

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

EMERGENCY (SECURITY AGENCIES) ORDER, 1999

ARRANGEMENT OF SECTIONS

Section

1. Citation, commencement and long title.
2. Interpretation.
3. Order not applicable to certain persons.
4. Appointment of licensing officer.
5. No person to carry on the business of a security guard agency without a licence.
6. Application for licence.
7. Annual licence fee.
8. Display of licence.
9. Revocation of licence.
10. Effect of revocation of licence.
11. Employees of a security guard agency.
12. Employees to submit statements.
13. Identification papers.
14. Unlicensed security guard agency not to recover fees.
15. Furnishing incorrect particulars in application.
16. Carrying truncheons, etc., in public places.
17. Power to search premises.
18. Power to arrest.
19. Power to investigate.
20. Powers of licensing officer.
21. Obstruction of search, etc.
22. Offence.

- 23. General penalty.
- 24. Liability of directors, partners, etc.
- 25. Power to make regulations.
- 26. Saving.

No. S 11

CONSTITUTION OF BRUNEI DARUSSALAM

(Order under section 83(3))

EMERGENCY (SECURITY AGENCIES) ORDER, 1999

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 –

1. (1) This Order may be cited as the Emergency (Security Agencies) Order, 1999, and shall come into force on a date to be appointed by Notification in the *Gazette* by the Minister. Citation,
commencement
and long title.

(2) The long title of this Order is "An Order to provide for the licensing and control of those persons who carry on the business of or act as security guard agency and for purposes connected therewith".

2. (1) In this Order, unless the context otherwise requires – Interpretation.

"company" means –

(a) a company incorporated pursuant to the Companies Act or pursuant to any corresponding previous law ; or Chapter 39.

(b) a company or other body incorporated outside Brunei Darussalam ;

"licence" means a security guard agency's licence, granted under this Order ;

"licensee" means the holder of a licence ;

"licensing officer" means the licensing officer appointed under section 4 and includes an assistant licensing officer appointed under that section ;

"Minister" means the Minister for the time being designated by His Majesty the Sultan and Yang Di-Pertuan to be responsible for internal security ;

"security guard" includes any watchman or other person engaged in work for the protection of persons or property or to prevent the theft or the unlawful taking of property ;

"security guard agency's licence" means a licence granted under this Order authorising the holder to carry on the business of a security guard agency.

(2) For the purposes of this Order, a person shall be deemed to be carrying on the business of a security guard agency if he furnishes or advertises or notifies or states that he is willing to furnish or in any way holds himself out to the public as ready to furnish security guards for the protection of persons or property or to prevent the theft or the unlawful taking of property for or in consideration of any payment or other remuneration (whether monetary or otherwise).

Order not
applicable to
certain persons.

3. (1) This Order shall not be construed as requiring –

- (a) any member of the Royal Brunei Police Force in the exercise of his functions as a police officer ;
- (b) any member of the Royal Brunei Armed Force in the exercise of his functions as such member ;
- (c) any officer or employee of the Government in the exercise of his functions as such officer or employee ; and
- (d) any Auxiliary Police Force created under the provisions of the Police Force Act or any officer or employee thereof in the exercise of his functions as such officer or employee,

Chapter 50.

to hold a licence.

(2) This Order shall not be construed as requiring any inspector, guard, watchman, or other person employed to do inspecting, guarding or watching work for one employer only in respect of inspecting, guarding or watching work done for that employer for the protection of persons or property or arising out of the functions or business exercised or carried on by that employer to hold a security guard agency's licence.

Appointment of
licensing
officer.

4. (1) The Minister may appoint a public officer by name or office to be the licensing officer and may also appoint from public officers such number of assistant licensing officers as he may consider necessary for the purposes of this Order.

(2) The licensing officer shall be responsible generally for carrying out the provisions of this Order and for the collection of fees.

No person to
carry on the
business of a
security guard
agency without
a licence.

5. (1) No person shall carry on the business of a security guard agency unless he is the holder of a security agency's licence.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

6. (1) Any person who desires to obtain a licence shall make an application in the prescribed form to the licensing officer for the grant of a licence. Application for licence.

(2) Upon receiving any application under subsection (1), the licensing officer shall consider the application and may grant a licence, with or without conditions, or refuse to grant a licence.

(3) The licensing officer shall refuse to grant a licence if –

- (a) satisfactory evidence has not been produced of the good fame and character of the applicant or, if the applicant is a company, of its officers holding managerial or executive positions ;
- (b) satisfactory evidence has not been produced to show that the applicant is a fit and proper person to hold a licence ;
or
- (c) the applicant has been convicted of any offence involving fraud or moral turpitude or, if the applicant is a company, any of its officers holding a managerial or an executive position has been convicted of any offence involving fraud or moral turpitude.

(4) The licensing officer may at any time vary or revoke any of the existing conditions of a licence or impose conditions or additional conditions thereto.

(5) The licensing officer shall, prior to taking any action under subsection (4), notify his intention to take such action to the licensee concerned and shall give the licensee an opportunity to submit reasons why the conditions of his licence should not be so varied or revoked.

(6) Where a licence is subject to conditions the licensee shall comply with those conditions.

(7) Any person who is aggrieved by a decision of the licensing officer under this section may, within one month of being notified of the decision of the licensing officer, appeal against his decision to the Minister whose decision shall be final.

7. Every licensee shall pay such annual licence fee as may be prescribed. Annual licence fee.

8. (1) Every licensee shall exhibit his licence or a certified copy in a conspicuous place at his principal place of business and at every branch where the licensee carries on the business of a security guard agency. Display of licence.

(2) Any person –

- (a) who contravenes or fails to comply with subsection (1) ; or
- (b) who not being the holder of a licence keeps up or exhibits on or near his office, house or place of business or exhibits anywhere or allows to remain unobliterated any sign, writing, painting or other mark implying that such office, house or place of business is that of a person licensed to carry on the business of a security guard agency,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

**Revocation of
licence.**

9. (1) The licensing officer may by order revoke a licence –

- (a) if he is satisfied that the licensee –
 - (i) has ceased to carry on the business for which he has been licensed or, if the licensee being a company, goes into liquidation or is wound up or otherwise dissolved ;
 - (ii) improperly obtained his licence contrary to the provisions of this Order ;
 - (iii) is no longer a fit and proper person to continue to hold a licence ;
 - (iv) has been convicted of any offence involving dishonest or moral turpitude or, if the licensee is a company, any of its officers holding a managerial or an executive position has been convicted of any offence involving fraud or moral turpitude ;
 - (v) is carrying on or has carried on the business of a security guard agency, in such a manner as renders him unfit to continue to hold a licence ;
 - (vi) is contravening or has contravened any of the provisions of this Order ; or
 - (vii) has been convicted of any offence under this Order or the regulations made thereunder or, if the licensee is a company, any of its officers holding a managerial or an executive position has been convicted of any offence under this Order or the regulations made thereunder ; or

(b) if he considers it in the public interest to do so.

(2) The licensing officer shall, before revoking any licence under subsection (1), give the person concerned notice in writing of his intention to do so, specifying a date, not less than 21 days after the date of the notice, upon which the revocation shall take effect and calling upon the person concerned to show cause to the licensing officer why the licence should not be revoked.

(3) When the licensing officer has revoked a licence under subsection (1) he shall forthwith inform the person concerned by notice in writing of such revocation.

(4) The person whose licence has been revoked may, within 14 days of the receipt of the notice referred to in subsection (3), or such extended period of time as the Minister may allow, appeal in writing against the revocation to the Minister whose decision shall be final.

(5) An order of revocation shall not take effect until the expiration of a period of 14 days after the licensing officer has informed the licensee concerned of the order.

(6) If within that period the licensee concerned gives due notice of appeal to the Minister the order shall not take effect unless the order is confirmed by the Minister or the appeal is for any reason dismissed by the Minister.

10. (1) Where an order of revocation becomes effective under section 9, the licensee concerned shall cease to carry on the business of a security guard agency.

Effect of
revocation of
licence.

(2) Subsection (1) shall not prejudice the enforcement by any person of any right or claim against the licensee concerned or by the licensee concerned of any right or claim against any person arising out of or concerning any matter or thing done prior to the revocation of the licence.

11. (1) A person who is the holder of a security guard agency's licence may, in the conduct of his business, employ as many persons as he may consider necessary to be security guards and shall at all times during such employment be legally responsible for the good conduct in the business of each and every person so employed.

Employees of a
security guard
agency.

(2) A person who is the holder of a security guard agency's licence shall not employ as a security guard any person –

(a) who has been convicted of any offence involving dishonesty or moral turpitude ; or

- (b) who is, in the opinion of the licensing officer not a fit and proper person to be employed as a security guard in the business of a security guard agency.

(3) A person whose application for a security guard agency's licence has been refused shall not participate or be in any way concerned in the business of a licensed security guard agency.

Employees to
submit
statements.

12. (1) No person shall be employed by a licensee to assist in the work of a security guard until he has submitted to the licensing officer in the prescribed form a statement containing such personal particulars and other information as are prescribed.

(2) Any person who in the form submitted to the licensing officer pursuant to subsection (1) makes any statement which is not correct or furnishes any particular which is not correct or knowingly omits to furnish any particular which is required to be furnished shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Identification
papers.

13. (1) Every licensee shall provide and issue to his employees, who are employed to assist in the work of a security guard, identification papers in such form and containing such particulars as may be prescribed.

(2) Every person employed by a licensee to assist in the work of a security guard shall at all times carry the identification paper issued by his employer and produce the identification papers for inspection when so required by the licensing officer or any police officer duly authorised by the licensing officer and shall surrender the identification papers to his employer when he ceases to be employed as such.

Unlicensed
security guard
agency not to
recover fees.

14. No person shall be entitled to bring any proceeding in any court to recover any commission, fee, gain or reward for any service done or performed by him as a security guard agency at the time of doing or performing such service unless he was the holder of a security guard agency's licence, as the case may be, at the time of doing or performing such service.

Furnishing
incorrect
particulars in
application.

15. Any person who in any application for a licence makes any statement which is not correct in any material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Carrying
truncheons,
etc.,
in public places.

16. (1) Any person who in any public place carries or has in his possession or under his control any truncheon, handcuffs, or such other weapon or equipment as may be from time to time specified by the Minister in a notification in the *Gazette*, otherwise than with lawful authority shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding one month or to both.

(2) A truncheon, handcuffs or such weapon or equipment as may be specified under subsection (1) shall be presumed to be carried with lawful authority if it is carried by a member of the Royal Brunei Police Force or of the Royal Brunei Armed Forces or of any visiting force lawfully present in Brunei Darussalam under any law relating to visiting forces.

(3) The licensing officer may, in each case by an order in writing and subject to such conditions as he may impose, exempt any person or class of persons from subsection (1).

(4) Where any exemption given by the licensing officer pursuant to subsection (3) is subject to conditions imposed by the licensing officer, the exemption shall cease to be in force when any of the conditions is not complied with.

(5) For the purposes of this section, "public place" includes any premises or place to which the public has or is permitted to have access, whether on the invitation of the owners or occupiers thereof or on payment or otherwise.

17. The licensing officer, on being satisfied upon any information and after any inquiry which he thinks necessary that there is good reason to believe that any place is used for the carrying on of the business of a security guard agency by a person who is not the holder of a licence, may by warrant or writing under his hand authorise any person therein named or any police officer, with such assistance and by such force as is necessary, by day or by night, to enter or go to that place and to search the place and all persons found therein, and to seize all documents and things reasonably supposed to have been used or intended to be used in connection with the business of a security guard agency which are found in that place or on those persons, and also to detain all those persons until they and the place have been searched.

Power to search premises.

18. (1) The licensing officer and any police officer duly authorised in writing in that behalf by the licensing officer may without warrant arrest any person whom he reasonably suspects to have committed an offence under this Order.

Power to arrest.

(2) The licensing officer and any police officer duly authorised in writing by the licensing officer arresting a person under subsection (1) may search such person and take possession of all articles found upon him which there is reason to believe were used in connection with the offence :

Provided that no female shall be search except by a female.

(3) Every person so arrested shall be taken to a police station.

Power to
investigate.

Chapter 7.

19. In any case relating to the commission of an offence under this Order, the licensing officer and any police officer duly authorised in writing in that behalf by the licensing officer may exercise all or any of the special powers in relation to seizable offences given by the Criminal Procedure Code.

Powers of
licensing
officer.

20. The licensing officer and any police officer duly authorised in writing in that behalf by the licensing officer shall, for the purposes of the execution of this Order, have power to do all or any of the following :

- (a) to enter, inspect and examine by day or by night the place of business of every licensee ;
- (b) to require the production of records, accounts and documents kept by a licensee and to inspect, examine and copy any of them ;
- (c) to make such inquiry as may be necessary to ascertain whether the provisions of this Order are complied with so far as regards any person employed by a licensee to assist in the work of a security guard.

Obstruction of
search, etc.

21. Any person who –

- (a) refuses the licensing officer or any police officer authorised to enter or search, access to any place ;
- (b) assaults, obstructs, hinders or delays him in effecting any entrance which he is entitled to effect under this Order, or in the execution of any duty imposed or power conferred by this Order ;
- (c) fails to comply with any lawful demand of the licensing officer or a police officer in the execution of his duty under this Order ; or
- (d) refuses or neglects to give any information which may reasonably be required of him and which he has it in his power to give,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding one year or to both.

Offence.

22. Any person who contravenes or fails to comply with any of the provisions of this Order shall be guilty of an offence.

23. Any person who is guilty of an offence for which no penalty is expressly provided by this Order shall be liable on conviction to a fine not exceeding \$2,000.

General
penalty.

24. (1) Where an offence under this Order has been committed by a company, any person, who at the time of the commission of the offence was a director, secretary, manager or other officer of the company or who was purporting to act in any such capacity, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his function in that capacity and to all the circumstances.

Liability of
directors,
partners, etc.

(2) Any person who would have been guilty of an offence if anything had been done or omitted to be done by him personally shall be guilty of the offence and shall be liable to the same penalty if that thing had been done or omitted to be done by his partner, agent or servant in the course of partnership business or in the course of his employment, as the case may be, unless he proves that the offence was committed without his knowledge or consent and that he took all reasonable precautions to prevent the doing or omission to do such thing.

(3) Nothing in subsection (2) shall relieve any partner, agent or servant from any liability for an offence.

25. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations generally for the carrying out of the provisions of this Order and, without prejudice to such general power, may make regulations for all or any of the following purposes :

Power to make
regulations.

- (a) prescribing the information and documents to be furnished by an applicant for a licence ;
- (b) the taking and recording of photographs and fingerprints or persons applying for a licence and of every person employed by a licensee ;
- (c) prescribing the form of a licence or the identification papers issued pursuant to section 13 ;
- (d) prescribing the uniform, badge or emblem to be worn by the employees of a licensee ;
- (e) prohibiting the use of any equipment and accoutrement by a licensee and his employees ;

- (f) regulating the activities of a licensee and prescribing the manner in which the business of a licensee shall be conducted ;
- (g) the exemption of any class of persons from the operation of this Order ; and
- (h) providing for all matters stated or required in this Order to be prescribed.

Saving.

26. (1) The provisions of this Order shall be in addition to and not in derogation of the provisions of any other written law.

(2) Nothing in this Order –

- (a) shall be construed as conferring on a licensee or his employees any of the powers which by any written law are conferred upon and exercisable by a police officer, customs officer, immigration officer, prison officer or any other public officer ; and
- (b) shall authorise a licensee or his employees to do an act which is unlawful or illegal by virtue of any written law.

Made this 22nd day of Zulkaedah, 1419 Hijriah corresponding to the 11th day of March, 1999 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM