

# **LAWS OF BRUNEI**

## **CHAPTER 161**

### **INTOXICATING SUBSTANCES**

**S 12/1991**

Amended by  
S 29/1996

**1999 Edition, Chapter 161**

Amended by  
S 58/2007  
S 11/2010  
S 3/2012

**REVISED EDITION 2013**



LAWS OF BRUNEI  
REVISED EDITION 2013

CHAPTER 161  
INTOXICATING SUBSTANCES

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Citation.
2. Interpretation.

PART II

OFFENCES RELATING TO INTOXICATING SUBSTANCES

3. Offence of misuse of intoxicating substances.
4. Offence of supply of intoxicating substances.
5. General powers to call for information as to intoxicating substances.

PART III

EVIDENCE AND ENFORCEMENT

6. Protection of informers.

7. Powers of arrest.
8. Procedure where investigation cannot be completed within 24 hours by officer of the Bureau or police officer.
9. Powers of search and seizure.
10. Obstruction of search.
11. Forfeiture.
12. Disposal of things forfeited.
13. Powers of investigation of officers of Bureau.
14. Blood tests.
15. Presumption of misuse of intoxicating substances.
16. Government analyst certificate.

#### PART IV

#### TREATMENT AND REHABILITATION

17. Supervision.
18. Treatment and rehabilitation.
19. Approved institutions.
20. Advisory Committees for approved institutions.
21. Review, discharge and transfer of residents.
22. Power of Magistrate to inquire into complaints of misconduct or breach of duty.
23. Residents deemed to be in legal custody.
24. Escape from legal custody of approved institution.

PART V  
GENERAL

25. General penalty.
26. Indemnity.
27. Protection of persons acting under authority of Act.
28. Offences by corporation.
29. Regulations.

SCHEDULE — CHEMICAL COMPOUND

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## INTOXICATING SUBSTANCES ACT

**An Act to prohibit the misuse of certain substances which may cause intoxication when inhaled and for purposes connected therewith**

*Commencement: 1st May 1992*  
*[S 18/1992]*

### PART I PRELIMINARY

#### **Citation.**

1. This Act may be cited as the Intoxicating Substances Act.

#### **Interpretation.**

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

“Advisory Committee”, in relation to any approved institution, means an Advisory Committee appointed for the approved institution under section 20;

“approved institution” means any place or premises declared by the Minister to be an approved institution under section 19(1);

“article liable to seizure” means any thing by means of or in respect of which an offence against this Act has been committed or which contains evidence of an offence against this Act and includes money;

“Director” means the Director of the Narcotics Control Bureau appointed under section 2A(1) of the Misuse of Drugs Act (Chapter 27) and includes the Deputy Director of the Bureau;

“intoxicating substance” means any substance having the property of releasing toxic vapours or fumes which contain any chemical compound specified in the first column of the Schedule and which when inhaled induces or causes a state of intoxication;

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

“officer of the Bureau” means the Director or any officer of the Narcotics Control Bureau;

“police officer” has the same meaning as in the Royal Brunei Police Force Act (Chapter 50);

“resident” means a person who is detained in an approved institution;

[S 11/2010]

“supervision order” means an order in writing by the Director made under section 17;

“supervision period” means the period for which a person is placed under supervision pursuant to a supervision order made under section 17;

“supply” includes having possession for the purpose of supply.

## PART II

### OFFENCES RELATING TO INTOXICATING SUBSTANCES

#### **Offence of misuse of intoxicating substances.**

3. (1) No person shall, for the purpose of inducing or causing in himself a state of intoxication, use or inhale any intoxicating substance.

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

#### **Offence of supply of intoxicating substances.**

4. (1) No person shall sell, supply or offer to sell or supply an intoxicating substance to any person if he knows or has reasonable cause to believe that the intoxicating substance is, or its fumes are, likely to be used or inhaled in contravention of section 3(1) by the person to whom the substance is sold or supplied or by another person.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 5 years or both.



**General powers to call for information as to intoxicating substances.**

5. (1) The Director may require any person who, in the course of conducting a business, sells or supplies or offers to sell or supply any intoxicating substance —

- (a) to produce such documents;
- (b) to answer such questions; and
- (c) to furnish such information,

as he may consider necessary for the effective exercise of his powers and performance of his duties under this Act.

(2) Any such requisition shall be made in writing served on the person to whom it is addressed, and any such service shall be good service if the requisition —

- (a) is left with that person;
- (b) is left with any adult at the usual or last known place of residence or business of that person; or
- (c) is served on that person by post at his usual or last known place of residence or business.

(3) Every person required to produce any document, answer any question or furnish any information shall produce the document, answer the question or furnish the information within such time as may be stated in the requisition.

(4) Any person required to produce any document, answer any question or furnish any information under this section who —

- (a) fails without lawful excuse to comply with any requisition under this section;
- (b) produces any document which is false in any material particular, or has not been given or made by the person by whom it purports to have been given or made, or has been in any way altered or tampered with; or

(c) makes any declaration, statement or representation which is false in a material particular,

is guilty of an offence.

### PART III

#### EVIDENCE AND ENFORCEMENT

##### **Protection of informers.**

6. (1) Except as provided in subsection (3) —

(a) no information for an offence against this Act shall be admitted in evidence in any civil or criminal proceedings; and

(b) no witness in any civil or criminal proceedings shall be obliged to —

- (i) disclose the name and address of any informer who has given information with respect to an offence against this Act; or
- (ii) answer any question if the answer would lead, or would tend to lead, to the discovery of the name or address of the informer.

(2) If any book, document or paper which is in evidence or liable to inspection in any civil or criminal proceedings contain any entry in which any informer is named or described or which might lead to his discovery, the court shall cause those entries to be concealed for view or to be obliterated so far as may be necessary to protect the informer from discovery.

(3) If —

(a) in any proceedings before a court for an offence against this Act, the court, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he knew or believed to be false or did not believe to be true; or

(b) in any other proceedings, the court is of the opinion that justice cannot be fully done between the parties thereto without the disclosure of the name of an informer,

the court may permit inquiry and require full disclosure concerning the informer.

### **Powers of arrest.**

7. (1) Any officer of the Bureau, any police officer or any officer of customs may arrest without a warrant any person who has committed or whom he reasonably suspects to have committed an offence against this Act.

(2) Any person so arrested shall, together with any article which is liable to seizure, be taken to the Narcotics Control Bureau or a police station and may be searched.

(3) No woman shall be searched under this Part except by another woman and with strict regard to decency.

(4) An officer making an arrest under this section may seize and detain any article liable to seizure.

### **Procedure where investigation cannot be completed within 24 hours by officer of the Bureau or police officer.**

8. Whenever any person is arrested and detained in custody by an officer of the Bureau or a police officer for an offence against this Act and it appears that the investigation cannot be completed within a period of 24 hours from the time that the person is arrested, an officer of the Bureau or a police officer may produce such person before a Magistrate and the Magistrate may, whether he has or has no jurisdiction to try the case authorise the detention of such person in such custody as the Magistrate thinks fit for a term not exceeding 15 days in the whole.

### **Powers of search and seizure.**

9. (1) Any officer of the Bureau or any police officer or any officer of customs may at any time —

(a) without a warrant enter and search any place or premises in which he reasonably suspects that there is to be found any article liable to seizure;

(b) search any person found in that place or premises; and

(c) seize and detain any article liable to seizure found in that place or premises.

(2) For the purpose of exercising his power under this section, an officer may, with such assistance as he considers necessary, break open any door, window, lock, fastener, floor, wall, ceiling, compartment, box, container or any other thing.

### **Obstruction of search.**

10. Any person who —

(a) obstructs any officer of the Bureau or any police officer or in the exercise of any power under this Act; or

(b) fails to comply with any lawful requirement of any officer of the Bureau or any police officer in the execution of his duty under this Act,

is guilty of an offence.

### **Forfeiture.**

11. (1) Whenever anything is seized under this Act, the officer who carried out the seizure shall forthwith give notice in writing of the seizure to the owner of that thing, if known, either by delivering the notice personally to him or by post at his place of abode, if known, except that the notice shall not be required to be given where the seizure is made in the presence of the offender, or the owner or his agent.

(2) An order for the forfeiture of any article liable to seizure shall be made if it is proved to the satisfaction of a court that an offence against this Act has been committed and that such article was the subject matter of or was used in the commission of the offence notwithstanding that no person may have been convicted of that offence.

(3) If there is no prosecution with regard to any article seized under this Act, that article shall be deemed to be forfeited at the expiration of one month from the date of seizure of the article unless a claim thereto has been made before that date in such manner as may be prescribed.

**Disposal of things forfeited.**

**12.** All things which are forfeited to the Government under this Act shall be disposed of in such manner as the Minister thinks fit.

**Powers of investigation of officers of Bureau.**

**13.** In any case relating to the commission of an offence against this Act, an officer of the Bureau shall have all the powers of a police officer under the Criminal Procedure Code (Chapter 7) in relation to an investigation into a seizable offence.

**Blood tests.**

**14.** (1) Any officer of the Bureau, police officer or the officer-in-charge of an approved institution may require any person who has used or inhaled, or is reasonably suspected to have used or inhaled, any intoxicating substance for the purpose of inducing or causing a state of intoxication to provide to a registered medical practitioner a specimen of his blood for a laboratory test; but a person shall not be required to provide a specimen of his blood for a laboratory test under this subsection if the registered medical practitioner in immediate charge of his case objects to the provision of such specimen on the ground that it would be prejudicial to the proper care or treatment of that person.

(2) A person who without reasonable excuse fails to provide a specimen of his blood for a laboratory test in pursuance of a requirement imposed under subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding 3 months.

(3) An officer of the Bureau, police officer or the officer-in-charge of an approved institution shall, on requiring any person under this section to provide a specimen of blood for a laboratory test, warn him that failure to provide a specimen of blood may make him liable to a fine or imprisonment,

and if such officer fails to do so, the court before which the person is charged with an offence under subsection (2) may dismiss the charge.

(4) For the purposes of any proceedings for an offence under section 3, a certificate purporting to be signed by a registered medical practitioner that he took a specimen of a blood from a person with his consent shall be evidence of the matters so certified and of the qualifications of the registered medical practitioner:

Provided that the certificate shall not be accepted as evidence for the prosecution unless a copy thereof had been served on the accused not less than 7 days before the hearing.

(5) For the purposes of this section, the consent of a person who has attained the age of 16 years to providing a specimen of blood in pursuance of a requirement imposed under subsection (1) shall be effective as it would be if he were of full age; and where such person has, by virtue of this subsection, given an effective consent, it shall not be necessary to obtain any consent from his parent or guardian in respect of his providing the specimen of blood.

#### **Presumption of misuse of intoxicating substance.**

**15.** A person shall be presumed, until the contrary is proved, to have used or inhaled any intoxicating substance for the purpose of inducing or causing in himself a state of intoxication if the specimen of blood provided by him under section 14 is certified by a Government analyst to contain an amount of any chemical compound specified in the first column of the Schedule in excess of the amount specified in the second column thereof in relation to that chemical compound.

#### **Government analyst certificate.**

**16.** A certificate purporting to be signed by a Government analyst and purporting to relate to any chemical compound specified in the first column of the Schedule shall be admitted in evidence in any proceedings for an offence against this Act, on its production by the prosecution without proof of signature and, until the contrary is proved, that certificate shall be *prima facie* evidence of all matters contained therein:

Provided that the certificate shall not be accepted as evidence for the prosecution unless a copy thereof had been served on the accused not less than 7 days before the hearing.

#### PART IV

#### TREATMENT AND REHABILITATION

##### **Supervision.**

17. (1) If as a result of a blood test under section 14, it appears to the Director that the person who supplied the specimen of blood for the blood test has used or inhaled any intoxicating substance in contravention of section 3 and that it is necessary for that person to be subject to supervision, the Director may make a supervision order requiring that person to be subject to the supervision of an officer of the Bureau or a person appointed by the Director for that purpose for a supervision period not exceeding one year.

(2) The Director may make a supervision order requiring a person who has been discharged from an approved institution under section 21 to be subject to the supervision of an officer of the Bureau or a person appointed by the Director for that purpose for a supervision period not exceeding one year.

(3) A supervision order made under subsection (1) or (2) may require the person subject to the supervision order to comply, during the whole or any part of the supervision period, with such requirements as to residence and any other requirements as the Director, having regard to the circumstances of the case, considers necessary for securing the good conduct of such person and if the person wilfully fails to comply with any requirement of the supervision order, he is guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

##### **Treatment and rehabilitation.**

18. (1) If at any time during or after the supervision period, a person who is or has been subject to a supervision order is arrested under section 7 on the ground that the person is reasonably suspected to have committed an offence under section 3, the Minister, having regard to the results of a medical examination or observation or a blood test under section 14 and, where

applicable, a report of the supervision officer in relation to the person concerned may, if it appears to the Minister that it is necessary for such person to undergo treatment and rehabilitation at an approved institution, by order in writing direct the person to be admitted to an approved institution and detained therein for a period not exceeding 6 months.

(2) An approved institution may —

(a) admit any person who uses or inhales any intoxicating substance for the purpose of inducing or causing a state of intoxication; or

(b) admit any person under the age of 21 years who uses or inhales any intoxicating substance for the purpose of inducing or causing a state of intoxication on the application made by either parent of such person or by his guardian or by any person for the time being having the custody or control of such person,

for voluntary treatment and rehabilitation on such terms and conditions as may be prescribed except that every person who is admitted to an approved institution under this subsection shall not be detained therein for a period exceeding 6 months.

(3) Any statement made by a person admitted to an approved institution under subsection (2) for the purpose of undergoing treatment and rehabilitation shall not be admissible in evidence against him in respect of any subsequent prosecution for an offence against this Act.

(4) If the Minister, after considering a report of an Advisory Committee of an approved institution, is of the opinion that a resident of that institution whose period of detention therein is about to expire requires further treatment or rehabilitation or both, the Minister may by order in writing direct that the resident be detained in the institution for a further period or periods not exceeding 3 months at any one time except that no person in respect of whom an order has been made under subsection (1) shall be detained in an approved institution or institutions for a period of more than 2 years after his admission to any approved institution pursuant to such order.

[S 11/2010; S 3/2012]



(5) In this section, “supervision officer” means a person appointed by the Director under section 17(1) or (2) who is charged with the responsibility for the supervision of the person brought before the Director under subsection (1).

**Approved institutions.**

19. (1) The Minister may, by notification published in the *Gazette*, declare any place or premises to be an approved institution for the purpose of the treatment and rehabilitation of persons who use or inhale intoxicating substances for the purpose of inducing or causing a state of intoxication and may at any time in like manner revoke or amend any such notification.

(2) The Minister may appoint any person as the officer-in-charge of an approved institution and such person shall be responsible for the general charge and supervision of the approved institution.

**Advisory Committees for approved institutions.**

20. (1) The Minister shall appoint for any approved institution or institutions an Advisory Committee which shall have such functions as are conferred upon it by this Act or any regulations made thereunder.

(2) Every such Committee shall consist of a Chairman and not less than two other members.

(3) The Chairman and members of an Advisory Committee shall be appointed by the Minister for a term not exceeding 3 years, but may be re-appointed, or may at any time be removed from office by the Minister, or may at any time resign from their office by writing addressed to the Minister.

(4) Three members of the Committee shall constitute a *quorum* at any meeting of the Committee.

(5) The Chairman shall preside at every meeting of the Committee at which he is present and in his absence the members present shall elect one of their number to preside at the meeting.

(6) Every question before the Committee shall be determined by a majority of the votes of the members present and voting thereon, and in the

event of an equality of votes the Chairman or the member presiding at the meeting shall have a casting vote in addition to his original vote.

(7) Subject to the provisions of this Act and any regulations made thereunder, the Committee may determine its own procedure.

(8) Any order of the Committee may be signed by the Chairman or a member of the Committee.

**Review, discharge and transfer of residents.**

*[S 11/2010]*

**21.** (1) The Advisory Committee of an approved institution shall keep the case of every resident under review and shall as often as practicable consider whether he should be discharged.

*[S 11/2010]*

(2) Notwithstanding any order made under section 18(1) or (4) or under section 25(2), the Minister or the Advisory Committee of an approved institution may at any time by order in writing —

(a) discharge any resident; or

*[S 11/2010]*

(b) transfer any resident from one approved institution to another approved institution.

*[S 11/2010]*

(3) The officer-in-charge of an approved institution may enter into an arrangement with the officer-in-charge of another approved institution for the transfer of any resident to that other approved institution and, subject to any direction given by the Director or the Advisory Committee, may carry out any transfer in accordance with that arrangement except that the whole period of detention for which the resident was admitted to such approved institution shall not be increased by the transfer.

*[S 11/2010]*

(4) On proof to his satisfaction that the presence of a resident at any place is required —

*[S 11/2010]*

(a) in the interests of justice;

- (b) for the purpose of any inquiry;
- (c) in the public interest; or
- (d) in the interest of the resident,

[S 11/2010]

the officer-in-charge of the relevant approved institution may order that the resident be taken to that place.

[S 11/2010]

**Power of Magistrate to inquire into complaints of misconduct or breach of duty.**

**22.** (1) Where a complaint is made on oath to a Magistrate that any person is improperly detained in an approved institution by reasons of any misconduct or breach of duty on the part of any officer in the discharge of his functions pursuant to this Act or any regulations made thereunder, the Magistrate may either inquire into the complaint himself or direct a police officer to make an inquiry for the purpose of ascertaining the truth or falsehood of the complaint and report to him the result of the inquiry.

(2) Every inquiry under subsection (1) shall be conducted in private but, save as aforesaid, the procedure for conducting any inquiry shall be such as the Magistrate considers appropriate in the circumstances of the case.

(3) A Magistrate or a police officer conducting any inquiry under subsection (1) shall have all the powers conferred on him by the Criminal Procedure Code (Chapter 7) in relation to the attendance and examination of witnesses, the taking of evidence and the production of documents.

(4) If after considering the result of any such inquiry, the Magistrate is satisfied that any person who is detained in an approved institution ought not to be so detained, he may make an order for the discharge of that person from the approved institution and that person shall be discharged accordingly.

(5) Any order or decision of the Magistrate made under this section shall be final.

(6) No evidence taken for the purpose of any such inquiry shall be admissible in any civil or criminal proceedings except where the person who gave such evidence is charged with giving or fabricating false evidence.

**Residents deemed to be in legal custody.**

[S 11/2010]

**23.** (1) Every resident shall be deemed to be in the legal custody of the approved institution in which he is for the time being detained.

[S 11/2010]

(2) A resident shall be deemed to be in legal custody —

[S 11/2010]

(a) while he is confined in, or is being taken to or from, an approved institution;

(b) while he is, for any other reason, outside an approved institution, in the custody or under the control of the officer-in-charge of the approved institution; or

(c) while he is being taken to any place to which he is required or authorised by or under this Act to be taken, or is kept in custody in pursuance of any such requirement or authorisation.

**Escape from legal custody of approved institution.**

**24.** (1) Any resident who —

[S 11/2010]

(a) while undergoing treatment and rehabilitation in an approved institution, escapes from the legal custody thereof;

(b) while he is outside an approved institution, escapes from the legal custody or control of an officer-in-charge of an approved institution; or

(c) while he is otherwise in the legal custody of any other person, escapes therefrom,

is guilty of an offence.

(2) Any person who —

(a) knowingly assists, directly or indirectly, any resident of an approved institution to escape therefrom;

[S 11/2010]

(b) induces any such resident so to escape; or

[S 11/2010]

(c) knowing that any resident has escaped from an approved institution, harbours or conceals, or assists in harbouring or concealing that resident or causes or induces him not to return to such approved institution,

[S 11/2010]

is guilty of an offence.

## PART V

### GENERAL

#### **General penalty.**

**25.** (1) Any person who is guilty of an offence against this Act for which no penalty is expressly provided is liable on conviction to a fine not exceeding \$3,000, imprisonment for a term not exceeding one year or both.

(2) Where any person is convicted of an offence under section 3, the court shall consider a report of a Government Medical Officer and if the court is satisfied that it is necessary for such person to undergo treatment or rehabilitation or both at an approved institution, the court shall in addition to any punishment it may lawfully impose make an order requiring that person to be admitted as a resident to an approved institution for the purpose of such treatment, rehabilitation or both.

[S 11/2010]

(3) Every person who has been admitted as a resident to an approved institution under subsection (2) shall be detained therein for a period of one year unless he is earlier discharged by an order of the Minister.

[S 58/2007; S 11/2010]

**Indemnity.**

26. (1) The Government shall not be liable to make good any damage caused to any goods or property as a result of an entry, search or detention under the provisions of this Act unless the damage is caused by the wilful neglect or default of an officer employed by the Government.

(2) In the event of any dispute as to the amount of any damage so caused, the damage shall be summarily ascertained and determined by a Court of a Magistrate.

**Protection of persons acting under authority of Act.**

27. Any person who does any act in pursuance or intended pursuance of any of the provisions of this Act or the regulations made thereunder shall not be subject to any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, mistake of law or fact, or any other ground, unless he has acted in bad faith or without reasonable care.

**Offences by corporation.**

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

**Regulations.**

29. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for any purpose for which regulations may be made under this Act and for prescribing anything which may be prescribed under this Act and generally for the purpose of carrying this Act into effect.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations with respect to any of the following matters —

(a) providing for the treatment and rehabilitation of persons who use or inhale intoxicating substances for the purpose of inducing or causing a state of intoxication;

(b) providing for the supervision and aftercare of persons who have undergone treatment and rehabilitation at any approved institution or who have been convicted of an offence under section 3;

(c) providing for the management, maintenance and inspection of approved institutions;

(d) prescribing the functions and procedure of Advisory Committees;

(e) providing for the control, discipline and occupation of residents, including the imposition of corporal punishment;

*[S 11/2010]*

(j) prescribing the appointment and duties of officers of approved institutions; and

(g) prescribing the punishment by a fine not exceeding \$3,000, imprisonment for a term not exceeding one year or both to be imposed on the conviction for a breach of any regulation.

## SCHEDULE

(sections 2, 15 and 16)

### CHEMICAL COMPOUND

#### First column

Toluene

#### Second column

1 microgramme per 1 millilitre of blood

