

No. S 59

**CONSTITUTION OF BRUNEI DARUSSALAM**  
**(Order under Article 83(3))**

**MISUSE OF DRUGS ACT (AMENDMENT) ORDER, 2007**

**ARRANGEMENT OF SECTIONS**

**Section**

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**CONSTITUTION OF BRUNEI DARUSSALAM**  
**(Order under Article 83(3))**

**MISUSE OF DRUGS ACT (AMENDMENT) ORDER, 2007**

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**Citation.**

1. This Order may be cited as the Misuse of Drugs Act (Amendment) Order, 2007.

**Amendment of section 2 of Chapter 27.**

2. Section 2 of the Misuse of Drugs Act, in this Order referred to as the Act, is amended —

(a) by inserting the following new definition immediately after the definition of "controlled drug" —

"controlled equipment", "controlled material" and "controlled substance" means respectively any equipment, material or substance specified in the Third Schedule";

(b) by deleting the definition of "manufacture" and by substituting the following new definition therefor —

"manufacture", in relation to —

(a) a controlled drug, includes any process of producing the drug and the refining or transformation of one drug into another; or

(b) a controlled substance, includes any process of producing the substance and the refining or transformation of one substance into another;".

**Insertion of new section 6A.**

3. The Act is amended by inserting the following new section immediately after section 6 —

**"Consumption of controlled drug outside Brunei Darussalam by permanent resident.**

6A. (1) Section 6(b) shall have effect in relation to a person who is a permanent resident outside as well as within Brunei Darussalam where he is found as a result of a urine test required under section 28(1), to have smoked, administered to himself or otherwise consumed a controlled drug.

(2) Where an offence under section 6(b) is committed by a permanent resident outside Brunei Darussalam, he may be dealt with as if that offence had been committed within Brunei Darussalam."

**Insertion of new sections 8A and 8B.**

4. The Act is amended by inserting the following new sections immediately after section 8 —

**"Manufacture, supply, possession, import or export of equipment, materials or substances useful for manufacture of controlled drugs.**

8A. (1) Any person who —

(a) manufactures any controlled equipment, controlled material or controlled substance;

(b) supplies any controlled equipment, controlled material or controlled substance to another person;

(c) has in his possession any controlled equipment, controlled material or controlled substance; or

(d) imports or exports any controlled equipment, controlled material or controlled substance,

knowing or having reason to believe that the controlled equipment, controlled material or controlled substance is to be used in or for the manufacture of a controlled drug in contravention of section 4 shall be guilty of an offence.

(2) It shall not be a defence to a person who contravenes subsection (1)(d) in respect of any controlled equipment, controlled material or controlled substance to show that the equipment, material or substance is the subject of a licence, permit or any other form of authorisation issued or granted under any regulations made under section 8B.

**Regulations on controlled substances.**

**8B.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by regulation make provision for —

(a) the licensing, by such person or authority as may be prescribed, of any person who intends to import or export any controlled equipment, controlled material or controlled substance;

(b) the regulation and control of the import and export of any controlled equipment, controlled material or controlled substance;

(c) imposing the requirement for the registration of premises used in connection with the import, export, manufacture, processing, storage distribution or supply of any controlled equipment, controlled material or controlled substance;

(d) imposing the requirement for the documentation of transactions involving any controlled equipment, controlled material or controlled substance;

(e) requiring the keeping of records and the furnishing of information with respect to any controlled equipment, controlled material or controlled substance;

(f) the inspection and production of records kept pursuant to any such regulations;

(g) the labelling of consignments of any controlled equipment, controlled material or controlled substance.

(2) Regulations made under subsection (1) may, in particular, require —

(a) the notification of the proposed exportation of any controlled equipment, controlled material or controlled substance to such countries as may be specified in any such regulations; and

(b) the production, in such circumstances as may be specified, of evidence that the required notification has been given, and that any such equipment, material or substance shall be deemed to be exported contrary to a restriction with respect to the equipment, material or substance under any such regulations if it is exported without the requisite notification being given.

(3) Regulations made under this section may make different provision in relation to different controlled equipment, controlled material or controlled substance and in relation to different cases or circumstances.

(4) Regulations made under this section may provide that any person who contravenes any provision thereof shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both.

(5) No information obtained pursuant to any regulations made under this section shall be disclosed except for the purpose of criminal proceedings or of proceedings under or in relation to the Drug Trafficking (Recovery of Proceeds) Act (Chapter 178).".

**Insertion of new sections 21A, 21B and 21C.**

5. The Act is amended by inserting the following new sections immediately after section 21 —

**"Special power of investigation.**

21A. (1) Notwithstanding anything to the contrary in any other written law, the Director may, if he considers that any evidence of the commission of an offence under this Act or of any conspiracy to commit, or of an abetment of that offence by any person is likely to be found in any book, receipt, voucher, electronic record or other document, in respect of the payment of money or the delivery of property to that person, the spouse, parent or child of that person or to a person reasonably believed by the Director to be a trustee or agent for that person or the spouse, parent or child of that person, by order authorize in writing any officer of the Bureau specified in such authorisation to inspect any such book, account, receipt, voucher, electronic record or other document.

(2) An officer authorized under subsection (1) may, at all reasonable times, enter any premises specified in the order and inspect any such book, account, receipt, voucher, electronic record or other document and may take copies thereof or of any part thereof.

(3) Any person who fails to produce any such book, account, receipt, voucher, electronic record or other document which is in his possession or control, is guilty of an offence.

(4) A person is not excused from producing or making available any material when required to do so by an order under this section on the ground that —

(a) the production or making available of the material might tend to incriminate him or make him liable to a penalty; or

(b) the production or making available of the material would be in breach of an obligation (whether imposed by law or otherwise) by him not to disclose the existence or contents of that material.

(5) Where an order under this section relates to an electronic record, such order shall have effect as an order to produce the record in a form which it is visible and legible.

(6) In this section —

(a) "bank" means a company which carries on banking business and holds a licence granted under sections 4 or 23 of Banking Order, 2006 (S 45/06);

(b) "book" includes any ledger, day-book, cash-book, account-book and any other book and document used in the ordinary course of the business of a bank or of any other person;

(c) "electronic record" means a record generated, communicated, received or stored by electronic, magnetic, optical or other means in an information system or for transmission from one information system to another.

**Director may require information.**

21B. (1) In the course of any investigation or proceeding into or relating to an offence by any person under this Act, of any conspiracy to commit or to attempt to commit, or into an abetment of any such offence, the Director may be written notice —

(a) require such person to furnish a sworn statement in writing enumerating all property belonging to or possessed by that person and by the spouse, parents and children of that 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 such person to furnish a sworn statement in writing of any money or other property paid or disposed of by him during such period as may be specified in the order;

(c) require such person to furnish a sworn statement in writing enumerating all property belonging to or possessed by him where the

Director has reasonable grounds to believe that such information may be relevant to that investigation or proceeding;

*(d)* require the person in charge of any department of Government or of any public body to produce or furnish as specified in the notice any document which is in his possession or under his control;

*(e)* require the manager of any bank (as defined in section 21A (6)(a)) to give a copy of the account of such person or the spouse, parent or child of such person at the bank.

(2) Every person to whom a notice is sent by the Director under subsection (1) shall, notwithstanding the provisions of any other written law or of any oath of secrecy to the contrary, comply with the terms of that notice within such time as may be specified therein and any person who wilfully neglects, or who fails so to comply shall be guilty of an offence.

**Surrender of travel document.**

21C. (1) A Magistrate may, on the application of the Director or the Public Prosecutor, by written notice require 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 to surrender to the Director any travel document 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 there to be safely kept —

*(a)* until the expiry of the period of 28 days from the date of such committal to prison; or

*(b)* until such person complies with the notice under subsection (1) and a Magistrate, by order in that behalf, has directed the

Superintendent of Prisons to discharge such person from prison (which order shall be sufficient authority for the Superintendent of Prisons so to do), 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 6 months thereafter if a Magistrate, on application by the Director or the Public Prosecutor, is satisfied that the investigation could not reasonably be completed before the date of such application and authorises such further detention.

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

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

**Amendment of section 22A.**

6. Section 22A of the Act is amended, in subsection (1), by deleting "twenty-four" from the third and fourth lines and by substituting "48" therefor.

**Insertion of new section 24A.**

7. The Act is amended by inserting the following new section immediately after section 24 —

**"Legal adviser and privileged information.**

24A. (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 proceeding, 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 has been admitted as an advocate and solicitor under the Legal Profession Act (Chapter 132).

(3) The privilege conferred by this section on a legal adviser shall extend to an employee of the legal adviser:

Provided that any article held with the intention of furthering a criminal purpose is not a privileged item under this section."



**Amendment of section 28.**

8. Section 28 of the Act is amended —

(a) by inserting the following new subsection immediately after subsection (1) —

"(1A) A provost officer, or any member of the Royal Brunei Armed Forces legally exercising authority under a provost officer or on his behalf may, exercise the same power under subsection (1) in respect of any person who is subject to military law.";

(b) in subsection (2), by deleting "the foregoing subsection" from the last line and by substituting "subsections (1) or (1A)" therefor.

**Amendment of section 29.**

9. Section 29 of the Act is amended by inserting the following new subsection immediately after subsection (3A) —

"(3B) If any person convicted of an offence under sections 6(b) or 28(2) is subsequently convicted of an offence under section 28(2), he shall be liable to imprisonment for a term of not less than 3 years."

**Insertion of new section 32A.**

10. The Act is amended by inserting the following new section immediately after section 32 —

**"Voluntary supervision order.**

**32A.** (1) A person who is an alleged drug addict may make an application in writing to the Director to undergo voluntary supervision under the Bureau for a period not exceeding one year.

(2) Any person who is related by blood or marriage to a person who is alleged to be a drug addict may make an application in writing for a supervision order to be made against the alleged drug addict, and the Director may thereupon make an order in writing requiring that person to undergo supervision and such order shall be for a period not exceeding one year."

**Amendment of section 35.**

11. Section 35 of the Act is amended —

(a) in this section heading by deleting "Schedule" and by substituting "and Third Schedules" therefor;

(b) in the second line by inserting "and the Third Schedule" immediately after "Schedule".

**Amendment of Second Schedule.**

12. The Second Schedule to the Act is amended —

(a) by inserting the following new item immediately after the item relating to section 8 —

"8A	Manufacture, supply, possession, import or export of equipment, materials or substances useful for manufacture of controlled drugs	- - - - -	Maximum 20 years, \$200,000 or both";
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(b) by inserting the following 2 new items immediately after the item relating to section 11 —

"21A(3)	Failure to produce books etc.	- - - - -	Maximum 1 year, \$5,000 or both
"21B(2)	Failure to comply with terms of notice	- - - - -	Maximum 1 year, \$10,000 or both".

**Addition of Third Schedule.**

13. The Act is amended by adding the following new Schedule —

"THIRD SCHEDULE

{section 2}

CONTROLLED EQUIPMENT, MATERIALS  
OR SUBSTANCES USEFUL FOR  
MANUFACTURING CONTROLLED DRUGS

PART 1

1. The following substances —

N-acetylanthranilic acid also known as N-Acetyl-*o*-aminobenzoic acid

Ephedrine also known as  $\beta$ -Hydroxy-N-methylamphetamine

Ergometrine also known as Ergonovine or Ergobasine or [8 $\beta$ (S)]-9, 10-Didehydro-N-(2-hydroxy-1-methylethyl)-6-methyl-6-methylergoline-8-carboxamide

Ergotamine also known as 12'-Hydroxy-2'-methyl-5' $\alpha$ -(phenylmethyl)ergotaman-3',6',18'-trione

Isosafrole also known as 1,2-(Methylenedioxy)-4-propenylbenzene

Lysergic acid also known as 9,10-Didehydro-6-methylergoline-8 $\beta$ -carboxylic acid

3,4-methylenedioxyphenyl-2-propanone

Norephedrine

Norpseudoephedrine

1-Phenyl-2-propanone also known as Phenylacetone

Piperonal also known as 3,4-(Methylenedioxy)benzaldehyde or Piperonylaldehyde

Pseudoephedrine also known as  $\beta$ -Hydroxy-N-methylamphetamine

Safrole also known as 4-Allyl-1,2-methylenedioxybenzene.

2. The salts of the substances listed in paragraph 1 of this Part whenever the existence of such salts is possible.

THIRD SCHEDULE – *continued*

PART II

1. The following substances –

Acetic anhydride also known as Acetic oxide

Acetone also known as 2-Propanone or Dimethyl ketone

Anthranilic acid also known as *o*-Aminobenzoic acid

Ethyl ether also known as Ether or Diethyl ether or Ethyl oxide or Diethyl oxide or Ethoxyethane or 1,1'-Oxybisethane

Hydrochloric acid

Methyl ethyl ketone also known as 2-Butanone

Phenylacetic acid also known as Benzeneacetic acid or  $\alpha$ -Toulic acid

Piperidine also known as Hexahydropyridine

Potassium permanganate

Sulphuric acid

Toluene also known as Methylbenzene or Phenylmethane.

2. The salts of the substances listed in paragraph 1 of this Part whenever the existence of such salts is possible."

Made this 7th. day of Zulhijjah, 1428 Hijriah corresponding to 17th. day of December, 2007 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM