

## LAWS OF BRUNEI

## CHAPTER 164

## KIDNAPPING

## ARRANGEMENT OF SECTIONS

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## KIDNAPPING ACT

**An Act to provide for the punishment of the offences of abduction, wrongful restraint and wrongful confinement, for ransom, and other related offences, and for matters incidental thereto**

S.3/92

*Commencement : 22nd February 1992*

1. This Act, may be cited as the Kidnapping Act. Citation
  
2. In this Act, "abduction", "wrongful restraint" and "wrongful confinement" shall have the meanings assigned to them in sections 362, 339 and 340 of the Penal Code respectively. Interpretation  
Cap. 22
  
3. Whoever, with intent to hold any person for ransom, abducts or wrongfully restrains or wrongfully confines such person shall be guilty of an offence and shall be punished on conviction with death. Abduction,  
wrongful  
restraint or  
wrongful  
confinement  
for ransom
  
4. Whoever receives, has possession of or disposes of any money or property or any proceeds thereof, which has at any time been delivered as ransom in connection with any offence punishable under section 3 of this Act, knowing that such money or other property has at any time been delivered as such ransom, shall be guilty of an offence and shall be punished on conviction with imprisonment for a term which may extend to 30 years and shall also be punished with whipping. Knowingly  
receiving  
ransom
  
5. (1) Whoever knowingly negotiates or assists in any negotiation to obtain any ransom for the release of any person who has been wrongfully restrained or wrongfully confined shall be guilty of an offence and shall be punished on conviction with imprisonment for a term which may extend to 30 years and shall also be punished with whipping. Knowingly  
negotiating  
to obtain  
or for  
payment  
of ransom

(2) Whoever knowingly negotiates or assists in any negotiation to pay or pays or provides for the release of any person who has been wrongfully restrained or wrongfully confined shall be guilty of an offence and shall be punished on conviction with imprisonment for a term which may extend to 20 years and shall also be liable to a fine.

Power to  
freeze  
bank  
account

6. (1) The Public Prosecutor may, where he is satisfied that it is likely that the money for the payment of ransom for the release of any person may be paid out of any bank account, by order direct any bank in Brunei Darussalam not to pay any money out of nor to pay cheques drawn on such bank account for a specified period not exceeding one month.

(2) Any officer of a bank who complies with an order of the Public Prosecutor under subsection (1) of this section shall be relieved of any liability to any other person in respect of the payment prohibited by such order.

(3) The manager of any bank which fails to comply with an order of the Public Prosecutor under subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment.

Public  
Prosecutor's  
power to  
order  
inspection  
of books,  
accounts,  
receipts,  
vouchers  
or other  
documents

7. (1) Notwithstanding anything to the contrary in any other written law contained, the Public Prosecutor may, if he considers that any evidence of the commission of an offence under this Act or of a conspiracy to commit, or an attempt to commit, or an abetment of such offence by a person is likely to be found in any book, account, receipt, voucher or other document in respect of the payment of money or the delivery of property relating to such person, the spouse or child of such person or to a person reasonably believed by the Public Prosecutor to be a trustee or agent for such person or the spouse or child of such person, by order authorise any police officer of or above the rank of sergeant named in such order to inspect any such book, account, receipt, voucher or other

document and a police officer so authorised may, at all reasonable times, enter any premises specified in such order and inspect any such book, account, receipt, voucher or other document and may take copies thereof or of any relevant part thereof.

(2) Any person who fails to produce any such book, account, receipt, voucher or other document which is in his possession or control shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3) For the purposes of this section —

“bank” means any company carrying on the business of bankers in Brunei Darussalam incorporated by or under any written law or licensed under any written law ;

“book” includes ledgers, day books, cash books, account books and all other books and documents used in the ordinary course of the business of a bank or other person or body of persons, whether corporate or incorporate.

8. (1) In the course of any investigation or proceeding into or relating to an offence by any person under this Act or of a conspiracy to commit, or an attempt to commit, or an abetment of any such offence, the Public Prosecutor may by order —

Public  
Prosecutor's  
powers to  
obtain  
information

(a) require any such person to furnish a statutory declaration enumerating all movable or immovable property belonging to or possessed by such person and by the spouse and children of such person, and specifying the date on which each of the properties

enumerated was acquired and whether it was acquired by way of purchase, gift, bequest, inheritance or otherwise ;

(b) require any such person to furnish a statutory declaration of any money or other property paid or disposed of by him during such period as may be specified in the order ;

(c) require any other person to furnish a statutory declaration enumerating all movable or immovable property belonging to or possessed by such person where the Public Prosecutor has reasonable grounds to believe that such information may be relevant to the investigation or proceedings ;

(d) require the Collector of Income Tax to furnish all information available to the Collector relating to the affairs of such person or of the spouse or child of such person and to produce or furnish, specified in the notice, any document or a certified copy of any document relating to such person or the spouse or child of such person which is in the possession or under the control of such Collector ;

(e) require the person in charge of any department, office or establishment of the Government, or the president, chairman, manager or chief executive officer of any public body to produce or furnish as specified in the notice, any document or a certified copy of any document which is in his possession or under his control ;

(f) require the manager of any bank to give copies of the accounts of such person or of the spouse or child of such person at the bank.

(2) Every person to whom an order is given by the Public Prosecutor under subsection (1) of this section shall, notwithstanding the provisions of any written law or any oath of secrecy to the contrary, comply with the terms of the order within such time as may be specified therein and any person who wilfully neglects or fails so to comply shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

9. (1) Notwithstanding the provisions of any written law, any person who is aware of the commission of or the intention of any other person to commit any offence under this Act shall in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to a police officer of such commission or intention, as the case may be.

Duty to  
give  
information  
to police

(2) Any person bound to give any information under the provisions of subsection (1) of this section who fails to do so in accordance with the provisions of that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

10. (1) Notwithstanding the provisions of any other written law, the Public Prosecutor may, if he considers that it is likely to contain any information relating to the payment of ransom for the release of a person who has been wrongfully restrained or wrongfully confined, authorise any police officer —

Power to  
intercept  
communi-  
cations

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

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

(c) to intercept or listen to any conversation by telephone.

(2) For the purposes of this section —

Cap. 52 “postal article” shall have the same meaning as in the Post Office Act ; and

Cap. 54 “telecommunication” shall have the same meaning as in the Telecommunications Act.

Offences  
to be  
seizable  
Cap. 7

**11.** All offences under this Act shall be deemed to be seizable offences for the purpose of the Criminal Procedure Code.

Evidence of  
accomplice

**12.** Notwithstanding any rule of law or written law to the contrary, no witness shall in any trial of any offence under this Act be presumed to be unworthy of credit by reason only that he has paid or negotiated to pay any ransom or has provided funds for the payment of any ransom to procure the release of any person who has been wrongfully restrained or wrongfully confined.

Evidence of  
pecuniary  
resources or  
property

**13.** (1) In any trial or inquiry by a court into an offence under this Act or into a conspiracy to commit, or attempt to commit, or an abetment of any such offence the fact that an accused person is in possession, for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income, or that he had, at or about the time of the alleged offence, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken into consideration by the court as corroborating the testimony of any witness in such trial or inquiry that such accused person has received a ransom for the release of a person who has been wrongfully restrained or wrongfully confined.

(2) An accused person shall, for the purpose of subsection (1) of this section, be deemed to be in possession of resources or property or to have obtained an accretion thereto where such resources or property are held or such accretion is obtained by any other person whom, having regard to his relationship to the accused person or to any other circumstances, there is reason to believe to be holding such resources or property or to have obtained such accretion in trust for or on behalf of such accused person or as a gift from such accused person.

14. (1) Except as hereinafter provided, no complaint as to an offence under this Act shall be admitted in evidence in any civil or criminal proceeding whatsoever, and no witness shall be obliged or permitted to disclose the name or address of any informer or state any matter which might lead to his discovery.

Protection of  
informers

(2) If any book, document or paper which is in evidence or liable to inspection in any civil or criminal proceeding whatsoever contain any entry in which any informer is named or described or which might lead to his discovery, the court before which the proceeding is held shall cause all such passages to be concealed from view or to be obliterated so far as is necessary to protect the informer from discovery, but no further.

(3) If on a trial for any offence under this Act the court, after full inquiry into the case, is of opinion that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding the court is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, the court may require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning the informer.

15. (1) A prosecution under this Act shall not be instituted except by or with the consent of the Attorney General :

Prosecution  
of offences

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any person so arrested may be remanded in custody or on bail, notwithstanding that the consent of the Attorney General 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.

(2) When a person is brought before a court under this section before the Attorney General has consented to the prosecution, the charge shall be explained to him but he shall not be called upon to plead, and the provisions of the law for the time being in force relating to criminal procedure shall be modified accordingly.

(3) In this section "Attorney General" means the Attorney General personally.