family, if any, and shall be subject to such other conditions as the Controller may deem expedient.

(4) Any person who has been repatriated at the cost of the Government under this section who enters or attempts to enter Brunei Darussalam without the consent of the Controller under subsection (3), or who having entered Brunei Darussalam with such authority, fails or neglects to comply with any condition upon which the consent was given, is guilty of an offence.

**Masters and others liable for expenses**

47. If any person —

(a) enters Brunei Darussalam from any vessel or aircraft contrary to the provisions of this Act or of any regulations made thereunder;

(b) disembarks from any vessel or aircraft on which he has been re-embarked or to which he has been returned under the provisions of section 19, 20, 24 or 25,

the master, owner, charterer and agent thereof shall be jointly and severally liable for all expenses incurred by the Government in respect of the detention and maintenance of such person and his removal from Brunei Darussalam and such expenses shall be recoverable as a debt due to Government from the master, owner, charterer and agent of such vessel or aircraft jointly and severally.

**Obligation to afford free passage**

48. (1) When an order of removal is made under the provisions of this Act in respect of any person who has entered Brunei Darussalam contrary to the provisions of this Act or of any regulations made thereunder, and such person was brought to Brunei Darussalam in a vessel or aircraft, the master of the vessel or aircraft, and also the master of any vessel or aircraft belonging to the same owners or chartered by the same charterers, shall, if required in writing by the Controller, receive such person on board his vessel or aircraft and afford him free of charge a passage to the port or place at which such person embarked and proper accommodation and maintenance during the voyage or flight:

Provided that no such master is liable as aforesaid unless the order of removal has been made by the Controller within 3 months from the date upon which such person entered Brunei Darussalam.

(2) The master of any vessel or aircraft who fails to comply with the provisions of this section is guilty of an offence.

**Power to detain vessel or aircraft**

49. (1) The Controller may, by writing under his hand, authorise the Director of Marine to detain any vessel or aircraft in connection with which

an offence against this Act is reasonably believed to have been or about to be committed, and the vessel or aircraft may then be detained either at the place where it is found or at any place to which the Controller may order it to be brought. The Controller shall give notice to the master, owner, charterer or agent of the vessel or aircraft of the detention thereof.

*[S 22/2017]*

(2) For the purposes of the detention and other lawful dealing with the vessel or aircraft, the Director of Marine shall have power to muster the crew and may, if he considers it necessary to do so, place a police guard on board.

*[S 22/2017]*

(3) The detention shall be for safe custody only and shall cease if a bond with two sufficient sureties to the satisfaction of the Controller be given by the master, owner, charterer or agent of the vessel or aircraft for the payment of any fine, costs and charges incurred under this Act in respect of any offence or default thereunder.

(4) If default is made in the payment of any such fine, costs or charges, the Director of Marine or the Director of Civil Aviation or any person authorised by him in that behalf may seize the vessel or aircraft and such vessel or aircraft shall be declared forfeited to the Government by order of a court of competent jurisdiction upon the application of the Attorney General. Any vessel or aircraft so forfeited shall be sold.

*[S 22/2017]*

(5) The proceeds of sale of a vessel or aircraft under this section shall be applied first in payment of any fine, costs or charges incurred under this Act and of any costs incurred in and about the sale and the proceedings leading thereto and the balance shall be paid to the owners of or other persons lawfully entitled to the vessel or aircraft before sale.

(6) For the purpose of this section, vessel is deemed to include any motor vehicle.

### **Powers of arrest and search**

**50.** (1) Any Senior Immigration Officer or any police officer of or above the rank of Inspector, or any police officer or officer of customs generally or specially authorised by the Controller in that behalf may without a warrant and with or without assistance —

- (a) enter and search any premises; and
- (b) stop and search any vessel, vehicle or person, or search any aircraft, whether in a public place or not,

if he has reason to believe that any evidence of the commission of an offence against this Act or any regulations made thereunder is likely to be found on the premises or person or in the vessel, vehicle or aircraft, and may seize any evidence so found.

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

(3) Any police officer, Immigration Officer or officer of customs may arrest without warrant any person who he reasonably believes has committed an offence against this Act or any regulations made thereunder.

(4) When any person is arrested by an Immigration Officer or officer of customs, the officer shall comply with the provisions of section 33 of the Criminal Procedure Code (Chapter 7) as if he were a police officer.

### **Registration of particulars for purposes of identification**

**51.** (1) Every person in respect of whom an order of removal from Brunei Darussalam has been made under the provisions of this Act shall be legally bound to submit to the taking of his photograph and finger impressions in the manner provided by the Criminals Registration Act (Chapter 202), and an Immigration Officer shall endorse particulars of the order upon the sheet upon which such finger impressions have been made, authenticating such endorsement with his signature, and the provisions of that Act relating to the registration, recording and admissibility in evidence thereof apply to every such photograph, finger impression and particulars so taken.

(2) Any person who being legally bound under subsection (1) to submit to the taking of his photograph or finger impressions, refuses or fails to submit thereto on demand by an Immigration Officer is guilty of an offence and liable on conviction to a fine of \$250 and imprisonment for one month.



**Counterfoils and counterparts to be *prima facie* evidence**

52. In any proceedings under this Act or at the hearing of any charge for an offence against this Act, any counterfoil or counterpart of any permit, pass or other document issued under this Act or any regulations made thereunder and purporting to be signed by the Controller or by a Deputy Controller, Assistant Controller or Senior Immigration Officer, as the case may be, may be produced in evidence without further proof and shall as against the person relying upon such permit, pass or other document be *prima facie* evidence of the facts therein stated and shall unless the contrary be proved be presumed to be a true and complete statement of the facts in the permit, pass or other document to which it relates.

**Regulations**

53. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan,\* make regulations not inconsistent with the provisions of this Act for all or any of the following purposes —

- (a) prescribing anything which is to be or may be prescribed under the provisions of this Act;
- (b) prescribing the forms to be used for the purposes of this Act;
- (c) prescribing —
  - (i) the period for which permits shall be valid;
  - (ii) the terms and conditions subject to which any person may be granted a permit and the person who may issue permits; and
  - (iii) the terms and conditions subject to which any person may be granted a pass entitling him to enter and remain temporarily within Brunei Darussalam, the period for which any such pass may be granted, the classes of such passes and the person who may issue such passes;
- (d) providing for the payment and recovery of any expenses incurred by the Government in connection with the detention,

\* Transferred from His Majesty the Sultan and Yang Di-Pertuan in Council to the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st November 1989 — [S 54/1989]

maintenance, medical treatment and removal from Brunei Darussalam of any person under the provisions of this Act;

(e) prescribing the place where, the person to whom and the manner in which application to enter Brunei Darussalam shall be made;

(f) prescribing the procedure to be followed by persons entering Brunei Darussalam;

(g) prescribing the procedure to be followed by authorities in the exercise of their functions under this Act;

(h) governing the procedure to be followed and the fees and costs to be paid on any appeal;

(i) prescribing the deposit or security, if any, to be made or given by or in respect of any person granted an Entry Permit, Re-entry Permit or pass and the conditions subject to which such deposit or security may be forfeited;

(j) prescribing the fees, if any, to be charged upon the issue of any Entry Permit, Re-entry Permit or pass;

(k) prescribing the penalties a fine of \$2,000 and not exceeding imprisonment for 6 months for the breach of any such regulations;

(l) prescribing the precincts of authorised airports; and

(m) generally for the better carrying into effect of the purposes and provisions of this Act.

### **Power to exempt from provisions of Act**

**54.** (1) Notwithstanding anything contained in this Act, the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan,\* may by order exempt, absolutely or conditionally, any person or class of persons from all or any of the provisions of this Act.

(2) Every order made under this section which relates to a class of persons shall be published in the *Gazette*.

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\* Transferred from His Majesty the Sultan and Yang Di-Pertuan in Council to the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st November 1989 — [S 54/1989]

**Offences**

55. (1) Any person who —

- (a) attempts unlawfully to enter Brunei Darussalam;
- (b) abets any person to enter or leave Brunei Darussalam in contravention of the provisions of this Act or of any regulations made thereunder;
- (c) engages in the business or trade of conveying to Brunei Darussalam in or on any vessel, aircraft or vehicle any person whom he knows or has reasonable grounds for believing is a prohibited immigrant;
- (d) harbours any person who has acted in contravention of the provisions of this Act or of any regulations made thereunder;
- (e) employs any person who has acted in contravention of the provisions of section 6, 15 or 36 or of any regulations made under this Act;
- (f) makes or causes to be made any false report, false statement or false representation in connection with any obligation imposed by the provision of this Act or of any regulations made thereunder;
- (g) resists or obstructs, actively or passively, any Immigration Officer in the execution of his duty;
- (h) without lawful excuse hinders or obstructs any removal under the provisions of this Act;
- (i) gives, sells or parts with possession of any Entry Permit, Re-entry Permit, pass or certificate in order that it may be used in contravention of the provisions of paragraph (j);
- (j) uses any Entry Permit, Re-entry Permit, pass or certificate issued to any other person as if it had been lawfully issued to himself;
- (k) by making a false statement obtains or attempts to obtain an Entry Permit, Re-entry Permit, pass or certificate for himself or for any other person; or

(l) uses or without lawful authority has in his possession any forged, unlawfully altered or irregular Entry Permit, Re-entry Permit, pass or certificate or other document issued under this Act or any regulations made thereunder, or any permit, pass or certificate or other document so issued on which any endorsement has been forged or unlawfully altered,

is guilty of an offence and liable on conviction —

- (i) in the case of an offence against paragraph (a), a fine not exceeding \$4,000 and imprisonment for a term of not less than 3 months and not more than 2 years and cumulatively;
- (ii) in the case of an offence against paragraph (b) or (c), imprisonment for a term of not less than 2 years and not more than 7 years and whipping with not less than three strokes cumulatively;

Provided that no sentence of whipping shall be imposed on any person charged in court before 12th June 2004.

- (iii) in the case of an offence against paragraph (d) or (e), in respect of each person harboured or employed, a fine of not less than \$3,000 but not exceeding \$6,000, imprisonment for a term not exceeding 2 years or both, and in the case of a second or subsequent offence, a fine of not less than \$6,000 but not exceeding \$12,000, imprisonment for a term not exceeding 4 years or both;
- (iv) in the case of an offence against paragraph (f), (g), (h), (i), (j), (k) or (l), a fine not exceeding \$4,000, imprisonment for a term not exceeding one year or both.

(2) Where a body corporate is guilty of an offence against this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any act or default on the part of, a director, manager, secretary or other similar officer of that body corporate, or of a person purporting to act in any such capacity, he, as well as the body corporate, is also guilty of that offence and liable to be proceeded against and punished accordingly.

(3) Where a body corporate is guilty of an offence against this Act for which a period of mandatory imprisonment is prescribed, the body corporate shall, *in lieu* of imprisonment, be liable on conviction to a fine of not less than \$30,000 and not more than \$100,000.

(3A) Where a person is guilty of an offence against this Act for which a mandatory sentence of whipping is prescribed and by virtue of section 258 of the Criminal Procedure Code (Chapter 7) he shall not be punishable with whipping, that person shall, *in lieu* of whipping, be liable on conviction to a fine of not exceeding \$6,000.

(4) Where in any proceedings under this Act or any regulations made thereunder, it is proved that the defendant has failed to produce on demand by an Immigration Officer or a police officer —

(a) any valid permit, pass or certificate issued to him under this Act or any regulations made thereunder;

(b) any other document accepted by the Controller as evidence that the defendant has entered or remained in Brunei Darussalam lawfully; or

(c) any other evidence showing to the satisfaction of the Controller that the defendant is exempted from section 6(1),

it shall be presumed, until the contrary is proved, that he has, as the case may be, entered or re-entered or remained in Brunei Darussalam unlawfully.

(5) Where in any proceedings for an offence under subsection (1)(c), it is proved that the defendant has conveyed any prohibited immigrant in any vehicle, vessel or aircraft, it shall be presumed, until the contrary is proved, that he is engaged in the business or trade of conveying to Brunei Darussalam in or on that vehicle, vessel or aircraft that prohibited immigrant knowing him to be, or having reasonable grounds for believing him to be, a prohibited immigrant.

(6) Where in any proceedings for an offence under subsection (1)(d), it is proved that the defendant has given shelter to any person who has remained in Brunei Darussalam unlawfully for a period exceeding 90 days after the expiration of any pass issued to him or who has entered Brunei Darussalam in contravention of section 5(1) or 6(1), it shall be presumed, until the contrary is proved, that the defendant has harboured

him knowing him to be a person who has acted in contravention of the provision of this Act or of any regulations made thereunder.

(7) Where an immigration offender is found at any premises or place, other than premises used solely for residential purposes, the occupier of the premises or place shall be presumed, until the contrary is proved to have employed him knowing that he is an immigration offender.

(8) In any proceedings for an offence under subsection (1)(d) or (e), it shall not be a defence for the defendant to prove that the person harboured or employed by him was in possession of a permit or pass issued to the person under this Act or any regulations made thereunder unless the defendant further proves that he had exercised due diligence to ascertain that the permit or pass was at the material time valid under this Act or any regulations made thereunder.

(9) For the purposes of subsection (8), a defendant is not deemed to have exercised due diligence unless he had personally checked the passport or other travel document of the person whom he had harboured or employed and had reasonable ground to believe that —

(a) the person harboured or employed by him had, at the material time, in force a permit or pass issued under this Act or any regulations made thereunder; and

(b) where such person is the holder of a Visit Pass, that person had, at the material time, obtained the written consent of the Director to work in Brunei Darussalam.

(10) In this section and section 55B, “immigration offender” means a person who acted in contravention of the provisions of section 6, 15 or 36 or of any regulations made under this Act.

### **Offences by owners and tenants etc.**

**55A.** (1) No person being the owner, tenant or occupier of any premises or place referred to in section 55(7) shall knowingly permit or suffer such premises or place, or any part thereof, to be kept or used as a place or premises in which any person is employed in contravention of section 55(1)(e).

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$6,000 and imprisonment for a term of not less than 6 months and not more than 2 years cumulatively.

### **Prohibition of immigration offender entering or remaining at work place**

**55B.** (1) No occupier of a work place who has control of access to the work place shall permit any immigration offender to enter or remain at the work place.

(2) Where an immigration offender is found at a work place, it shall be presumed, until the contrary is proved, that the occupier of the work place —

(a) had control of access to the work place;

(b) had permitted the immigration offender to enter or remain at the work place; and

(c) had knowledge that he is an immigration offender.

(3) The presumptions provided for in subsection (2)(b) and (c) shall not be rebutted unless the defendant proves that he had exercised due diligence to prevent the immigration offender from entering or remaining at the work place.

(4) For the purposes of subsection (3), a defendant shall not be presumed to have exercised due diligence unless he had taken all reasonable measures to prevent any immigration offender from entering or remaining at the work place, including all the measures prescribed under subsection (5) in respect of the work place.

(5) For the purposes of subsection (4), the Minister may, by notification published in the *Gazette*, prescribe the measures that are required to be taken by the occupier of a work place.

(6) Any person who contravenes subsection (1) is guilty of an offence and is liable on conviction to a fine of not less than \$6,000 and not more than \$12,000, imprisonment for a term not exceeding one year or both for each immigration offender found at the work place and, in the case of a second or subsequent conviction, to a fine of not less than \$12,000 and not

more than \$24,000, imprisonment for a term not exceeding 2 years and or both for each immigration offender found at the work place.

(7) In this section —

“construction works” means construction, reconstruction, maintenance, repair, alteration, or demolition of any building, harbour, dock, pier, canal, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gasworks, waterworks or other work of construction, as well as the preparation for or laying the foundation of any such work or structure;

“occupier”, in relation to a work place, means the principal contractor who undertakes any construction works at the work place and includes such other person as the Minister may, by notification published in the *Gazette*, specify to be the occupier of the work place;

“principal contractor” means a person who has entered into a contract with an owner, developer or lessee of a property or his agent for the purpose of carrying out any construction works on the property;

“work place” means any place or premises where any construction works are being carried out and includes —

(a) all the land within the vicinity of the work place which are owned by the person for whom the construction works are being carried out and to which the principal contractor has control of access;

(b) any canteen, sleeping quarters, office and other structures or buildings erected on the work place; and

(c) such other place or premises as the Minister may, by notification published in the *Gazette*, specify to be a work place.

### **Proceedings not to affect liability to removal**

**56.** Any person unlawfully entering or attempting unlawfully to enter Brunei Darussalam shall whether or not any proceedings are taken against him in respect of such offence be liable to be removed from Brunei Darussalam by order of the Controller.



**Presumption regarding certain offences**

**56A.** (1) Where a person who has acted in contravention of the provisions of section 6, 15 or 36 or of any regulations made under this Act is found at any premises or place and is in possession of any tools or other implements or is engaged in any activity which may give rise to the inference that he is doing any work, the occupier of such premises or place shall, until the contrary is proved, be presumed to have employed him knowing that he is a person who has acted in contravention of the provisions of those sections or regulations.

(2) In this section, “occupier”, in relation to any premises or place, includes —

(a) the person having the charge, management or control of either the whole or part of the premises or place, either on his own account or as an agent; and

(b) a contractor who is carrying out building operations or construction works at the premises or place on behalf of some other person.

**When clearance of vessel or aircraft may be refused**

**57.** When the master of any vessel or aircraft is charged with an offence against this Act, the clearance of the vessel or aircraft may be refused until the charge has been heard and the fine imposed, if any, has been paid.

**General penalty**

**58.** Any person guilty of an offence against this Act for which no special penalty is provided is liable on conviction to a fine of \$2,000 and imprisonment for 6 months.

**Power to compound offences**

**58A.** (1) The Controller and any Immigration Officer not below the rank of Senior Immigration Officer specially authorised by name or by office by the Minister by notification published in the *Gazette* for the purpose, may in his discretion —

(a) in relation to any offence under sections 5(3) and 15(2) or any regulations made under this Act, if he is satisfied that any person

has committed such offence, compound the offence by collecting from that person a sum of money not exceeding \$600;

(b) in relation to any offence under this Act or any regulations made thereunder which has been prescribed as an offence which may be compounded by the Controller and any such Immigration Officer, if he is satisfied that any person has committed such offence, compound the offence by collecting from that person a sum of money not exceeding \$600.

(2) Any sum of money collected under this section shall be dealt with as if it were a fine imposed by a Court.

(3) The Minister may make rules to prescribe the offence under this Act or under any regulations made thereunder which may be compounded under subsection (1)(b) and the procedure to be followed in the exercise of the powers conferred by subsection (1).

### **Courts of Magistrates to have full jurisdiction**

**59.** (1) A conviction for any offence against this Act may be had before the Court of a Magistrate which shall have jurisdiction to impose any penalty provided by this Act.

(2) When any person is charged before a Court with any offence against this Act, no further proceedings in respect thereof shall be taken against him without the consent in writing of the Controller, the Public Prosecutor or a Deputy Public Prosecutor, except such as the Court may think necessary by remand, whether in custody or on bail, or otherwise to secure the due appearance of the person charged.

### **Recovery of debts etc.**

**60.** Any sum due under a bond or other security or as a debt to the Government under the provisions of this Act may be claimed and recovered in the appropriate court by civil suit by and in the name of the Controller on behalf of the Government.

**Saving**

**61.** For the avoidance of doubt, it is hereby declared that the provisions of this Act shall be without prejudice to the provisions of the Passports Act (Chapter 146) or any other written law relating to passports for the time being in force in Brunei Darussalam.