

No. S 47

THE CONSTITUTION OF BRUNEI DARUSSALAM
(Order under Section 83)

The Emergency (Criminal Law (Preventive Detention)) Order

In exercise of the powers conferred by Section 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 Emergency (Criminal Law (Preventive Detention)) Order, 1984.

Power of Minister to make orders.

2. (1) Whenever the Minister is satisfied with respect to any person, whether such person is at large or in custody, that such person has been associated with activities of a criminal nature, the Minister may —

(a) if he is satisfied that it is necessary that such person be detained in the interests of public safety, peace and good order, by order under his hand direct that such person be detained for any period not exceeding one year from the date of such order ; or

(b) if he is satisfied that it is necessary that such person be subject to the supervision of the police, by order direct that such person be subject to the supervision of the police for any period not exceeding three years from the date of such order.

(2) For the purposes of this Order "Minister" means the Minister responsible for law.

Orders to be referred to an advisory committee and subject to confirmation by His Majesty the Sultan and Yang Di-Pertuan.

3. (1) Every order made by the Minister under section 2 of this Order shall, together with a written statement of the grounds upon which the Minister made the Order, be referred by the Minister to an advisory committee constituted as provided in Section 10 of this Order, within twenty-eight days of the making of such order.

(2) The advisory committee shall submit to His Majesty the Sultan and Yang Di-Pertuan a written report on the making of such order and any make therein such recommendations as it shall think fit.

(3) His Majesty the Sultan and Yang Di-Pertuan shall consider such report and may cancel or confirm such order and in confirming such order may make thereto such variations as he thinks fit.

4. (1) At any time after an order of detention in respect of a person has been made under section 2 of this Order or confirmed under the provisions of subsection (3) of section 3 of this Order or after the expiry of the validity of such order the Minister may by order direct that the person be subject to the supervision of the police for any period not exceeding three years from the date of such order and thereupon any detention order made or confirmed in respect of such person shall be deemed to be cancelled and such person if under detention shall be released.

Power to substitute order for police supervision.

(2) The provisions of section 3 of this Order shall apply to any Order made by the Minister under subsection (1) of this section as they apply to an order made by the Minister under section 2 of this Order.

5. (1) Any person directed to be subject to the supervision of the police under section 2 or section 4 of this Order (hereinafter in this Order referred to as a person subject to supervision under this Order) shall be subject to the obligations imposed upon persons subject to police supervision under section 264 of the Criminal Procedure Code and shall also be subject to all or any of the following restrictions as the Minister may by order direct :—

Restrictions on person subject to supervision.

- (a) he shall be required to reside within the limits of any police district specified in the order ;
- (b) he shall not be permitted to change his residence without the written authority of a police officer not below the rank of inspector ;
- (c) except in so far as may be otherwise provided by the order, he shall not leave Brunei Darussalam without the written authority of a police officer not below the rank of inspector ;
- (d) he shall at all times keep the officer in charge of the police district in which he resides notified of the house or place in which he resides ;
- (e) he shall be liable, at such time or times as may be specified in the order, to present himself at the nearest police station ;
- (f) he shall remain within doors or within such area as may be defined in the order, between such hours as may be specified in the order, unless he obtains special permission to the contrary from the officer in charge of the police district in which he resides ;

(g) except in so far as may be otherwise provided by the order, he shall not be permitted to enter any area specified in the order.

(2) The Minister may from time to time, by order in writing served on the person subject to supervision under this order, vary, cancel or add to any restrictions imposed under this section.

(3) A person subject to supervision under this Order who contravenes or fails to comply with any order or restriction imposed on him under this section shall be guilty of an offence and shall, on conviction, be punished with imprisonment for a term not exceeding three years and not less than one year.

Person subject to supervision not to consort with other persons subject to supervision.

6. (1) No person subject to supervision under this Order shall consort or habitually associate with any other person subject to supervision under this Order without the permission of the officer in charge of the police district in which he resides, unless he proves that he did not know and had no reason to suspect that such other person was a person subject to supervision under this Order.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years and not less than one year.

Loitering by a person subject to supervision in a public place, etc.

7. Any person subject to supervision under this Order who —

- (a) is found between the hours of sunset and sunrise frequenting or loitering in or about any public place or in the neighbourhood of any place of public entertainment ; or
- (b) at any time is found in the company of two or more persons subject to supervision under this Order ; or
- (c) at any time is found in or near any place in which any act of violence or breach of the peace is being or has just been committed,

and who is unable satisfactorily to account for his presence at such place or time or in such company shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years and not less than one year.

Taking of photographs and finger impressions.

8. (1) A police officer may take or cause to be taken the photographs and finger impressions of any person subject to supervision under this Order ; and every such person shall be legally bound to submit to the taking of his photographs and finger impressions, and may be compelled thereto by the use of force, if necessary.

(2) Any person who being legally bound under subsection (1) of this section to submit to the taking of his photographs or finger impressions refuses or fails to submit thereto on demand shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred dollars or to both such imprisonment and fine.

9. (1) His Majesty the Sultan and Yang Di-Pertuan may from time to time extend the validity of any order of detention confirmed under the provisions of subsection (2) of section 3 of this Order for periods not exceeding one year at any one time and may at any time refer any such order for further consideration by an advisory committee.

Extension of orders.

(2) His Majesty the Sultan and Yang Di-Pertuan may from time to time extend the period for which a person is directed to be under the supervision of the police by any order confirmed under the provisions of subsection (2) of section 3 of this Order and may at any time refer any such order for further consideration by an advisory committee.

10. For the purposes of this Order the Minister may with the approval of His Majesty the Sultan and Yang Di-Pertuan from time to time appoint one or more advisory committees each consisting of not less than two persons.

Constitution of advisory committees.

11. (1) Every advisory committee shall for the purposes of this Order have all the powers of a court for the summoning and examination of witnesses, the administration of oaths of affirmations and for compelling the production of documents.

Powers and procedure of advisory committees.

(2) Every member of an advisory committee shall be deemed to be a public servant within the meaning of the Penal Code and shall have in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duty under the provisions of this Order the like protection and privileges as are by law given to a Judge in the execution of his office.

(3) Every advisory committee shall have regard to the requirements of public safety, the protection of individuals and the safeguarding of sources of information and subject to the provisions of this Order and any rules made under section 18 of this Order may regulate its own procedure.

12. Nothing in this Order or in any rules made under section 18 of this Order shall require the Minister or any other public servant to disclose facts which he considers it to be against the public interest to disclose.

Disclosure of information.

13. (1) Every person detained in pursuance of an order made under the provisions of section 2 of this Order shall be detained in such place as the Minister may direct and in accordance with instructions issued by the Minister.

Manner of detention and powers to order removal.

(2) The Minister may by order direct the removal from any place of detention to another place of detention to be specified in such order of any person detained in pursuance of an order made under the provisions of section 2 of this order.

(3) On proof to his satisfaction that the presence at any place of any person detained in pursuance of an order made under the provisions of section 2 of this Order is required in the interests of justice, or for the purpose of any inquiry, or in the public interest or in the interest of the person detained, the Minister may order that such person be taken to that place.

(4) Any person in the course of removal under the provisions of subsection (2) of this section or in the course of being taken to any place in pursuance of the provisions of subsection (3) of this section and when so removed or while at such place shall be kept in such custody as the Minister may direct and while in that custody shall be deemed to be in lawful custody.

Power to detain suspected persons.

14. (1) Any police officer may without warrant arrest and detain pending enquiries any person in respect of whom he has reason to believe there are grounds which would justify the detention of such person under section 2 of this Order.

(2) No person shall be detained under the provisions of this section for a period exceeding twenty-four hours except with the authority of a police officer of or above the rank of assistant superintendent or for a period of forty-eight hours in all :

Provided that if an officer of or above the rank of superintendent of police is satisfied that the necessary enquiries cannot be completed within the aforesaid period of forty-eight hours he may authorise the further detention of such person for an additional period not exceeding fourteen days and shall on giving such authorisation forthwith report the circumstances to the Commissioner of Police.

(3) Any person detained under the powers conferred by this section shall be deemed to be in lawful custody and may be detained in any prison, or in any police station or in any other similar place authorised generally or specially by the Minister.

Duty to arrest persons ordered to be detained.

15. (1) Any police officer may, without warrant, arrest any person found at large in respect of whom there is in existence a detention order made by the Minister under the provisions of section 3 of this Order and shall forthwith report such arrest to the Commissioner of Police.

(2) Any person arrested in pursuance of the provisions of subsection (1) of this section shall be deemed to be in lawful custody and may be detained for a period not exceeding forty-eight hours in any prison or in any police station pending the issuing of instructions by the Minister for his further detention.

16. (1) Notwithstanding anything to the contrary contained in any written law it shall be lawful for any police officer of or above the rank of assistant superintendent, or a police officer of any rank specially authorised by a police officer of or above the rank of assistant superintendent, in order to effect the arrest of any person in pursuance of the provisions of this Order, to enter and search any place and in order to effect an entrance into such place to break open any outer or inner door or window of any such place if he cannot otherwise obtain admittance thereto.

Power to enter and search.

(2) In this section "Place" includes any vehicle, vessel or aircraft, whether in a public place or not.

17. Nothing in this Order derogates from the powers of the Public Prosecutor with regard to the control and direction of criminal prosecutions.

Powers of Public Prosecutor.

18. (1) The Minister may with the approval of His Majesty the Sultan and Yang Di-Pertuan make rules for the purpose of carrying into effect all or any of the provisions of this Order.

Rules.

(2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, such rules may provide for the issue by the Registrar of Nationals appointed under the National Registration Enactment of special identity cards to all or any class of persons subject to supervision under this Order and provide for the form, custody, production, inspection, cancellation, alteration, endorsement on and replacement of such cards and the substitution thereof for identity cards issued to such persons under any written law and for all other matters necessary or desirable in connection with such cards or the carrying thereof or the enforcement of such rules, including the prescription of penalties not exceeding in respect of any offence a fine of five thousand dollars or imprisonment for a term of three years or both such fine and imprisonment.

Made this 26th. day of November, 1984 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

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

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CORRIGENDUM

Government Gazette Part II No. 17 the date of Issue Hari Sabtu/Saturday 29th. November, 1984 should read as Hari Khamis/Thursday 29th. November, 1984.