

DRUG TRAFFICKING (RECOVERY OF PROCEEDS) ACT
(CHAPTER 178)

DRUG TRAFFICKING (RECOVERY OF PROCEEDS)
(ENFORCEMENT OF EXTERNAL CONFISCATION ORDERS) ORDER, 2008

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**DRUG TRAFFICKING (RECOVERY OF PROCEEDS) ACT
(CHAPTER 178)**

**DRUG TRAFFICKING (RECOVERY OF PROCEEDS)
(ENFORCEMENT OF EXTERNAL CONFISCATION ORDERS) ORDER, 2008**

In exercise of the powers conferred by section 23(1) of the Drug Trafficking (Recovery of Proceeds) Act, the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Order —

Citation.

1. This Order may be cited as the Drug Trafficking (Recovery of Proceeds) (Enforcement of External Confiscation Orders) Order, 2008.

Interpretation.

2. In this Order —

"appropriate authority of a designated country" means —

(a) the authority specified opposite that country in the First Schedule;
or

(b) where no authority is so specified, the authority appearing to the Court to be the appropriate authority of that country for the purposes of section 23 and of the other provisions of the Act;

"Court" means the High Court or the Intermediate Court;

"court of a designated country" includes a court of any state or territory of a designated country;

"designated country" means a country or territory designated under paragraph 3(1).

Designation of and application of the Act to countries and territories.

3. (1) The countries specified in the First Schedule are hereby designated for the purposes of section 23.

(2) In relation to a designated country, the Act shall apply, subject to Second Schedule, to external confiscation orders and to proceedings which have been, or are to be, instituted in the designated country and which may result in an external confiscation order being made there.

Proof of orders and judgments of courts of designated country.

4. (1) For the purposes of section 23 of the Act, and of the provisions of the Second Schedule, as applied by paragraph 3(2) —

(a) any order or judgment given by a court of a designated country purporting to bear the seal of that court or to be signed by any person in his capacity as a judge, magistrate or officer of the Court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person;

(b) a document, duly authenticated, which purports to be a copy of any order made or judgement given by a court of a designated country shall be deemed without further proof to be a true copy.

(2) A document purporting to be a copy of any order made or judgment given by a court of a designated country is duly authenticated for the purpose of paragraph (1)(a) if it purports to be certified by any person in his capacity as a judge, magistrate or officer of that Court or by or on behalf of the appropriate authority of the designated country.

Evidence in relation to proceedings and orders in designated country.

5. (1) For the purposes of section 23, and of the provisions of the Second Schedule, as applied by paragraph 3(2), a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating —

(a) that proceedings have been instituted and have not been concluded, or that proceedings are to be instituted, in that designated country;

(b) that an external confiscation order is in force and is not subject to appeal;

(c) that all or a certain amount of the sum payable under an external confiscation order remains unpaid in the designated country, or that other property recoverable under an external confiscation order remains unrecovered there;

(d) that any person has been notified of any proceedings in accordance with the law of the designated country; or

(e) that an order (however described) made by a court of the designated country has the purpose —

- (i) of recovering property obtained as a result of or in connection with drug trafficking or the value of property so obtained; or
- (ii) of depriving a person of a pecuniary advantage so obtained,

shall, in any proceedings in the Court be admissible as evidence of the facts so stated.

(2) In any such proceedings, a statement contained in a document, duly authenticated, which purports to have been received in evidence or to be a copy of a document so received, or to set out or summarise evidence given in proceedings in a court of a designated country, shall be admissible as evidence of any fact stated therein.

(3) A document is duly authenticated for the purpose of sub-paragraph (2) if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court of the designated country or by or on behalf of the appropriate authority of the designated country.

(4) Nothing in this paragraph shall prejudice the admission of any evidence, whether contained in any document or otherwise, which is admissible apart from this paragraph.

Representation of government of designated country.

6. A request for assistance sent to the Attorney General by the appropriate authority of a designated country shall, unless the contrary is shown, be deemed to constitute the authority of the government of that country for the Attorney General to act on its behalf in any proceedings in the Court under section 23 or any provision of the Second Schedule.

Satisfaction of confiscation order in designated country.

7. (1) Where —

- (a) a confiscation order has been made under section 3;
- (b) a request has been sent by the Attorney General to the appropriate authority of a designated country for assistance in enforcing that order; and
- (c) in execution of that request, property has been recovered in that country,

the amount payable under the confiscation order shall be treated as reduced by the value of the property so recovered.

(2) For the purpose of this section, and without prejudice to the admissibility of any evidence which may be admissible apart from this subsection, a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating that the property has been recovered there in execution of a request by the Attorney General, stating the value of the property so recovered and the date on which it was recovered, shall in any proceedings in a Court in Brunei Darussalam, be admissible as evidence of the facts so stated.

Currency conversion.

8. (1) Where the value of property recovered as described in paragraph 7(1) is expressed in a currency other than the currency of Brunei Darussalam created by section 12(1) of the Currency and Monetary Order, 2004 (S 16/04), the extent to which the amount payable under the confiscation order is to be reduced under that subsection shall be calculated on the basis of the exchange rate prevailing on the date on which the property was recovered in the designated country concerned.

(2) Where an amount of money payable or remaining to be paid under an external confiscation order registered in the court under section 23 is expressed in a currency other than the currency of Brunei Darussalam, for the purpose of any action taken in relation to that order under this Order as applied by paragraph 3(2), the amount shall be converted into Brunei Darussalam currency on the basis of the exchange rate prevailing on the date of the registration of the order.

(3) For the purpose of this section, a written certificate purporting to be signed by any officer of a bank licensed under section 4 of the Banking Order, 2006 (S 45/06) stating the exchange rate prevailing on a specified date shall be admissible as evidence of the facts so stated.

FIRST SCHEDULE

(paragraphs 2 and 3(1))

DESIGNATED COUNTRIES AND APPROPRIATE AUTHORITIES

Designated country	Appropriate authority
Kingdom of Cambodia	
Republic of Indonesia	
Laos People's Democratic Republic	
Malaysia	Attorney General

FIRST SCHEDULE — *Continued*

Designated country	Appropriate authority
Union of Myanmar	
Republic of the Philippines	
Republic of Singapore	Attorney General
Kingdom of Thailand	
Socialist Republic of Viet Nam	Ministry of Public Security.

SECOND SCHEDULE

(paragraph 3(2))

APPLICATION OF ORDER TO DESIGNATED COUNTRIES

Interpretation.

1. (1) In this Schedule —

"conduct to which this Schedule applies" falls to be construed in accordance with paragraph 2(1)(a);

"dealing with property" means or (as the case may be) falls to be construed in accordance with paragraph 5(9);

"defendant" falls to be construed in accordance with paragraph 2(1)(b);

"gift caught by this Schedule" falls to be construed in accordance with paragraph 2(4);

"realisable property" falls to be construed in accordance with paragraph 2(2);

"restraint order" means an order made under paragraph 5(1).

(2) In this Schedule, proceedings are instituted in a designated country —

(a) when a person is produced or charged with an offence punishable under a corresponding law; or

(b) when an application has been made to a court in a designated country for an external confiscation order,

and where the application of this paragraph would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

(3) In this Schedule, proceedings are concluded —

(a) when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an external confiscation order being made in the proceedings; or

(b) on the satisfaction of an external confiscation order made in the proceedings (whether by the recovery of all property liable to be recovered, by the defendant serving imprisonment in default of payment or the payment of any amount due, or otherwise).

Definition of principal terms used in Schedule.

2. (1) In this Schedule —

(a) a reference to conduct to which this Schedule applies is a reference to conduct which constitutes a drug trafficking offence to which the Act applies or would constitute such an offence if it had occurred in Brunei Darussalam;

(b) a person against whom an external confiscation order has been made, or a person against whom proceedings which may result in an external confiscation order being made have been, or are to be, instituted in a court of a designated country, is referred to as "the defendant".

(2) In this Schedule, "realisable property" means, subject to sub-paragraph (3) —

(a) in relation to an external confiscation order in respect of specified property, the property which is specified in the order; and

(b) in any other case —

(i) any property held by the defendant; and

(ii) any property held by a person to whom the defendant has directly or indirectly made a gift caught by the Act.

(3) Property is not realisable property if an order under section 25 of the Misuse of Drugs Act (Chapter 27) is in force in respect of the property.

(4) A gift (including a gift made before the commencement of the Act) is caught by this Schedule if —

- (a) it was made by the defendant at any time after the conduct to which the external confiscation order related; and
- (b) the court considers it appropriate in all the circumstances to take the gift into account.

Pecuniary Advantage-Equivalence.

3. Where a person derives a pecuniary advantage as a result of or in connection with conduct to which this Schedule applies, he is to be treated for the purposes of this Schedule as if he had obtained as the result of or in connection with the conduct a sum of money equal to the value of the pecuniary advantage.

Cases in which restraint orders and charging orders may be made.

4. (1) The powers conferred on the Court by paragraphs 5(1) or 6(1) are exercisable where —

- (a) proceedings have been instituted against the defendant in a designated country;
- (b) the proceedings have not been concluded; and
- (c) either an external confiscation order has been made in the proceedings or it appears to the Court that there are reasonable grounds for thinking that such an order may be made in them of at least the minimum amount.

(2) Those powers are also exercisable where the Court is satisfied that proceedings will be instituted against the defendant in a designated country within 7 days of the application for an order under paragraphs 5(1) or 6(1).

(3) Where the court has made an order under paragraphs 5(1) or 6(1) by virtue of sub-paragraph (2) of this paragraph —

- (a) the Attorney General shall notify the Court immediately if proceedings have not been instituted within 7 days of the application for the order; and
- (b) the Court shall discharge the order if the proposed proceedings have not been instituted within 7 days of the application for the order.

Restraint orders.

5. (1) The Court may by a restraint order prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

(2) Without prejudice to the generality of sub-paragraph (1), a restraint order may make such provision as the Court thinks fit for the living expenses and legal expenses of the defendant.

(3) A restraint order may apply —

(a) where an application under sub-paragraph (5) relates to an external confiscation order made in respect of specified property, to property which is specified in that order; and

(b) in any other case —

(i) to all realisable property held by a specified person, whether or not the property is described in the restraint order; and

(ii) to realisable property held by a specified person, being property transferred to him after the making of the restraint order.

(4) This paragraph shall not have the effect in relation to any property for the time being subject to a charge under paragraph 6.

(5) A restraint order —

(a) may be made only on an application by the Attorney General on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 23 by a receiver appointed under paragraph 8;

(b) may be made on an *ex parte* application to a judge in chambers; and

(c) notwithstanding anything in the Rules of the Supreme Court (Chapter 5, R1), may provide for service on, or the provision of notice to, persons affected by the order in such manner as the Court may direct.

(6) A restraint order —

(a) may be discharged or varied in relation to any property; and

(b) shall be discharged when the proceedings in relation to which the order was made have been concluded.

(7) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(8) Where the Court has made a restraint order, it may at any time appoint a receiver —

(a) to take possession of any realisable property; and

(b) in accordance with the Court's directions, to manage or otherwise deal with any property in respect of which he is appointed,

subject to such conditions and exceptions as may be specified by the Court; and may require any person having possession of property in respect of which a receiver is appointed under this paragraph to give possession of it to the receiver.

(9) For the purpose of this paragraph, dealing with any property held by any person includes (without prejudice to the generality of the expression) —

(a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and

(b) removing the property from Brunei Darussalam.

(10) Where the Court has made a restraint order, a police officer may, for the purpose of preventing any realisable property being removed from Brunei Darussalam, seize that property.

(11) Property seized under sub-paragraph (10) shall be dealt with in accordance with the court's directions.

(12) In the case of a restraint order made in respect of land —

(a) the restraint order shall inhibit for a specified period of time or until the occurrence of a specified event, or generally until further order, the registration of any dealing with any land, lease or charge;

(b) a copy of the restraint order under the seal of the Court, with the particulars of the land, lease or charge thereby affected shall be sent to the officer in charge of the Land Office who shall register it in the Register kept by him under section 7 of the Land Code (Chapter 40) in respect of that land and no restraint order shall bind or affect the land, lease or charge until it has been registered;

(c) so long as the restraint order remains registered no instrument which is inconsistent with it shall be registered.

Charging orders.

6. (1) The Court may make a charging order on realisable property for securing the payment to the Government —

(a) where a fixed amount is payable under an external confiscation order, of an amount not exceeding the amount so payable; and

(b) in any other case, of an amount equal to the value from time to time of the property charged.

(2) For the purposes of this Schedule, a charging order is an order which imposes on any such realisable property as may be specified in the order a charge for securing the payment of money to the Government.

(3) A charging order —

(a) may be made only on an application by the Attorney General on behalf of the government of designated country, or in a case where an external confiscation order has been registered under section 23, by a receiver appointed under paragraph 8;

(b) may be made on an *ex parte* application to a judge in chambers;

(c) notwithstanding anything in the Rules of the Supreme Court (Chapter 5, R1), may provide for service on, or the provision of notice to, persons affected by the order in such manner as the Court may direct.

(4) Subject to sub-paragraph (6), a charge may be imposed by a charging order only on —

(a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this order —

(i) in any asset of a kind mentioned in sub-paragraph (5);

(ii) under any trust; or

(b) any interest in realisable property held by a person as trustee of trust if the interest is in such an asset or is an interest under another trust, and a charge may by virtue of sub-paragraph (a) be imposed by a charging order on the whole beneficial interest under the first-mentioned trust.

(5) The assets referred to in sub-paragraph (4) are —

(a) land in Brunei Darussalam; or

(b) securities of any of the following kinds —

(i) any description of security issued by or on behalf of the Government;

(ii) stock or shares in any limited company or other body incorporated or registered under the Companies Act (Chapter 39);

(iii) stock or shares in any international business company registered under the International Business Companies Order, 2000 (S 56/2000);

(iv) equity interests in any mutual funds; or

(v) funds in court.

(6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in sub-paragraph (5)(b), the Court may provide for the charge to extend to any interest or dividend payable in respect of such asset.

(7) The Court may make an order discharging or varying the charging order if the proceedings against the defendant in the designated country have been concluded or the amount, payment of which is secured by the charge, has been paid into Court.

(8) An application for the discharge or variation of a charging order may be made by any person affected by it.

(9) A charge imposed by a charging order made in relation to any interest in land shall be registered as a charge in the Register kept under the Land Code (Chapter 40) by the officer in charge of the Land Office.

(10) Subject to any provision made under paragraph 8 or by rules of court, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the person holding the beneficial interest or, as the case may be, the trustees by writing under their hand.

Applications for restraint and charging orders.

7. An application under paragraphs 5(5) or 6(3) shall be accompanied by an affidavit by the appropriate authority of the designated country deposing to —

(a) where proceedings have been instituted, the conduct in which the defendant is alleged to have engaged (exhibiting a copy of the indictment, information or charge), and the grounds for believing that the defendant engaged in that conduct;

(b) where proceedings will be instituted within 7 days of the application, the conduct in which the defendant will be alleged to have engaged, and the grounds for believing that the defendant engaged in that conduct;

(c) where an external confiscation order has been made, the amount payable under the confiscation order;

(d) where an external confiscation order has not been made —

(i) the grounds for the belief that the defendant derived a benefit of a stated amount as a result of the conduct;

(ii) the grounds for the belief that the amount that might be realised is at least the stated amount;

(iii) where proceedings have been instituted, the grounds for believing that an external confiscation order may be made and the amount likely to be payable under such a confiscation order; or

(iv) where proceedings are to be instituted within 7 days of the application, the grounds for believing that an external confiscation order is likely to be made and the amount likely to be payable under such a confiscation order;

(e) a description of the property in respect of which the order is sought;

(f) the grounds for the belief that the property is realisable property;

(g) the name and address of the person who is believed to be in possession of the property; and

(h) the names and addresses of any parties who may have any interest in that property, and the nature of their interest.

Realisation of property.

8. (1) Where an external confiscation order has been registered in the Court under section 23, the Court may, on an application of the Attorney General —

(a) in respect of any sum of money payable under the external confiscation order, make a garnishee order as if the sum were due to the Government in pursuance of a judgment or order of the Court, but any such order shall direct that the sum payable be paid to the Court;

(b) appoint a receiver in respect of the realisable property;

(c) empower a receiver appointed under paragraph 5(8), or in pursuance of a charging order —

(i) to enforce any charge imposed under paragraph 9 on the realisable property or on interest or dividends payable in respect of such property;

(ii) in relation to any realisable property, other than property for the time being subject to a charge under paragraph 9, to take possession of the property subject to such conditions and exceptions as may be specified by the Court;

(d) order any person having possession of the property to give possession of it to any such receiver;

(e) empower any such receiver to realise any realisable property in such manner as it may direct; and

(f) order any person holding an interest in any realisable property to make such payment to the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of the gift caught by this Schedule as it may direct and, on the payment being made, may by order transfer, grant or extinguish any interest in the property.

(2) Sub-paragraphs (d), (e) and (f) do not apply to property for the time being subject to a charge under paragraph 6.

(3) The Court shall not, in respect of any property, exercise its powers under sub-paragraphs (1)(c)(i), (1)(d) or (1)(e) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the Court.

Application of proceeds of realisation and other sums.

9. (1) Subject to sub-paragraph (2), such of —

(a) the proceeds of the enforcement of any charge imposed under paragraph 6;

(b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under paragraphs 5 or 8; or

(c) any other sums, being property held by the defendant,

as may be in the hands of a receiver appointed under this Schedule or in pursuance of a charging order shall, after such payments (if any) as the Court may direct have been made out of those sums, be paid to the Court and applied for the purposes specified in sub-paragraphs (3) and (4) and in the order so specified.

(2) Where a fixed amount is payable under the external confiscation order and, after that amount has been fully paid, any such sums remain in the hands of a receiver, the receiver shall distribute them —

(a) among such of those persons who held property which has been realized under this Schedule; and

(b) in such proportions,

as the Court may direct after giving a reasonable opportunity for such persons to make representations to the Court.

(3) If the money was paid to the Court by a receiver appointed under paragraphs 5 or 8, or in pursuance of a charging order, the receiver's remuneration and expenses shall next be paid.

(4) After any payment required by sub-paragraph (3) has been made, any amount paid under paragraph 13(2) shall be reimbursed.

(5) Any sums remaining after all payments required to be made under the foregoing provisions of this paragraph have been made shall be paid to the Government.

Exercise of powers of court or receiver.

10. (1) This paragraph applies to the powers conferred on the Court by paragraphs 5, 6, 8 and 9, or on a receiver appointed under this Schedule or in pursuance of a charging order.

(2) Subject to the following provisions of this paragraph, those powers shall be exercised with a view to recovering property which is liable to be recovered under an external confiscation order registered in the Court under section 23 or, as the case may be, with a view to making available for recovery property which may become liable to be recovered under any external confiscation order which may be made in the defendant's case.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Schedule, the powers shall be exercised with a view to realising no more than the value for the time being of the gift.

(4) The powers shall be exercised with a view to allowing any person other than the defendant or the recipient of any such gift to retain or recover the value of any property held by him.

(5) An order may be made or other action taken in respect of a debt held by the Government.

(6) Subject to paragraph 2(2), in exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the external confiscation order.

Bankruptcy of defendant etc.

11. (1) Where an order of adjudication for bankruptcy has been made against a person who holds realisable property —

(a) any property subject for the time being to a restraint order made before the order for bankruptcy; and

(b) any proceeds of property realised under paragraphs 5(8), 8(1)(e) or 8(1)(f) for the time being in the hands of a receiver appointed under paragraphs 5 or 8,

is excluded from the property of the bankrupt for the purposes of the Bankruptcy Act (Chapter 67).

(2) Where any order of adjudication for bankruptcy has been made against any person, the powers conferred on the Court by paragraphs 5, 6, 8 and 9 or on a receiver appointed by such order shall not be exercised in relation to —

(a) property for the time being comprised in the bankrupt's estate for the purposes of the Bankruptcy Act (Chapter 67);

(b) property which is to be applied for the benefit of creditors of the bankrupt under any provisions of or any condition imposed under section 30(3) of that Act.

(3) Nothing in the Bankruptcy Act (Chapter 67) shall be taken as restricting, or enabling the restriction of the exercise of the powers conferred on the Court by paragraphs 5, 6, 8 and 9 or on a receiver.

(4) Sub-paragraph (2) does not affect the enforcement of a charging order —

(a) made before the order of adjudication for bankruptcy was made; or

(b) on property which was subject to a restraint order when the order for bankruptcy was made.

(5) Where in the case of a debtor —

(a) the Official Receiver appointed by section 12 of the Bankruptcy Act (Chapter 67) has been ordered to become the receiver or manager of the property, estate or business of the debtor; and

(b) any property of the debtor is subject to a restraint order,

the powers conferred on the Official Receiver under that Act do not apply to property for the time being subject to the restraint order.

(6) Where any order for bankruptcy has been made against a person who has directly or indirectly made a gift caught by this Schedule, sections 31 and 47 of the Bankruptcy Act (Chapter 67) shall not apply when property of the person to whom the gift was made is subject to a restraint order or a charging order.

Winding-up of company holding realisable property.

12. (1) Where realisable property is held by a company and an order for the winding-up of the company has been made or a resolution has been passed by the company for the voluntary winding-up, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to —

(a) any property for the time being subject to a restraint order made before the relevant time; and

(b) any proceeds of property realised under paragraphs 5(8), 8(1)(e) or 8(1)(f) for the time being in the hands of a receiver appointed under paragraphs 5 or 8,

(2) Where such an order has been made or such a resolution has been passed, the powers conferred on the Court by paragraphs 5, 6 and 8 or on a receiver appointed by the order shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable so as to —

(a) inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors; or

(b) prevent the payment out of any property of any expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding-up in respect of the property.

(3) Sub-paragraph (2) does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

(4) In this paragraph, "relevant time" means —

(a) where no order for the winding-up of the company has been made, the time of the passing of the resolution for voluntary winding-up;

(b) where such an order has been made and, before the presentation of the petition for the winding-up of the company by the Court, such a resolution had been passed by the company, the time of the passing of the resolution; and

(c) in any other case where such an order has been made, the time of the making of the order.

Receivers: supplementary provisions.

13. (1) Where a receiver appointed under this Schedule or in pursuance of a charging order takes any action —

(a) in relation to any property which is not realisable property, being action which he would be entitled to take if it were such property; and

(b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage was caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall, if no sum is available to be applied in payment of it under paragraph 9(3), be paid by the person on whose application the receiver was appointed.

Application of procedure for enforcing fines.

14. (1) Where the Court has ordered the defendant to pay any amount under this Schedule, sections 253, 254, 255 and 256 of the Criminal Procedure Code (Chapter 7) shall have effect as if that amount were a fine imposed on him by the Court.

(2) Where —

(a) the Court has directed that in default of payment of an amount ordered to be paid under this Schedule in respect of an offence the defendant shall serve a term of imprisonment; and

(b) at the time the direction was made, the defendant was liable to serve a term of imprisonment in respect of the offence,

the term of imprisonment to be served in default of payment of the amount shall not begin to run until after the term of imprisonment mentioned in sub-paragraph (b).

(3) For the purpose of sub-paragraph (2)(b) —

(a) consecutive terms of imprisonment and terms of imprisonment which are wholly or partly concurrent shall be treated as a single term; and

(b) there shall be disregarded any sentence suspended under any law relating to the suspension of sentences if that sentence had not taken effect at the time the defendant defaulted as specified in the direction.

Made this 14th. day of Jamadilawal, 1429 Hijriah corresponding to the 20th. day of May, 2008.

DATO PADUKA AWANG HAJI ALI BIN APONG
Permanent Secretary,
Ministry of Finance,
Brunei Darussalam.