

No. S 38

CONSTITUTION OF BRUNEI DARUSSALAM
{Order made under Article 83(3)}

PENAL CODE {AMENDMENT} ORDER, 2021

ARRANGEMENT OF SECTIONS

Section

1. Citation
 2. Insertion of new section 380B into Chapter 22
 3. Substitution of section 411
 4. Substitution of section 414
 5. Insertion of new section 427B
 6. Consequential amendment of First Schedule to Chapter 7
 7. Consequential amendment of Schedule to Chapter 4
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CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))

PENAL CODE (AMENDMENT) ORDER, 2021

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 Penal Code (Amendment) Order, 2021.

Insertion of new section 380B into Chapter 22

2. The Penal Code, in this Order referred to as the Code, is amended by inserting the following new section immediately after section 380A —

"Theft causing disruption to key service

380B. (1) Whoever commits theft which causes, or which he knows is likely to cause, a disruption to the provision of any key service shall be punished with imprisonment for a term of not less than 3 years and not more than 10 years and whipping with not less than 4 strokes and not more than 12 strokes.

(2) In any case in which section 258 of the Criminal Procedure Code (Chapter 7) applies, the Court shall sentence the offender, instead of whipping, to imprisonment for a term which may extend to 12 months, in addition to the punishment to which he has been sentenced under this section.

(3) For the purposes of subsection (1), "key service" means any of the following services —

(a) a service directly related to the provision to the general public of water, sewerage, drainage, gas, electricity, waste collection and disposal, newspapers, broadcasting, telecommunications and other forms of mass media communication (including radio and television services);

(b) a search and rescue service, a fire-fighting service, a service providing rapid response to requests for help in a medical emergency or other health emergency service;

(c) a service directly related to the provision to the general public of health or healthcare services at a hospital, healthcare establishment or other like institution;

(d) a service that is critical to ensuring the reliable supply in Brunei Darussalam of food which is safe and suitable for human consumption;

(e) a service directly related to ensuring the provision to the general public of reliable and safe public transport by land, water or air within Brunei Darussalam or to and from Brunei Darussalam;

(f) a payments clearing and settlement service for payment obligations or securities, a service directly related to the provision to the general public of banking facilities and financial services associated with banking business, a securities trading, clearing and settlement service, and any other like service that is necessary to the financial market or financial institutions in Brunei Darussalam or the disruption of which would have a widespread adverse effect on the financial system in Brunei Darussalam or the economy of Brunei Darussalam, or both;

(g) any other service that is critical to maintaining public health, the social and economic stability of Brunei Darussalam or its people, or its national security."

Substitution of section 411

3. The Code is amended by repealing section 411 and by substituting the following new section therefor —

"Receiving stolen property

411. (1) Whoever receives or retains any property, knowing or having reason to believe the property to be stolen property or property obtained in whole or in part through an offence involving fraud or dishonesty, shall be punished with imprisonment for a term not exceeding 3 years, fine or both.

(2) If the stolen property is related to a provision of any key service or any component part of a provision of any key service as defined in section 380B, a person convicted of an offence under this section shall be punished with imprisonment for a term which may extend to 10 years, fine or both.

(3) It is a defence for a person charged with an offence under this section to prove that he has a reasonable excuse to receive or retain the property and that he exercised reasonable care as soon as practicable after

having the knowledge or reason to believe the property to be stolen property or property obtained in whole or in part through an offence involving fraud or dishonesty.”.

Substitution of section 414

4. The Code is amended by repealing section 414 and by substituting the following new section therefor —

“Assisting concealment of stolen property

414. (1) Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property or property obtained in whole or in part through any criminal offence involving fraud or dishonesty shall be punished with imprisonment for a term not exceeding 5 years and fine.

(2) If the property mentioned in subsection (1) is related to a provision of any key service or any component part of a provision of any key service as defined in section 380B, a person convicted of an offence under this section shall be punished with imprisonment for a term which may extend to 10 years, fine or both.”.

Insertion of new section 427B

5. The Code is amended by inserting the following new section immediately after section 427A —

“Mischief causing disruption to key service

427B. (1) Whoever commits mischief by doing any act which causes, or which he knows is likely to cause, a disruption to the provision of any key service shall be punished with imprisonment for a term of not less than 3 years and not more than 10 years and whipping with not less than 4 strokes and not more than 12 strokes.

(2) In any case in which section 258 of the Criminal Procedure Code (Chapter 7) applies, the Court shall sentence the offender, instead of whipping, to imprisonment for a term which may extend to 12 months, in addition to the punishment to which he has been sentenced under this section.

(3) For the purposes of subsection (1), “key service” means any of the following services —

(a) a service directly related to the provision to the general public of water, sewerage, drainage, gas, electricity, waste collection and disposal, newspapers, broadcasting, telecommunications and other forms of mass media communication (including radio and television services);

(b) a search and rescue service, a fire-fighting service, a service providing rapid response to requests for help in a medical emergency or other health emergency service;

(c) a service directly related to the provision to the general public of health or healthcare services at a hospital, healthcare establishment or other like institution;

(d) a service that is critical to ensuring the reliable supply in Brunei Darussalam of food which is safe and suitable for human consumption;

(e) a service directly related to ensuring the provision to the general public of reliable and safe public transport by land, water or air within Brunei Darussalam or to and from Brunei Darussalam;

(f) a payments clearing and settlement service for payment obligations or securities, a service directly related to the provision to the general public of banking facilities and financial services associated with banking business, a securities trading, clearing and settlement service, and any other like service that is necessary to the financial market or financial institutions in Brunei Darussalam or the disruption of which would have a widespread adverse effect on the financial system in Brunei Darussalam or the economy of Brunei Darussalam, or both;

(g) any other service that is critical to maintaining public health, the social and economic stability of Brunei Darussalam or its people, or its national security.

Illustration

An act of mischief which damages an electricity licensee's power generation facility that is used to supply electricity to a public housing is an act which is likely to cause disruption to a key service even though there is no actual disruption to that power supply."

Consequential amendment of First Schedule to Chapter 7

6. The First Schedule to the Criminal Procedure Code is amended —

(a) by inserting the following new item immediately after the item relating to section 380A —

380B	Theft causing disruption to key service	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment of not less than 3 years and not more than 10 years and whipping with not less than 4 strokes and not more than 12 strokes	High Court;
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(b) by deleting the item relating to section 411 and by substituting the following new item therefor —

*411(1)	Receiving or retaining property, knowing or having reason to believe to be stolen or property obtained in whole or in part through the offence involving fraud or dishonesty	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 3 years, fine or both	Court of a Magistrate
411(2)	If the stolen property is related to a provision of any key service or any component part of a provision of any key service	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 10 years, fine or both	Court of a Magistrate;

(c) by deleting the item relating to section 414 and by substituting the following new item therefor —

*414(1)	Assisting concealment of stolen property	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 5 years and fine	Court of a Magistrate
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414(2)	If the property is related to a provision of any key service or any component part of a provision of any key service	May arrest without warrant	Warrant	Not bailable	Not compoundable	Imprisonment for 10 years, fine or both	Court of a Magistrate*;
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(d) by inserting the following new item immediately after the item relating to section 427A —

427B	Mischief causing disruption to key service	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of not less than 3 years and not more than 10 years and whipping with not less than 4 strokes and not more than 12 strokes	High Court.
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Consequential amendment of Schedule to Chapter 4

7. The Schedule to the Interpretation and General Clauses Act is amended, in the paragraph relating to the Penal Code —

(a) by inserting "380B," immediately after "380A," in the first line;

(b) by inserting "427B," immediately after "427A," in the second line.

Made this 4th. day of Rabiulawal, 1443 Hijriah corresponding to the 11th. day of October, 2021 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.