

LAWS OF BRUNEI

CHAPTER 131 PREVENTION OF CORRUPTION

S 187/1981

1984 Edition, Chapter 131

Amended by

S 5/1983

S 6/1983

S 19/1984

GN 68/1985

S 34/1991

S 16/1998

2002 Edition, Chapter 131

Amended by

S 14/2010

2014 Edition, Chapter 131

Amended by

S 48/2015

REVISED EDITION 2019

LAWS OF BRUNEI
REVISED EDITION 2019

CHAPTER 131
PREVENTION OF CORRUPTION
ARRANGEMENT OF SECTIONS

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PREVENTION OF CORRUPTION ACT

An Act to prevent corruption and bribery and to establish an Anti-Corruption Bureau

Commencement: 1st January 1982

PART 1

PRELIMINARY

Citation

1. This Act may be cited as the Prevention of Corruption Act.

Interpretation

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

“agent” means any person employed by or acting for another, and includes a trustee, administrator and executor, and a person serving under any public body, and for the purposes of section 26 includes a sub-contractor and any person employed by or acting for such sub-contractor;

“Bureau” means the Anti-Corruption Bureau;

“Director” means the Director of the Anti-Corruption Bureau;

“gratification” includes —

(a) money or any gift, loan, fee, reward, valuable security or other property or interest in property of any description, whether movable or immovable;

(b) any office, dignity, employment, contract or services and any agreement to give employment or render services in any capacity;

(c) any payment, release, discharge or liquidation of any loan, obligation or other liability whatsoever, whether in whole or in part;

(d) any valuable consideration of any kind, any discount, commission, rebate, bonus, deduction or percentage;

(e) any forbearance to demand any money or money's worth or valuable thing;

(f) any aid, vote, consent or influence or pretended aid, vote, consent or influence, and any promise or procurement of, or agreement or endeavour to procure, or the holding out of any expectation of, any gift, loan, fee, reward, consideration or gratification within the meaning of this paragraph;

(g) any other service, favour or advantage of any description whatsoever, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary or penal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty; and

(h) any offer, undertaking or promise of any gratification within the meaning of paragraphs (a) to (g);

“Officer of the Bureau” means any person appointed by His Majesty the Sultan and Yang Di-Pertuan under section 3(3) and includes the Director, Deputy Director, Assistant Director, a Chief Special Investigator, Senior Special Investigator and Special Investigator;

“prescribed offence” means an offence punishable under section 161, 162, 163, 164, 165, 213, 214 or 215 of the Penal Code (Chapter 22) or section 145 of the Customs Order, 2006 (S 39/2006) and includes —

(a) an attempt to commit any such offence;

(b) an abetment of or a criminal conspiracy to commit (as those terms are defined in the Penal Code (Chapter 22)) any such offence, whether or not the offence is committed in consequence thereof;

“principal” includes any employer, any beneficiary under a trust, and any trust estate (as though it were a person), any person beneficially interested in the estate of a deceased person (as though it were a person) and, in the case of any person serving under a public body, the public body;

“public body” includes —

- (a) the Government of Brunei Darussalam;
- (b) any department, or service or undertaking of the Government of Brunei Darussalam;
- (c) any corporation, council, board, commissioners or other body which has power to act under and for the purpose of any written law in force in Brunei Darussalam or any part thereof relating to local Government, public health or undertakings of public utility, or otherwise has power to administer funds belonging to the Government or money raised by rates, taxes or charges in pursuance of any written law in force in Brunei Darussalam;
- (d) any board, commissioners, committee or other body specified in the Schedule;
- (e) any company or subsidiary company over which or in which any public body as is referred to in paragraph (a), (b), (c) or (d), has controlling power or interest.

[S 48/2015]

“public officer” includes any person in the permanent or temporary employment of a public body.

PART 2

ADMINISTRATION

Appointment of Director and Officers

3. (1) His Majesty the Sultan and Yang Di-Pertuan may appoint a Director who, subject to the orders and control of His Majesty the Sultan and Yang Di-Pertuan, shall be responsible for the direction and administration of the Bureau.

(2) The Director shall not be subject to the direction or control of any person other than His Majesty the Sultan and Yang Di-Pertuan.

(3) His Majesty the Sultan and Yang Di-Pertuan may appoint a Deputy Director of the Bureau, an Assistant Director, a Chief Special

Investigator, Senior Special Investigators and such other officers of the Anti-Corruption Bureau as His Majesty the Sultan and Yang Di-Pertuan may deem fit.

(4) If the office of the Director is vacant or the Director is absent from duty, the Deputy Director shall, except where His Majesty the Sultan and Yang Di-Pertuan otherwise directs, act as Director.

(5) If both the Director and the Deputy Director are absent from duty, His Majesty the Sultan and Yang Di-Pertuan may appoint another person to act as Director during that absence.

Officers of Bureau to be deemed to be public servants

4. (1) All officers of the Anti-Corruption Bureau shall be deemed to be public servants within the meaning of the Penal Code (Chapter 22).

(2) A certificate of appointment signed by the Director shall be issued to every officer of the Anti-Corruption Bureau and shall be evidence of his appointment under this Act.

Duties of Director and Officers of Bureau

4A. It shall be the duty of the Director and Officers of the Bureau to —

(a) receive and consider any report of the commission of an offence under this Act or any prescribed offence, and to investigate those reports as the Director or any Officer of the Bureau considers practicable;

(b) detect and investigate —

- (i) any suspected offence under this Act or any prescribed offence;
- (ii) any suspected attempt to commit any offence under this Act or any prescribed offence; and
- (iii) any suggested conspiracy to commit any offence under this Act or any prescribed offence;

(c) examine the practices, systems and procedures of public bodies in order to facilitate the discovery of offences under this Act or any prescribed offences and to secure the revision of such

practices, systems and procedures as may, in the opinion of the Director, be conducive to corruption;

(d) instruct, advise and assist any person, on the latter's request, on ways in which corruption may be eliminated by such person;

(e) advise heads of public bodies of any changes in practice, systems or procedure compatible with the effective discharge of the duties of the public bodies as the Director thinks necessary to reduce the likelihood of the occurrence of corruption;

(f) educate the public against corruption; and

(g) enlist and foster public support in combating corruption.

PART 3

OFFENCES

Punishment of corruption

5. Any person who shall by himself or by or in conjunction with any other person —

(a) corruptly solicit or receive or agree to receive for himself or for any other person; or

(b) corruptly give, promise or offer to any person whether for the benefit of that person or of another person,

any gratification as an inducement to or reward for, or otherwise on account of —

(i) any person doing or forbearing to do anything in respect of any matter or transaction whatsoever actual or proposed or likely to take place;

(ii) any member, officer or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed or likely to take place, in which the public body is concerned,

is guilty of an offence and liable on conviction to a fine of \$30,000 and imprisonment for 7 years.

Punishment of corrupt transaction with agents

6. If —

(a) any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business;

(b) any person corruptly gives or agrees to give or offers any gratification to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

(c) any person knowingly gives to an agent, or if an agent knowingly uses with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal,

is guilty of an offence and liable on conviction to a fine of \$30,000 and imprisonment for 7 years.

Increase of maximum penalty in certain cases; offences taken into consideration

7. (1) A person convicted of an offence under section 5 or 6 shall, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with any public body, or a sub-contract to execute work comprised in such a contract, be liable on conviction to a fine of \$30,000 and imprisonment for 10 years.

(2) Where a person charged with two or more offences for the acceptance of gratification in contravention of this Act is convicted of one or

some of those offences, and the other outstanding offences are taken into consideration by the court for the purpose of passing sentence, the court may increase the penalty mentioned in subsection (1) by an amount not exceeding the total amount or value of the gratification specified in the charges for the offences so taken into consideration.

Acceptor of gratification to be guilty notwithstanding that purpose not carried out etc.

8. (1) Where in any proceedings against any agent for any offence under section 6(a), it is proved that he accepted, obtained or agreed to accept or attempted to obtain any gratification having reason to believe or suspect that the gratification was offered as an inducement or reward for his doing or forbearing to do any act or for showing or forbearing to show any favour or disfavour to any person in relation to his principal's affairs or business, he shall be guilty of an offence under that section notwithstanding that he did not have the power, right or opportunity so to do, show or forbear or that he accepted the gratification without intending so to do, show or forbear or that the act, favour or disfavour was not in relation to his principal's affairs or business.

(2) Where in any proceedings against any person for any offence under section 6(b), it is proved that he gave, agreed to give or offered any gratification to any agent as an inducement or reward for doing or forbearing to do any act or for showing or forbearing to show any favour or disfavour to any person having reason to believe or suspect that the agent had the power, right or opportunity so to do, show or forbear and that the act, favour or disfavour was in relation to his principal's affairs or business, he shall be guilty of an offence under that section notwithstanding that the agent had no power, right or opportunity or that the act, favour or disfavour was not in relation to his principal's affairs or business.

Corruptly procuring withdrawal of tenders

9. A person —

(a) who, with intent to obtain from any public body, a contract for performing any work, providing any service, doing anything, or supplying any article, material or substance, offers any gratification to any person who has made a tender for the contract as an inducement or a reward for his withdrawing the tender; or

(b) who solicits or accepts any gratification as an inducement or a reward for his withdrawing a tender made by him for such contract,

is guilty of an offence and liable on conviction to a fine of \$30,000 and imprisonment for 7 years.

Bribery of member of legislature

10. Any person who offers to a member of the Legislative Council, the Council of Ministers or the Privy Council, or, being a member thereof, solicits or accepts, any gratification as an inducement or reward for his doing or forbearing to do any act or for showing or forbearing to show any favour or disfavour in his capacity as member, notwithstanding that —

(a) the member did not have the power, right or opportunity so to do, show or forbear;

(b) the member did not in fact so do, show or forbear; or

(c) the inducement or reward was not in relation to the affairs of the Legislative Council, the Council of Ministers or the Privy Council, as the case may be,

is guilty of an offence and liable on conviction to a fine of \$30,000 and imprisonment for 7 years.

Bribery of member of public body

11. Any person who offers to a member of any public body, or being a member of any public body solicits or accepts any gratification as an inducement or reward for —

(a) the member voting or abstaining from voting at any meeting of the public body in favour of or against any measure, resolution or question submitted to the public body;

(b) the member performing, or abstaining from performing, or aiding in procuring, expediting, delaying, hindering or preventing the performance of, any official act;

(c) the member aiding in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person; or

(d) the member showing or forbearing to show any favour or disfavour in his capacity as a member,

notwithstanding that the member did not have the power, right or opportunity so to do, show or forbear, or that the inducement or reward was not in relation to the affairs of the public body, is guilty of an offence and liable on conviction to a fine of \$30,000 and imprisonment for 7 years.

Possession of unexplained property

12. (1) Any person who, being or having been a public officer —

(a) maintains a standard of living above that which is commensurate with his present or past emoluments; or

(b) is in control of pecuniary resources or property disproportionate to his present or past emoluments,

unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, is guilty of an offence and liable on conviction to a fine of \$30,000 and imprisonment for 7 years.

(2) In addition to any penalty imposed under subsection (1), the court may order a person convicted of an offence under subsection (1) to pay to the Government —

(a) a sum not exceeding the amount of the pecuniary resources;
or

(b) a sum not exceeding the value of the property,

the acquisition of which by him was not explained to the satisfaction of the court and any such sum ordered to be paid shall be recoverable as a fine.

(3) Where a court is satisfied in proceedings for an offence under subsection (1) that, having regard to the closeness of his relationship to the accused and to other relevant circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused, or acquired such pecuniary resources or property as a gift, or loan without adequate consideration from the accused, such pecuniary resources or property shall, until the contrary is proved, be deemed to have been under the control or in the possession of the accused.

(4) In any proceedings against a person for an offence under subsection (1), a certificate purporting —

(a) to certify —

- (i) the rate of, and the total amount of, emoluments and the allowances other than such emoluments paid to any public officer in the permanent or temporary employment of the Government of Brunei Darussalam in relation to the discharge by him of his duties as a public officer;
- (ii) that any person was or was not serving at any specified time during any specified period as a public officer in the permanent or temporary employment of the Government of Brunei Darussalam or ceased to be such officer at or before any specified time;
- (iii) that a public officer held or did not hold at any specified time any specified office in the Government of Brunei Darussalam; and

(b) to be signed by the Minister,

shall be admitted in such proceedings by any court on its production without further proof.

(5) On production of a certificate under subsection (4), the court before which it is produced shall, until the contrary is proved, presume that —

(a) the facts stated therein are true; and

(b) the certificate was signed by the Minister.

(6) In this section —

“emoluments” includes a pension or gratuity payable under the Pensions Act (Chapter 38);

“public officer” includes a member of the Royal Brunei Police Force, the Royal Brunei Armed Forces and any armed forces of Brunei Darussalam and includes a person who was a public officer

or who has retired as a public officer immediately before the commencement of this Act.

Public officer using public funds for private purposes, giving undue preferential treatment, misusing information etc. [S 48/2015]

12A. (1) Whoever, being a public officer, in the course of or in relation to his public office or official functions, wilfully —

(a) uses public funds or resources for private purposes or in furtherance of private interest;

(b) fails to act impartially, or gives undue preferential treatment to any person;

(c) misuses information acquired in the course of his duties;

(d) conducts himself in such a manner as to bring his private interests into conflict with his public duties, or conducts himself in such a manner as he knows or can be reasonably expected to know is likely to cause a reasonable suspicion that he —

(i) has allowed his private interest to come into conflict with his public duties; or

(ii) has used his public position for private advantage;

(e) interferes in, or seeks to influence, otherwise than as part of his duty, the appointment, promotion, suspension, demotion or dismissal of a public officer or other person,

is guilty of an offence and liable on conviction to a fine of \$30,000 and imprisonment for 7 years.

(2) An offence under subsection (1)(c) is committed whether or not the person is still a public officer at the date of the offence.

Public officer wilful misconduct or neglect of duty [S 48/2015]

12B. Whoever, being a public officer, wilfully —

(a) misconducts himself; or

(b) neglect to perform his duty,

to such a degree as to amount to an abuse of public trust in the office holder is guilty of an offence and liable on conviction to a fine of \$30,000 and imprisonment for 7 years.

Abetment of offences

13. Whoever abets, within the meaning of the Penal Code (Chapter 22) —

(a) the commission of an offence under this Act; or

(b) the commission outside Brunei Darussalam of any act, in relation to the affairs or business or on behalf of a principal residing in Brunei Darussalam, which if committed in Brunei Darussalam would be an offence under this Act,

shall be deemed to have committed the offence and shall be liable on conviction to be punished with the punishment provided for such offence.

Attempts

14. Whoever attempts to commit an offence punishable under this Act shall be deemed to have committed the offence and shall be liable on conviction to be punished with the punishment provided for such offence.

Conspiracy

15. Whoever is a party to a criminal conspiracy, within the meaning of the Penal Code (Chapter 22), to commit an offence under this Act shall be deemed to have committed the offence and shall be liable on conviction to be punished with the punishment provided for such offence.

Duty of public officer to whom gratification is given or offered

16. A member of the Legislative Council, the Council of Ministers, the Privy Council, a member of a public body or a public officer to whom any gratification is corruptly given, promised or offered shall at the earliest possible opportunity thereafter report the gift, promise or offer, together with the name, if known, of the person who gives, promise or offers the gratification to him, to the nearest Officer of the Bureau and if he fails to do so without reasonable excuse he is guilty of an offence and liable on conviction to a fine of \$500 and imprisonment for 6 months.

When penalty to be imposed in addition to other punishment

17. Where a court convicts any person of an offence committed by the acceptance of any gratification in contravention of any provision of this Act, then, if that gratification is a sum of money or if the value of that gratification can be assessed, the court shall, in addition to imposing on that person any other punishment, order him to pay as a penalty, within the time and to the body and in the manner specified in the order, a sum which is equal to the amount of that gratification or is, in the opinion of the court, the value of that gratification, and any such penalty shall be recoverable as a fine.

PART 4

POWERS OF INVESTIGATION

Power of arrest

18. (1) Any Officer of the Bureau may without a warrant arrest any person who has been concerned in any offence under this Act or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists to his having been so concerned.

(2) Any Officer of the Bureau arresting a person under subsection (1) may search such person and take possession of all articles found upon him which there is reason to believe were the fruits or other evidence of the crime, provided that no female shall be searched except by a female.

(3) Every person so arrested shall be taken to the Anti-Corruption Bureau or to a police station.

Provisions as to bail or bond

18A. (1) A person who has been arrested by any Officer of the Bureau may be released on bail or on his own bond granted by the Director or any Officer of the Bureau specially authorised in writing by the Director.

(2) The provisions of Chapters XXXV and XXXVI of the Criminal Procedure Code (Chapter 7) shall apply to any bail or bond granted under this section; and for the purpose of the Criminal Procedure Code (Chapter 7), any reference to “officer”, “police officer” or “police officer not below the

rank of inspector” shall be read to include the Director or any Officer of the Bureau.

Powers of investigation

19. In any case relating to the commission of —

(a) an offence under section 165, sections 213 to 215 of the Penal Code (Chapter 22), or of any conspiracy to commit, or of any attempt to commit, or of any abetment of, such an offence;

(b) an offence under this Act; or

(c) any seizable offence under any written law which may be disclosed in the course of an investigation under this Act,

an Officer of the Bureau may, without the order of the Public Prosecutor, exercise all or any of the special powers in relation to police investigations into a seizable offence given by the Criminal Procedure Code (Chapter 7):

Provided that an investigation into an offence under the Penal Code (Chapter 22) shall be deemed to be a police investigation to which the provisions of section 114 of the Criminal Procedure Code (Chapter 7) shall apply in the same manner and to the same extent as if the Officer of the Bureau concerned were a police officer.

Powers of investigations authorised by Public Prosecutor

19A. The Public Prosecutor may, by order, authorise the Director or any Officer of the Bureau to exercise, in the case of any offence under any written law, all or any of the powers in relation to police investigations conferred by the Criminal Procedure Code (Chapter 7).

Powers of search and to obtain assistance

20. (1) The Director or the Deputy Director or any police officer above the rank of Assistant Superintendent of Police and any Officer of the Bureau conducting an investigation into an offence alleged or suspected to have been committed under this Act or under sections 161 to 165 or sections 213 to 215 of the Penal Code (Chapter 22) may —

(a) apply to any Government officer or any other person for assistance in the exercise of his powers or the discharge of his duties under this Act;

(b) for the purposes of such investigation, with the written consent of the Public Prosecutor and with such assistance as may be necessary, enter and search any office, registry or other room of or used by a public body:

Provided that His Majesty the Sultan and Yang Di-Pertuan may by order exempt any office, registry or room from entry and search under the provisions of this paragraph.

(2) Any person who —

(a) when requested under subsection (1)(a) to render assistance, without reasonable excuse neglects or fails to render such assistance; or

(b) obstructs or resists the Director or the Deputy Director or any police officer or any Officer of the Bureau in the exercise of the powers of entry and search conferred by subsection (1)(b),

is guilty of an offence and liable on conviction to a fine of \$20,000 and imprisonment for one year.

Further powers of search and seizure

21. (1) If it appears to the Public Prosecutor, or to the Director, that there is reasonable cause to believe that in any place, other than an office, registry or other room of or used by a public body, there is any document or thing containing any evidence of the commission of an offence under this Act or under sections 161 to 165 or sections 213 to 215 of the Penal Code (Chapter 22), the Public Prosecutor or the Director may, by warrant directed to any Officer of the Bureau or any police officer, empower such Officer of the Bureau or any police officer to enter such place, by force if necessary, and there to search for, seize and detain any such document or thing.

(2) Without prejudice to any other law relating to entry and search, the chambers of any advocate are not subject to entry and search under this section or any warrant issued under this section except in the course of investigation of an offence under this Act or under sections 161 to 165 or sections 213 to 215 of the Penal Code (Chapter 22) alleged or suspected to have been committed by that advocate, as the case may be, or by his clerk or any servant employed by him in such chambers or office.

(3) Any person who obstructed or resists the Director or any Officer of the Bureau or any police officer in the exercise of the powers of entry and search under this section is guilty of an offence and liable on conviction to a fine of \$20,000 and imprisonment for one year.

Legal obligation to give information

22. (1) Every person required by any Officer of the Bureau to give any information on any subject which is the duty of that Officer to inquire into under this Act or on any prescribed offence and which it is in his power to give, shall be legally bound to give that information.

(2) Any person who fails to give such information as he is required to give under subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$20,000 and imprisonment for one year.

Special powers of investigation

23. (1) The Public Prosecutor or the Director, if satisfied that there are reasonable grounds for suspecting that an offence under this Act has been committed by any person, may, for the purposes of an investigation into such offence, authorise in writing any Officer of the Bureau specified in such authorisation, to exercise the following powers on the production by him of the authorisation —

(a) to investigate and inspect any share account, purchase account, club account, subscription account, investment account, trust account, mutual or trust fund account, expense account, bank account or other account of whatsoever kind or description, any safe-deposit box, and any banker's books or company books, of or relating to any person named or otherwise identified in such authorisation;

(b) to require from any person the production of any accounts, books, documents, safe-deposit box or other article of or relating to any person named or otherwise identified in such authorisation which may be required for the purpose of such investigation and the disclosure of all or any information relating thereto, and to take copies of such accounts and books or of any relevant entry therein.

(2) Every authorisation given under subsection (1) shall be deemed also to authorise the Director, Deputy Director or Officer of the Bureau

specified therein to require from any person information as to whether or not at any bank, company or other place there is any account, book, document, safe-deposit box or other article liable to investigation, inspection or production under such authorisation.

(3) A requirement under subsection (2) shall be made in writing and any statement therein as to the existence of the appropriate authorisation under subsection (1) shall be accepted as true without further proof of the fact.

(4) Any person who, having been lawfully required under this section to disclose any information or to produce any accounts, books, documents, safe-deposit box or other article to the Director, Deputy Director or an Officer of the Bureau authorised under subsection (1), shall, notwithstanding the provisions of any other law and any oath of secrecy to the contrary, comply with such requirement, and any such person who fails or neglects, without reasonable excuse, to do so, and any person who obstructs the Director, the Deputy Director or such Officer of the Bureau in the execution of the authorisation given under subsection (1), is guilty of an offence and liable on conviction to a fine of \$20,000 and imprisonment for one year.

(5) Any person who falsely represents that an appropriate authorisation has been given under subsection (1), is guilty of an offence and liable on conviction to a fine of \$20,000 and imprisonment for one year.

Public Prosecutor's powers to obtain information

23A. (1) In the course of any investigation into or proceedings relating to an offence alleged or suspected to have been committed by any person under this Act or under sections 161 to 165 or sections 213 to 215 of the Penal Code (Chapter 22) or a conspiracy to commit, or an attempt to commit, or an abetment of any such offence, the Public Prosecutor may, notwithstanding anything in any other written law to the contrary, by written notice —

(a) require any such person to furnish a statutory declaration or, as the Public Prosecutor sees fit, a statement in writing enumerating all movable or immovable property belonging to or possessed by such person and by the spouse, parents, or sons and daughters of such person, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise;

(b) require any such person to furnish a statutory declaration or, as the Public Prosecutor sees fit, a statement in writing of any money or other property sent out of Brunei Darussalam by him, his spouse, sons and daughters during such period as may be specified in the notice;

(c) require any such person to furnish a statutory declaration or, as the Public Prosecutor sees fit, a statement in writing 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 can assist the investigation;

(d) require the manager of any bank to give copies of the accounts of such person or of the spouse or of the parents or a son or daughter of such person at the bank;

(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 which is in his possession or under his control.

(2) Every person to whom a notice is sent by the Public Prosecutor under subsection (1) shall, notwithstanding the provisions of any written law or any oath of secrecy to the contrary, comply with the terms of that notice within such times as may be specified therein and any person who wilfully neglects or fails to comply so is guilty of an offence and liable on conviction to a fine of \$5,000 and imprisonment for one year.

Restriction on disposal of property etc.

23B. (1) The Public Prosecutor may, by written notice to a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed under this Act or against whom a prosecution for such offence has been instituted, direct that such person shall not dispose of or otherwise deal with any property specified in such notice without the consent of the Public Prosecutor.

(2) Where any property specified in a notice under subsection (1) includes any debt or obligation due by a bank or deposit-taking company to the person to whom the notice is given the Public Prosecutor may serve on such bank or deposit-taking company a copy of that notice, which shall have the effect of directing the bank or deposit-taking company not to pay any

money to the person specified in the copy of that notice without the consent of the Public Prosecutor.

(3) A notice under subsection (1) —

(a) may be served by delivering it personally to the person to whom it is addressed or may, where the Court of a Magistrate is satisfied that such person cannot be found or is not in Brunei Darussalam, be served in such other manner as the court may direct on application *ex parte* by or on behalf of the Public Prosecutor;

(b) shall have effect from the time of service and shall continue in force for a period of 12 months or until cancelled by the Director whichever is the earlier.

(4) Nothing in subsection (3) shall prevent the Public Prosecutor from making a further order in respect of the same property.

(5) The Public Prosecutor may impose such terms and conditions as he thinks fit to a consent to the disposal of or other dealing with any property specified in a notice under subsection (1).

(6) A person who disposes of or otherwise deals with any property specified in a notice under subsection (1) or a bank or deposit-taking company which pays any money to a person specified in a copy of that notice served on it under subsection (2) other than in accordance with the consent of the Public Prosecutor, is guilty of an offence and liable on conviction to a fine of \$50,000 or the value of the property disposed or otherwise dealt with, whichever is greater, and imprisonment for 3 years.

Surrender of travel documents

23C. (1) A Magistrate may, on the application of the Director, Deputy Director or an Assistant Director by written notice require a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by him under this Act to surrender to the Director any travel documents in his possession.

(2) A notice under subsection (1) shall be served personally on the person to whom it is addressed.

(3) A person on whom a notice under subsection (1) is served shall comply with such notice forthwith.

(4) If a person on whom a notice under subsection (1) has been served fails to comply with the notice forthwith, he may thereupon be arrested and taken before a Magistrate.

(5) Where a person is taken before a Magistrate under subsection (4), the Magistrate shall, unless such person thereupon complies with the notice under subsection (1) or satisfies the Magistrate that he does not possess a travel document, by warrant commit him to prison to be safely kept until —

(a) the expiry of the period of 28 days from the date of his committal to prison as aforesaid; or

(b) such person complies with the notice under subsection (1) and a Magistrate, by order in that behalf, orders and directs the Director of Prisons to discharge such person from prison (which order shall be sufficient warrant for the Director of Prisons to do so),
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whichever occurs first.

(6) A travel document which is surrendered to the Director under this section may be detained for 6 months from the date on which it was surrendered and may be detained for a further 3 months if a Magistrate, on application by the Director, Deputy Director or an Assistant Director, is satisfied that the investigation could not reasonably have been completed before the date of such application and authorises such further detention.

(7) All proceedings before a Magistrate under this section shall be conducted in chambers.

(8) In this section, “travel document” means a passport or other document establishing the identity or nationality of a holder.

Legal advisers and privileged information

24. (1) Nothing in this Act shall require the disclosure by a legal adviser of any privileged information, communication, book, document or other article which came to his knowledge for the purpose of any proceedings, begun or in contemplation, before a court or to enable him to give legal advice to his client.

(2) In this section, “legal adviser” means a person who is admitted as an advocate under the Legal Profession Act (Chapter 132).

(3) The protection conferred by this section on a legal adviser shall extend to a clerk or servant of or employed by a legal adviser.

PART 5

EVIDENCE

Admission of statements in evidence

24A. (1) Where any person is charged with an offence, any statement —

(a) whether such statement amounts to a confession or not or is oral or in writing, made any time, whether before or after that person is charged;

(b) whether in the course of a police investigation or not, or whether in the course of an investigation by the Bureau or not;

(c) whether or not a caution was administered; and

(d) whether or not wholly or partly in answer to questions, by that person to, or in the hearing of, any police officer or any Officer of the Bureau, whether or not interpreted to him by any other police officer or any other Officer of the Bureau or any other person, whether concerned or not in the arrest of that person,

shall, notwithstanding anything to the contrary contained in the Criminal Procedure Code (Chapter 7) or in any other written law, be admissible at his trial in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) Notwithstanding subsection (1), the court shall refuse to admit the confession of an accused person or allow it to be used in the manner referred to in that subsection if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against that person, proceeding from a person in authority and sufficient in the opinion of the court to give that person grounds which would appear to him reasonable for supposing that by making

it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(3) No statement made by an accused person under a legal obligation to give information shall be construed as a statement obtained by any inducement, threat or promise as is referred to in subsection (2), if it is otherwise voluntary.

(4) The court shall admit under subsection (1) a statement made by an accused person if such statement is made after the impression caused by any inducement, threat or promise as is referred to in subsection (2) has, in the opinion of the court, been fully removed.

Presumption of corruption in certain cases

25. Where in any proceedings for an offence under this Act it is proved that the accused gave or accepted a gratification, the gratification shall be presumed to have been given and accepted corruptly as such inducement or reward as is alleged in the particulars of the offence, unless the contrary is proved.

Evidence of custom inadmissible

26. In any civil or criminal proceedings under this Act, evidence shall not be admissible to show that any such gratification as is mentioned in this Act is customary in any profession, trade, vocation or calling.

Evidence of pecuniary resources or property

27. (1) In any proceedings against a person for an offence under Part 3 (other than section 12), the fact that the accused was, at or about the date of or at any time since the date of the alleged offence, or 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 date of or at any time since the date 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 by the court as —

(a) corroborating the testimony of any witness giving evidence in such proceedings that the accused accepted or obtained or agreed to accept or attempted to obtain any gratification; and

(b) showing that such gratification was accepted or obtained or corruptly agreed to be accepted or attempted to be obtained as an inducement or reward.

(2) For the purposes of subsection (1), a person accused of an offence under Part 3 (other than section 12) shall be presumed to be or to have been in possession of pecuniary resources or property, or to have obtained an accretion thereto, where such resources or property are or were held, or such accretion was obtained by any other person whom, having regard to his relationship to the accused or to any other circumstances, there is reason to believe is or was holding such resources or property or obtained such accretion in trust for or otherwise on behalf of the accused or as a gift from the accused.

Evidence of accomplice

28. Notwithstanding any rule of law or written law to the contrary, no witness shall, in any such trial or inquiry as is referred to in section 27, be presumed to be unworthy of credit by reason only of any payment or delivery by him or on his behalf of any gratification to an agent or member of a public body.

Examination of offenders

29. (1) Whenever two or more persons are charged with an offence under this Act or with any prescribed offence, the court may at the request in writing of the Public Prosecutor require one or more of them to give evidence as a witness or witnesses for the prosecution.

(2) Any person referred to in subsection (1) who refuses to be sworn or to answer any lawful question shall be dealt with in the same manner as witnesses so refusing may by law be dealt with by the court.

(3) Every person required to give evidence under subsection (1), who in the opinion of the court makes true and full discovery of all things as to which he is lawfully examined, shall be entitled to receive a certificate of indemnity under the hand of the Judge or Magistrate, as the case may be, stating that he has made a true and full discovery of all things as to which he was examined, and such certificate shall be a bar to all legal proceedings against him in respect of all such things as aforesaid.

Protection of informers

30. (1) Except as hereinafter provided, no complaint as to an offence under this Act or any prescribed offence 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.

(2) If any books, documents or papers which are 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 had shall cause all such passage 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 in any proceedings relating to an offence under this Act or a prescribed offence, the court, after full inquiry into the case, is of the opinion that —

(a) 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

(b) 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.

PART 6**PROSECUTION AND TRIAL OF OFFENCES****Prosecution of offences**

31. (1) A prosecution under this Act shall not be instituted except by or with the consent of the Public Prosecutor:

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 Public Prosecutor to the institution of a prosecution for the offence has

not been obtained, but the case shall not be further prosecuted until that consent has been obtained.

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

(3) In this section, “Public Prosecutor” means the Public Prosecutor personally.

Court of a Magistrate to have jurisdiction to try offences under this Act

32. (1) The High Court or the Court of a Magistrate may try any offence under this Act.

(2) Notwithstanding the provisions of any written law to the contrary, a Court of a Magistrate may award the full punishment for any offence under this Act.

PART 7

GENERAL

Frivolous, false or groundless complaints to be reported to Public Prosecutor

33. At the conclusion of proceedings for an offence under this Act, the court may, if of the opinion that the complainant or any other person has knowingly, and with intent to harm the accused, made a false, frivolous or groundless allegation against him, so certify in writing and transmit the certificate and the record of the proceedings to the Public Prosecutor.

Offence of making false report of commission of offence etc.

34. Any person who, during the course of an investigation into, or in any proceedings relating to, an offence alleged or suspected to have been committed under this Act, knowingly —

(a) makes or causes to be made a false report of the commission of an offence under this Act to the Director, Deputy Director or any Officer of the Bureau;

(b) misleads the Director, Deputy Director or any Officer of the Bureau,

is guilty of an offence and liable on summary conviction to a fine of \$20,000 and imprisonment for one year.

Resisting or obstructing officer

34A. Any person who resists or obstructs any Officer of the Bureau in the execution of his duty is guilty of an offence and liable on conviction to a fine not exceeding \$20,000 and imprisonment for one year.

Offence to disclose identity of persons being investigated

35. Any person who, without lawful authority or reasonable excuse —

(a) discloses to any person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by him under this Act the fact that he is subject to such an investigation or any details of such investigation; or

(b) discloses to any other person either the identity of any person who is the subject of such an investigation or any details of such an investigation,

is guilty of an offence and liable on conviction to a fine of \$20,000 and imprisonment for one year.

Alternative convictions and amending particulars

36. (1) If, on the trial of any person for any offence under this Act it is not proved that the accused is guilty of the offence charged but it is proved that the accused is guilty of some other offence under this Act, the accused may, notwithstanding the absence of consent under section 31 in respect of such other offence, be convicted of such other offence, and be liable to be dealt with accordingly.

(2) If on the trial of any person for any offence under this Act there is any material variance between the particulars of the offence charged and the evidence adduced in support thereof, such variance shall not, of itself, entitle the accused to an acquittal of the offence charged if, in the opinion of the court, there is *prima facie* evidence of the commission of that offence, and in such case —

(a) the court may, notwithstanding the absence of consent under section 31 in respect of the particulars supported by the evidence adduced, make the necessary amendment to the particulars, and shall thereupon read and explain the amendment to the accused; and

(b) the parties shall be allowed to recall and examine on matters relevant to such amendment any witness who may have been examined and, subject to the provisions of subsection (3), to call any further witness.

(3) If an amendment is made under subsection (2) after the case for the prosecution is closed, no further witness may be called by the prosecution other than such and on such matters only as it would, apart from the provisions of this subsection, be permissible to call and put in evidence in rebuttal.

(4) Nothing in this section shall exclude the application of any other law whereby a person may be found guilty of an offence other than that with which he is charged.

Liability of citizens for offences outside Brunei Darussalam

37. The provisions of this Act shall, in relation to citizens of Brunei Darussalam, have effect outside as well as within Brunei Darussalam, and where an offence under this Act or any prescribed offence, is committed by any citizen of Brunei Darussalam in any place outside Brunei Darussalam, he may be dealt with in respect of that offence as if it had been committed at any place within Brunei Darussalam at which he may be found or to which he may have been brought in consequence of any proceedings for his extradition to Brunei Darussalam from any place outside Brunei Darussalam:

Provided that any proceedings against any person under this section which would be a bar to subsequent proceedings against the person for the same offence if the offence had been committed in Brunei Darussalam shall be a bar to further proceedings against him under the law relating to extradition of persons in respect of the same offence outside Brunei Darussalam.

Offences to be seizable

38. Every offence under this Act and every prescribed offence shall be deemed to be a seizable offence for the purposes of the law for the time being in force relating to criminal procedure.

Principal may recover amount of secret gift

39. (1) Where any gratification has in contravention of this Act been given by any person to an agent, the principal may recover as a civil debt the amount or the money value thereof either from the agent or from the person who gave the gratification to the agent, and no conviction or acquittal of the defendant in respect of an offence under this Act shall operate as a bar to proceedings for the recovery of such amount or money value.

(2) Nothing in this section shall be deemed to prejudice or affect any right which any principal may have under any written law or rule of law to recover from his agent any money or property.

Application of Act

40. For the avoidance of doubt, it is hereby declared that where a person has before the commencement of this Act committed an act which would have been an offence under this Act had it been in force at the time such act was committed, he shall, notwithstanding the provisions of any written or other law to the contrary, be guilty of an offence and liable to be prosecuted for that offence and the court shall have jurisdiction to try such offence under this Act.

SCHEDULE

[S 48/2015]

(section 2)

PUBLIC BODIES

1. Authority for Information Communications Technology Industry
2. Autoriti Monetari Brunei Darussalam
3. Brunei Economic Development Board
4. Brunei Gas Carriers Sendirian Berhad
5. Brunei Investment Agency
6. Brunei National Petroleum Company Sendirian Berhad
7. Brunei Shell Joint Ventures
8. Centre for Strategic and Policy Studies
9. Darussalam Assets Sendirian Berhad
10. Datastream Technology Sendirian Berhad
11. Kolej Universiti Perguruan Ugama Seri Begawan
12. Majlis Ugama Islam
13. Minister for Finance Corporation
14. Politeknik Brunei
15. Royal Brunei Airlines Berhad
16. Royal Brunei Technical Services
17. Semaun Holdings Sendirian Berhad
18. Tabung Amanah Pekerja Board
19. Telekom Brunei Berhad
20. Universiti Brunei Darussalam
21. Universiti Sultan Sharif Ali
22. Universiti Teknologi Brunei