

LAWS OF BRUNEI

CHAPTER 148 **PUBLIC ORDER**

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LAWS OF BRUNEI

REVISED EDITION 2013

CHAPTER 148

PUBLIC ORDER

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Citation.
2. Interpretation.
3. Special areas.

PART II

**CONTROL OF UNIFORMS, FLAGS, QUASI MILITARY
ORGANISATIONS, ILLEGAL DRILLING, MEETINGS,
PROCESSIONS AND ASSEMBLIES ETC.**

Control of uniforms and flags etc.

4. Prohibition of uniform in connection with political objects.
5. Display of flags by societies.
6. Power to prohibit flags, uniforms etc.

Quasi military organisations and illegal drilling

7. Prohibition of quasi military organisation.
8. Illegal drilling.

Meetings, processions and assemblies

9. Permits required for meetings and processions in public place.
10. Powers of Minister.
11. Powers to stop and disperse unlawful gatherings.
12. Offences and penalties.

PART III

POWERS FOR MAINTENANCE OF PUBLIC ORDER

Control and closure of roads etc.

13. Closing roads etc.
14. Barriers.

Curfews and exclusion orders in special areas

15. Imposition of curfews.
- 15A. Withdrawal of telecommunication facilities.
16. Exclusion of persons.
- 16A. Control of persons.
- 16B. Appeal.

Power to control firearms and ammunition

17. Control of firearms and ammunition.

Powers of security forces in special areas

18. Power to detain suspected persons.
19. Powers to search for and seizure of offensive weapons etc.
20. Disposal of property seized under section 14 or 19.
21. Power to use force.
21A. Powers of requisition.
21B. Compensation.
22. General power to seize certain articles etc.
23. Powers of members of security forces other than police officers.

PART IV

OFFENCES

Penalties for certain offences under Part III

24. Penalty for certain offences.

Unlawful oaths

25. Unlawful oaths to commit capital offences.
26. Other unlawful oaths to commit offences.

Offences relating to firearms and ammunition

27. Carrying firearm while drunk or disorderly.

28. Unlawful possession of firearms and ammunition.

Carrying offensive weapons and causing disturbance in public places

29. Carrying offensive weapons in public places.
29A. Carrying etc. incendiary device.
30. Disturbance in public places.

Subversive acts, words and articles

31. Subversive acts or words.
32. Importation, making etc. of subversive articles.
33. Possession of subversive articles.

False reports and public mischief

34. Dissemination of false report.
35. Public mischief.

Abetment and failure to report offences

36. Abetment and failure to report offences.

PART V

GENERAL

37. Restriction on prosecution.
38. Seizability and bailability of offences.
39. Jurisdiction of Court of a Magistrate.
40. Publicity for certain orders and directions.

41. Application of section 36 of Chapter 4.

SCHEDULE — OFFENCES

PUBLIC ORDER ACT

An Act relating to the preservation of public order

Commencement: 1st November 1983
[S 18/1983]

PART I

PRELIMINARY

Citation.

1. This Act may be cited as the Public Order Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires —

“ammunition” means ammunition for any firearm as hereinafter defined and includes grenades, bombs and other like missiles whether capable of use with such a firearm or not, and any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing;

“article” means any description of article containing or embodying matter to be read or looked at or both, any sound record, and any film, video cassette, photographic negative or other record of a picture;

“assembly” means any gathering of five or more persons;

“explosive” —

(a) means gunpowder, nitroglycerine, dynamite, gun-cotton, blasting powder, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and

(b) includes fog-signals, fireworks, fuses, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions and every adaptation or preparation of an explosive as above defined; and

(c) includes any material for making any explosive and any apparatus, machine, implement or material used or intended to be used or adapted for causing or aiding in causing any explosion in or with any explosive, and any part of any such apparatus, machine or implement;

“firearm” means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or other missile and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing, and includes any component part of any such weapon as aforesaid;

“injurious thing” means anything which is of such a nature or is present in such a quantity as to be capable of being used for causing or contributing to the causing of injury to the person or to property;

“meeting” means an assembly held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters;

“Minister” means the Minister of Home Affairs;

“offensive weapon” includes any instrument which if used as a weapon of offence is likely to cause hurt;

“Officer Commanding Police District” means the officer appointed to perform the duties of that office and when such officer is unable through absence, illness or otherwise to perform his duties, means the police officer present and acting in the Police District who is next in rank below such officer appointed as aforesaid;

“police force” has the same meaning as “Force” in the Royal Brunei Police Force Act (Chapter 50), and includes —

(a) the Brunei Volunteer Police Force, or any part thereof, when on active service; and

(b) any auxiliary or special police force constituted under any written law for the time being in force, or any part of any such force, when on active service;

“police officer” means any member of the police force;

“prison officer” has the same meaning as in the Prisons Act (Chapter 51);

“procession” means a procession of five or more persons or three or more vehicles or vessels;

“public place” includes any highway, public street, public road, public park or garden, any sea beach, river, waterway, public bridge, lane, footway, square, court, alley or passage, whether a thoroughfare or not, any unalienated land, any theatre or place of public entertainment of any kind or other place of general resort admission to which is obtained by payment or to which the public have access, and any open space (whether enclosed or unenclosed) to which for the time being the public have or are permitted to have access, whether on payment or otherwise;

“public road” means any public highway or any road over which the public have a right of way or are granted access, and includes every road, street, bridge, passage, footway or square over which the public have a right of way or are granted access;

“security force” means the police force, the Royal Brunei Armed Forces, Gurkha Reserve Unit any other armed force for the time being of Brunei Darussalam or any visiting force present for the time being in Brunei Darussalam by virtue of any written law or by virtue of any lawful arrangement made by or on behalf of the Brunei Darussalam Government;

“subversive article” means any article which contains any subversive matter and any article purporting to be a subversive article shall be presumed to be a subversive article until the contrary is proved.

(2) For the purposes of this Act, any act, matter or word shall be deemed to be subversive if it —

(a) has a seditious intention within the meaning of the Sedition Act (Chapter 24);

(b) is likely to excite organised violence against persons or property in Brunei Darussalam;

(c) supports, propagates or advocates any act prejudicial to the public safety in Brunei Darussalam or the maintenance or restoration of public order therein, or incites or is likely to lead to violence therein, or counsels disobedience to the law thereof or to any lawful order therein;

(d) incites or is likely to lead to feeling of ill will or hostility between different races or classes of the population in Brunei Darussalam;

(e) is a record or account of or receipt for, or invites, requests or demands support for or on account of any collection, subscription, contribution or donation, whether in money or in kind, for the direct or indirect benefit or use of persons who intend to act or are about to act, or have acted, in a manner prejudicial to the public safety in Brunei Darussalam or to the maintenance or restoration of public order therein, or who incite to violence therein or counsel disobedience to the law thereof or any lawful order therein; or

(f) is likely to bring into hatred or contempt or to excite disaffection against —

- (i) any class of public servants, or any public servant in the execution of his duty; or
- (ii) any armed force lawfully in Brunei Darussalam, or any member of such force in the execution of his duty.

(3) Any reference in this Act to a vehicle, vessel or aircraft shall not include any vehicle, vessel or aircraft for the time being employed for the purposes of any security force.

Special areas.

3. (1) The Minister may, by notification published in the *Gazette*, declare that the sections (other than sections 14, 17 and 20) in Part III and section 28 or that any of such sections (other than sections 14, 17 and 20) shall have effect in any district, area or place specified in such declaration.

(2) In any section which has effect for the time being by virtue of a declaration under subsection (1), “special area” means any district, area or place in which that section has effect as aforesaid.

PART II

CONTROL OF UNIFORMS, FLAGS, QUASI MILITARY ORGANISATIONS, ILLEGAL DRILLING, MEETINGS, PROCESSIONS AND ASSEMBLIES ETC.

Control of uniforms and flags etc.

Prohibition of uniform in connection with political objects.

4. (1) Any person who in any public place or at any public meeting wears uniform signifying his association with any political organisation or with the promotion of any political organisation or with the promotion of any political object shall be guilty of an offence: Penalty, a fine of \$3,000 and imprisonment for 2 years:

[S 10/1991]

Provided that if the Minister is satisfied that the wearing of any such uniform as aforesaid on any ceremonial anniversary or other special occasion will not be likely to involve risk of public disorder, he may grant written permission for the wearing of such uniform on that occasion either absolutely or subject to such conditions as he may specify in such written permission.

(2) Any person who contravenes the conditions of any permission granted under the proviso to subsection (1) shall be guilty of an offence: Penalty, a fine of \$3,000 and imprisonment for 2 years.

[S 10/1991]

Display of flags by societies.

5. (1) In this section, “society” has the same meaning as in the Societies Act (Chapter 203).

(2) No society shall adopt any flag as its personal flag unless such flag (hereinafter referred to as a “society flag”) has been approved by His Majesty the Sultan and Yang Di-Pertuan in Council by notification published in the *Gazette*; and His Majesty the Sultan and Yang Di-Pertuan in Council may specify in such notification the conditions in or under which such society flag may be displayed.

(3) If any society adopts as its society flag a flag which has not been approved by His Majesty the Sultan and Yang Di-Pertuan in Council under subsection (2), the president, and the secretary and all members of the committee, or if such officers do not exist, then all persons holding position analogous to those of president, secretary, and member of committee, and all persons managing or assisting in the management of such society shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 3 years.

[S 10/1991]

(4) Any person who displays any society flags —

(a) which has not been approved by His Majesty the Sultan and Yang Di-Pertuan in Council under subsection (2); or

(b) in contravention of any conditions imposed by His Majesty the Sultan and Yang Di-Pertuan in Council under subsection (2),

shall be guilty of an offence: Penalty, a fine of \$1,000 and imprisonment for one year.

[S 10/1991]

Power to prohibit flags, uniforms etc.

6. (1) If he considers it expedient in the public interest, the Minister may by order published in the *Gazette* prohibit the manufacture, sale, use, display or possession of any flag, banner, badge, emblem, device, uniform or distinctive dress.

(2) Any person contravening any provision of an order made under this section shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 3 years.

[S 10/1991]

(3) Any article in respect of which an offence has been committed under this section may be seized and destroyed or otherwise dealt with as the Commissioner of Police may direct, whether or not the identity of the offender is known and whether or not any prosecution has been commenced in respect of the offence.

Quasi military organisations and illegal drilling**Prohibition of quasi military organisation.**

7. (1) If the members or adherents of any association of persons, whether incorporated or not, are organised, trained or equipped for the purpose of enabling them to be employed —

(a) in usurping the functions of any security force; or

(b) either for the use or display of physical force in promoting any political or other object, or in such a manner as to arouse reasonable apprehension that they are organised or trained or equipped for that purpose,

then any member or adherent of such association shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 3 years; and any person who promotes or conspires with another to promote, or who takes part in the control or management of the association, or in so organising or

training as aforesaid any member or adherent thereof, shall be guilty of an offence: Penalty, a fine and imprisonment for 5 years:

[S 10/1991]

Provided that, in any proceedings against any person charged with the offence of taking part in the control or management of such an association as aforesaid, it shall be a defence to that charge to prove that he neither consented to, nor connived at, the organisation, training or equipment of any member or adherent of the association in contravention of this section.

(2) If, upon application being made by or on behalf of the Attorney General, it appears to the High Court that any association is an association of which members or adherents are organised, trained or equipped in contravention of this section, the Court may —

(a) make such order as appears necessary to prevent any disposition without the leave of the Court of property held by or for the association;

(b) direct an inquiry and report to be made as to any such property as aforesaid and as to the affairs of the association;

(c) make such further order as appears to the Court to be just and equitable for the application of such property in or towards —

- (i) the discharge of the liabilities of the association lawfully incurred before the date of the application, or since the date with the approval of the Court;
- (ii) the repayment of moneys to persons who became subscribers or contributors to the association in good faith and without knowledge of any such contravention as aforesaid; and
- (iii) any costs incurred in connection with any such inquiry and report as aforesaid, or in winding-up or dissolving the association; and

(d) order that any property which is not directed by the court to be so applied as aforesaid shall be forfeited to the Government.

(3) In any criminal or civil proceedings under this section, proof of things done or of words written, spoken or published, whether or not in the presence of any party to the proceedings, by any person taking part in the control or management of an association or in organising, training or equipping members or adherents of an association, shall be admissible as evidence of the purposes for which, or the manner in which, members or adherents of the association were organised, trained or equipped.

(4) If a magistrate is satisfied by information that there is reasonable ground for suspecting that an offence against this section has been committed, and that evidence of the commission thereof is to be found at any premises or place specified in the information, he may by warrant authorise the person to whom it is directed to enter, with such assistance as may be required, the premises or place, at any time within one month from the date of the warrant, if necessary by force, and to search the premises or place and every person found therein, and to seize anything found on the premises or place, or on any such person, which the officer has reasonable grounds for suspecting to be evidence of the commission of such an offence as aforesaid:

Provided that no woman shall, in pursuance of a warrant issued under this subsection, be searched except by a woman.

(5) Nothing in this section shall be construed as prohibiting the employment of a reasonable number of persons as stewards to assist in the preservation of order at any public meeting held upon private premises with the permission of the owner of those premises, or the making of arrangements for that purpose, or the instruction of the persons to be so employed in their lawful duties as such stewards, or their being furnished with badges or other distinguishing signs.

Illegal drilling.

8. (1) Any person, other than a member of any security force or of any association specially exempted by the Minister, who —

(a) is present at or attends any meeting or assembly for the purpose of training or of drilling themselves to the use of arms, or of being so trained or drilled, or for the purpose of practising military exercises, movements or evolutions; or

(b) is present at or attends any such meeting or assembly for the purpose of training or drilling any other person to the use of arms, or the practice of military exercises, movements or evolutions,

shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 3 years.

[S 10/1991]

(2) Any person, other than a member of any security force or of any association specially exempted by the Minister, who —

(a) trains or drills any other person to the use of arms or the practice of military exercises, movements or evolutions; or

(b) takes part in the control or management of any association or organisation whose members are trained or drilled in the practice of military exercises, movements or evolutions,

shall be guilty of an offence: Penalty, a fine of not less than \$8,000 and imprisonment for 8 years.

[S 10/1991]

(3) Nothing in this section shall be construed as prohibiting the training or drilling in rehearsal of any persons for the sole purpose of enabling them to march in a lawful procession.

Meetings, processions and assemblies

Permits required for meetings and processions in public place.

9. (1) Any person who wishes to organise or convene a meeting or a procession in a public place shall first (and not less than 7 days from the date of the intended meeting or procession) make an application for a permit in that behalf to the Commissioner of Police.

(2) Where an application is made to the Commissioner of Police for a permit under subsection (1) he shall, unless he is satisfied that such a

meeting or procession is likely to prejudice the maintenance of peace or good order, issue a permit specifying —

(a) in the case of a procession, the purpose for which, and the routes by which, and the times at which, such procession may pass, and such other conditions as he may think fit to impose;

(b) in the case of a meeting, the purpose for which and the place and time or times at or between which, such meeting may be held, and such other conditions as he may think fit to impose; and

(c) the name or names of the person or persons to whom it is issued.

(3) Every person to whom a permit is issued under subsection (2) shall be responsible for the due observance of all the conditions specified in the permit.

(4) The Minister may, by order published in the *Gazette*, exempt any class of meeting or procession, from all or any of the provisions of this section.

Powers of Minister.

10. (1) If he considers it expedient in the interest of public safety and the maintenance of public order at any time, the Minister may, by order —

(a) prohibit the organising, convening or holding of any assembly in any place, whether such place is a public place or not, in any area specified in the order, either generally or subject to any specified conditions; or

(b) prohibit the organising, convening or holding of any meeting or procession in any place, other than a public place, in any area specified in the order, either generally or subject to any specified conditions.

(2) Nothing in this section shall apply to any assembly or procession held in a mosque, church, temple or other place of worship solely for the purposes of a religious ceremony in accordance with the adopted rites of such mosque, church, temple or other place of worship.

Powers to stop and disperse unlawful gatherings.

11. (1) In this section and in sections 12 and 21 —

“unlawful assembly” means any assembly which has been organised or convened or is held in contravention of an order under section 10(1)(a) or of any condition specified in such order;

“unlawful group” means an unlawful meeting or an unlawful assembly;

“unlawful meeting” and “unlawful procession” means respectively any meeting or any procession which has been organised or convened or is held —

(a) in contravention of section 9 or of any condition specified in a permit issued under section 9(1); or

(b) in contravention of an order under section 10(1)(b) or of any condition specified in such order.

(2) Any police officer not below the rank of inspector may —

(a) stop any unlawful procession; and

(b) order any unlawful group to disperse.

(3) Any unlawful group shall be deemed to be an unlawful assembly within the meaning of section 141 of the Penal Code (Chapter 22) and Chapter VIII of the Criminal Procedure Code (Chapter 7).

Offences and penalties.

12. (1) Any person who takes part in any unlawful group shall be guilty of an offence: Penalty, a fine of \$1,000 and imprisonment for one year.

[S 10/1991]

(2) Any person who —

(a) takes part in organising, convening or directing any unlawful group; or

(b) continues to take part in any unlawful group which has been ordered under section 11(2)(b) to disperse,

shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 3 years.

[S 10/1991]

PART III

POWERS FOR MAINTENANCE OF PUBLIC ORDER

Control and closure of roads etc.

Closing roads etc.

13. In any special area —

(a) if he considers it expedient in the interest of public safety and the maintenance of public order, the Commissioner of Police or the Officer Commanding Police District may by order or by giving directions or in any other manner he thinks fit regulate, restrict, control or prohibit the use of any road, street, path or waterway or any public place or close any road, street, path, waterway or public place to the public or any class of the public or to any vehicle or vessel or class of vehicle or vessel;

(b) if it appears to the senior police officer present in any part of such area that, in order to restore or maintain public order in such place, it is necessary to regulate, restrict, control or prohibit the use of any road, street, path or waterway or any public place in or giving access to such part or to close any such road, street, path, waterway or public place and that the situation is too urgent to communicate with any officer having authority under paragraph (a) such officer may

exercise the powers conferred by that paragraph on the Commissioner of Police or the Officer Commanding Police District:

Provided that —

- (i) the powers conferred by paragraph (b) shall not be exercised by a police officer below the rank of sergeant or an officer in charge of a police station; and
- (ii) no order under paragraph (b) shall be valid after the expiration of a period of 24 hours from the time when it was made unless made or confirmed by the Commissioner of Police or the Officer Commanding Police District having authority under paragraph (a).

Barriers.

14. (1) Notwithstanding the provisions of any other written law, any officer in charge of a police station, or a police officer of or above the rank of inspector, may —

(a) for the purpose of giving effect to an order or direction made under section 13; or

(b) whenever he considers it necessary so to do for the preservation of law and order or for the prevention or detection of crime,

erect or place barriers in or across any road, street, path, waterway or public place in such manner as he may think fit.

(2) Any police officer may take all reasonable steps to prevent any person, whether on foot or in a vehicle or vessel, from passing any such barrier and every person shall comply with any direction or signal of such officer requiring such person to stop at or before reaching any such barrier.

(3) No police officer shall be liable for —

(a) any loss or damage to any vehicle or vessel; and

(b) any injury to any person,

if such loss, damage or injury results from the failure by any person to obey —

(i) any police officer acting under subsection (2); or

(ii) any member of any other security force acting under that subsection by virtue of section 23(2)(b).

(4) Any police officer may, at any barrier, search any person, vehicle or vessel —

(a) for the purposes of ascertaining whether such person, vehicle or vessel is carrying any offensive weapon, subversive article or injurious thing; or

(b) if such police officer has reasonable grounds for believing that any evidence of the commission of an offence is likely to be found on such person or in such vehicle or vessel.

(5) No woman shall be searched under this section except by a woman.

(6) Where any police officer exercising any power of search conferred on him by this section finds —

(a) any offensive weapon or subversive article;

(b) any injurious thing which he has reasonable grounds for believing to be intended or likely to be used for causing or contributing to the causing of injury to the person or to property; or

(c) any evidence of the commission of an offence,

he may seize any such weapon, article, injurious thing or evidence and also any vehicle or vessel in which it is found.

Curfews and exclusion orders in special areas

Imposition of curfews.

15. (1) In any special area, the Commissioner of Police may, if he considers it expedient in the interests of public safety and the maintenance of public order, subject to such exceptions as may be specified therein, by order require every person within the area or any part thereof specified in such order to remain within doors during such period and between such hours as may be specified therein unless in possession of a written permit in that behalf issued by any officer in charge of a police station or any other police officer of or above the rank of inspector or any public officer authorised in writing in that behalf by an Officer Commanding Police District.

(2) No order made under subsection (1) shall remain in force for a period exceeding 3 days unless confirmed by the Minister.

(3) No order under this section shall apply to —

(a) any member of the Privy Council, Council of Ministers or of the Legislative Council;

(b) any member of any security force when such member is acting in the course of his duty; or

(c) any person or class of persons exempted from the provisions of such order by the Commissioner of Police.

Withdrawal of telecommunication facilities. [S 33/2005]

15A. The Minister may by order in writing authorise the Authority for Info-communications Technology Industry of Brunei Darussalam in any area within a special area specified in the order to withdraw either totally or partially the use of all or any telecommunication facilities or telecommunication plant from any person or class of person or from the

public at large except such persons or classes of persons as may be specified in the order, and thereupon the Authority shall withdraw such use, the provision of any agreement or of any written law to the contrary notwithstanding.

Exclusion of persons.

16. (1) In any special area, the Commissioner of Police may, by order exclude all persons or any class of persons from the area or any part thereof or from any place or building therein specified in such order and may require any person who is in such area or part thereof or place or building to comply with such directions for regulating his movement and conduct as the Commissioner of Police may direct.

(2) Any police officer may search any person entering or seeking to enter, or being in, the special area or part thereof or place or building, in respect of which an order under subsection (1) is for the time being in force and may detain any such person for the purpose of searching him.

(3) No woman shall be searched under this section except by a woman.

(4) If any person whilst in a special area or part thereof or place or building in respect of which an order under subsection (1) is for the time being in force fails to comply therewith or with any direction given thereunder then, without prejudice to any proceedings which may be taken against him, he may be removed from such area or part thereof or place or building by a police officer.

(5) The powers conferred by subsection (1) may be exercised by any police officer not below the rank of inspector authorised in writing in that behalf by the Commissioner of Police.

(6) The Minister may make an order, and may vary or cancel any order made by the Commissioner of Police, in exercise of the powers conferred by subsection (1).

Control of persons. [S 33/2005]

16A. (1) Where it appears to the Commissioner of Police —

(a) that any person has been recently concerned in acts involving or likely to cause or provoke a breach of the peace in a special area or likely to be prejudicial to the success of measures taken to maintain or restore public order in a special area or in the preparation or instigation of such acts or that by reason of his association with any person or organisation concerned in any such acts or by reason of his words or conduct he is likely to be concerned in such acts; and

(b) that by reason thereof, it is necessary to exercise temporary control over such person,

the Commissioner may by order exercise in respect of that person any one or more of the following powers —

- (i) exclude him from the special area or any part thereof;
- (ii) require him to reside in such place or area, whether in the special area or not, as may be specified in the order and not to leave the area without such permission and subject to such conditions as may be so specified;
- (iii) require him to remain within doors during such hours as may be specified in the order;
- (iv) require him to notify the police at such place or places and in such manner as may be specified in the order his place or residence and any change thereof, and to report to the police at such times and dates and in such manner as may be so specified;
- (v) require him to enter into a bond for such amount with such sureties as may be specified for his good behaviour or for due compliance with the conditions of any order made under this subsection.

(2) Any order made under this section may be varied or cancelled by the Minister or by the Commissioner of Police.

(3) Subject to subsection (2), any order made under this section shall remain in force for such period as may be specified in the order, but every such order, unless previously cancelled, shall cease to have effect when the area in respect of which the order was made ceases to be a special area.

Appeal. [S 33/2005]

16B. (1) Any person in respect of whom an order under section 16A has been made may appeal to the Minister, who shall decide the appeal and make such order as he may consider appropriate.

(2) The decision of the Minister on an appeal under this section shall be binding and conclusive upon all persons, and shall not be called in question in or be subject to any review by or appeal to any court.

Power to control firearms and ammunition

Control of firearms and ammunition.

17. (1) If he considers it expedient in the public interests, the Commissioner of Police may, notwithstanding that licenses or permits may have been issued under any written law in respect of such firearms and ammunition, by order published in the *Gazette*, prohibit the use, possession or custody of firearms and ammunition in any part of Brunei Darussalam during the continuance of such order; and may, at the same time, give directions —

(a) for the taking into custody of firearms and ammunition;

(b) for the cancellation or suspension of licenses or permits for firearms and ammunition during the continuance of such order;

(c) for the giving of notice of such order to any person who, in his opinion, ought to have notice of it;

(d) generally for the carrying into effect of such order.

(2) Where firearms or ammunition have been taken into custody pursuant to directions given by the Commissioner of Police under subsection (1), he may cause such firearms or ammunition to be destroyed or otherwise dispose of in such manner as he shall think fit:

Provided that compensation in respect of any firearms or ammunition so destroyed or dispose of shall be paid to the person who surrendered the same or to his agent or his successors but such compensation shall not exceed the value of the firearms or ammunition at the time they were surrendered.

Powers of security forces in special areas

Power to detain suspected persons.

18. (1) If in any special area, any person upon being questioned by a police officer not below the rank of sergeant, fails to satisfy the police officer as to his identity or as to the purposes for which he is in the place where he is found, and if the police officer suspects that such person has acted or is about to act in any manner prejudicial to the public safety or the maintenance of public order, the police officer may arrest such person and detain him pending enquiries.

(2) No person shall be detained under this section for a period exceeding 24 hours except with the authority of the Officer Commanding Police District concerned and, save as provided in subsection (3), such officer may only authorise the detention of a person under this section for a period not exceeding 48 hours in all.

(3) If the Officer Commanding Police District concerned is satisfied that the necessary enquiries cannot be completed within the period of 48 hours prescribed by subsection (2), he may authorise the further detention of any person detained under this section for an additional period not exceeding 14 days but shall, on giving such authorisation forthwith report the circumstances to the Commissioner of Police.

(4) Any person detained under 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.

Powers to search for and seizure of offensive weapons etc.

19. (1) For the purpose or under the circumstances mentioned in subsection (2), any police officer may in a special area, without warrant and with or without assistance —

(a) stop and search any person or vehicle found in any public road or place; and

(b) if such police officer is of or above the rank of sergeant —

(i) stop and search any person or vehicle, whether in a public place or not;

(ii) enter and search any premises;

(iii) board and search any vehicle, vessel or aircraft.

(2) The powers conferred by subsection (1) shall be exercisable —

(a) for the purpose of ascertaining whether such person, vehicle, vessel or aircraft as aforesaid is carrying, or such premises as aforesaid contain, any offensive weapon, subversive article or injurious thing; or

(b) if the police officer concerned has reasonable grounds for believing that any evidence of the commission of an offence is likely to be found on such person or premises or in any such vehicle, vessel or aircraft:

Provided that any police officer below the rank of sergeant may exercise the powers conferred by subsections (1)(b) and (2) on a police officer of or above the rank of sergeant if he has reasonable grounds for believing that by reason of the delay which would be caused by referring the matter to an officer of or above the rank of sergeant anything liable to seizure under

subsection (4) is likely to be removed from the person, premises, vehicle, vessel or aircraft whereon such thing is believed to be.

(3) No woman shall be searched under this section except by a woman.

(4) Where any police officer exercising any power of search conferred on him by this section finds —

(a) any offensive weapon or subversive article;

(b) any injurious thing which he has reasonable grounds for believing to be intended or likely to be used for causing or contributing to the causing of injury to the person or to property; or

(c) any evidence of the commission of an offence,

he may seize any such weapon, article, injurious thing or evidence and also any vehicle, vessel or aircraft in which it is found.

Disposal of property seized under section 14 or 19.

20. (1) Any offensive weapon, subversive article, or injurious thing coming into the possession of a police officer under section 14 or 19 may be disposed of in such manner as the Commissioner of Police may order; and in default of any such order in relation to any such property, subsection (2) shall apply thereto.

(2) Subject to subsection (1), the provisions of the Criminal Procedure Code (Chapter 7) relating to the disposal of property the subject of an offence, shall apply to any property coming into the possession of a police officer under section 14 or 19.

(3) Nothing in this section shall be taken to prejudice any right to retain or dispose of property which may exist in law apart from this section.

Power to use force.

21. (1) Notwithstanding anything to the contrary contained in any other written law, any police officer may in any special area use such force as, in the circumstances of the case, may be reasonably necessary, which force may extend to the use of lethal weapons, in order —

- (a) (i) to effect the arrest of any person who fails to comply with any order under section 11 or 15 or whom he has reasonable grounds for suspecting to have committed an offence against section 28, 29 or 30;
- (ii) to effect the arrest of any person who fails to comply with a direction or signal to stop at or before reaching any barrier erected or placed under section 14; or
- (iii) to effect the arrest of any person whom he has reasonable grounds for suspecting to have committed an offence against any provision of any written law which is for the time being specified in the Schedule;
- (b) to overcome forcible resistance offered by any person to such arrest;
- (c) to prevent the escape from arrest or the rescue of any person arrested as aforesaid; or
- (d) to disperse any unlawful group.

(2) Every person arrested under subsection (1)(a) shall as soon as possible after his arrest be clearly warned of the provisions of subsection (1)(c).

(3) Nothing in this section shall derogate from the right of private defence contained in sections 96 to 106 of the Penal Code (Chapter 22).

(4) His Majesty the Sultan and Yang Di-Pertuan in Council may amend the Schedule by notification published in the *Gazette*.

Powers of requisition. *[S 33/2005]*

21A. (1) The Commissioner of Police and any police officer authorised by him in that behalf in writing may require any movable or immovable property situated within any special area or any space or accommodation in any land, building, vessel, vehicle or aircraft within that area to be placed at his disposal and may give such directions as appear to him to be necessary or expedient in connection with such requirements.

(2) The Commissioner of Police and any police officer so authorised may, during any period in which a declaration under section 3(1) is in force in respect of any district, area or place require any vessel, vehicle or aircraft in any place in Brunei Darussalam to be placed at his disposal and may give such directions as appear to him to be necessary or expedient in connection with such requirement.

(3) The Minister may direct that any requisition made under this section shall cease to have effect to such extent and subject to such qualifications, exceptions and conditions as may be specified or imposed by that direction.

(4) No requisition shall be made under this section in respect of any vessel of more than 100 tons gross tonnage or any aircraft, without the prior approval of the Minister.

Compensation. *[S 33/2005]*

21B. (1) Where, in the exercise of the powers conferred by section 21A, possession is taken of any property or of any space or accommodation in any land, building, vessel, vehicle or aircraft, compensation in respect of such possession shall be assessed in accordance with any written law relating to compensation in respect of the requisitioning of property in an emergency.

(2) No compensation shall be payable to any person in respect of any damage or injury to his person or property caused by or consequent upon any act authorised under this Act, unless provision for such compensation is made by this Act.

(3) Where, in the exercise of the powers conferred by section 21A, possession is taken of any property or of any space or accommodation in any land, building, vessel, vehicle or aircraft for the purpose of ensuring the maintenance of a public service, any compensation payable shall be payable by the authority responsible for the provision of such service.

General power to seize certain articles etc.

22. (1) Any police officer may in any special area seize and take possession of any article or material capable of being, and which in his opinion is likely to be, used for offensive purposes.

(2) Any article or material seized under this section shall be disposed of in such manner as the Commissioner of Police may order.

Powers of members of security forces other than police officers.

23. (1) In this section, “security force” means any security force other than the police force.

(2) In any special area, any commander of any security force and any member of any such force under his command may, when engaged on duty connected with the maintenance or restoration of public order, exercise —

(a) the powers of arrest conferred upon a police officer by section 38(1) in relation to an offence against this Act; and

(b) any power conferred upon a police officer by sections 11, 13(b), 14, 15, 16(2) and (4), 19, 21 and 22(1) in like manner as if any reference in any such section to a police officer were a reference to a member of any such force as aforesaid of equivalent rank.

(3) No member of any security force shall be liable for —

(a) any loss or damage to any vehicle or vessel; or

(b) any injury to any person,

if such loss, damage or injury results from the failure by any person to obey an order of a member of that or any other security force or a police officer acting in a special area under section 14.

(4) The provisions of Chapter VIII of the Criminal Procedure Code (Chapter 7) shall apply to a member of any security force exercising powers under subsection (1) in like manner as they apply to a police officer.

(5) For the purposes of subsection (2) —

(a) “commander of any security force” means a commissioned officer for the time being in command of any member of any such force in the special area and engaged on duty connected with the maintenance or restoration of public order;

(b) a commissioned officer of any security force shall be deemed to be of equivalent rank to a police officer above the rank of sergeant and a sergeant or petty officer of any such force shall be deemed to be of equivalent rank to a police officer of the rank of sergeant.

PART IV

OFFENCES

Penalties for certain offences under Part III

Penalty for certain offences.

24. If any person contravenes or fails to comply with any order, direction or signal made or given or requirement imposed under section 13, 14, 15, 16 or 16A he shall (without prejudice to any special provision contained in this Act) be guilty of an offence: Penalty, a fine of \$3,000 and imprisonment for 2 years.

[S 10/1991; S 33/2005]

Unlawful oaths

Unlawful oaths to commit capital offences.

25. Any person who —

(a) administers, or is present at and consents to the administering of, any oath, or any engagement in the nature of an oath, purporting to bind the person who takes it to commit any offence punishable with death; or

(b) takes any such oath or engagement, not being compelled to do so,

shall be guilty of an offence: Penalty, imprisonment for 10 years.

Other unlawful oaths to commit offences.

26. Any person who —

(a) administers, or is present at and consents to the administering of, any oath, or any engagement in the nature of an oath, purporting to bind the person who takes it —

- (i) to engage in any mutinous or seditious enterprise;
- (ii) to commit any offence not punishable with death;
- (iii) to disturb the public peace;
- (iv) to be a member of any association, society or confederacy formed for the purpose of doing any such act as aforesaid;
- (v) to obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having lawful authority for the purpose;
- (vi) not to inform or give evidence against any associate or confederate, or any other person; or

(vii) not to reveal or discover any unlawful association, society or confederacy, or any illegal act done or to be done, or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person, or the import of any such oath or engagement; or

(b) takes any such oath or engagement, not being compelled to do so,

shall be guilty of an offence: Penalty, a fine of not less than \$8,000 and imprisonment for 8 years.

[S 10/1991]

Offences relating to firearms and ammunition

Carrying firearm while drunk or disorderly.

27. Any person who is drunk or who behaves in a disorderly manner while carrying a firearm shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 5 years.

[S 10/1991]

Unlawful possession of firearms and ammunition.

28. (1) In any special area, any person who without lawful excuse, the onus of proving which shall be on such person, carries or has in his possession or under his control —

(a) any firearm, without lawful authority therefor; or

(b) any ammunition or explosive, without lawful authority therefor,

shall be guilty of an offence: Penalty, death.

(2) A person shall be deemed to have lawful authority for the purposes of this section only if —

(a) he is a member of any security force or a prison officer and is carrying or is in possession of or has under his control such firearm, ammunition or explosive in or in connection with the performance of his duty;

(b) he is a person fully licensed, or authorised without a licence, under the provisions of any written law for the time being in force to carry, possess or have under his control such firearm, ammunition or explosive; or

(c) he is a person exempted from the provisions of this section, or is a member of a class of persons so exempted, by the Commissioner of Police by notification published in the *Gazette*:

Provided that no person shall be deemed to have lawful authority for the purposes of this section or to be exempt from this section if he carries or has in his possession or under his control any such firearm, ammunition or explosive for the purpose of using the same in a manner prejudicial to public safety or the maintenance of public order.

(3) A person shall be deemed to have lawful excuse for the purposes of this section only if he proves that —

(a) he acquired such firearm, ammunition or explosive in a lawful manner and for a lawful purpose; and

(b) he has not at any time while carrying or having in his possession or under his control such firearm, ammunition or explosive, acted in a manner prejudicial to public safety or the maintenance of public order.

(4) A person charged with an offence against this section shall not be granted bail.

Carrying offensive weapons and causing disturbance in public places

Carrying offensive weapons in public places.

29. (1) Any person who in any public place carries or has in his possession or under his control any offensive weapon otherwise than with lawful authority or solely for a lawful purpose shall be guilty of an offence: Penalty, imprisonment for not less than one year and not more than 10 years and whipping with not less than 3 strokes.

[S 10/1991]

(2) In any prosecution for an offence under subsection (1), the onus of proving that the accused carried such weapon or had it in his possession or under his control solely for a lawful purpose shall lie upon the accused.

(3) A person shall be presumed to have lawful authority for the purposes of this section if he carries or has in his possession or under his control any offensive weapon —

(a) in or in connection with the performance of his duty as a member of any security force or as a person in the service of Government or of any local authority in Brunei Darussalam; or

(b) as part of his official or ceremonial dress on any official or ceremonial occasion.

(4) For the purposes of subsection (1), it is immaterial whether or not the offensive weapon is visible or whether or not it is concealed in any way whatsoever.

[S 14/1993]

Carrying etc. incendiary device. *[S 12/1998]*

29A. (1) Any person who in any place, whether or not a public place, carries or has in his possession or under his control any device known as a molotov cocktail or any other type of incendiary device, whether or not similar thereto, used or capable of being used to start or keep any fire, otherwise than with lawful authority or solely for a lawful purpose shall be guilty of an offence: Penalty —

(a) if the place is in the vicinity of a petroleum pipeline, gas pipeline, water supply pipeline, electrical supply installation or any property declared to be prescribed property to which section 435(1)(b) of the Penal Code (Chapter 22) applies, imprisonment for life; or

(b) in any other case, imprisonment for not less than one year and not more than 10 years and whipping with not less than 3 strokes.

(2) In any prosecution for an offence under subsection (1), the onus of proving that the accused carried such device or had in it his possession or under his control solely for a lawful purpose shall lie upon the accused.

(3) A person shall be presumed to have lawful authority for the purposes of this section if he carries or has in his possession or under his control any such device —

(a) in or in connection with the performance of his duty as a member of any security force or as a person in the service of Government or of any local authority in Brunei Darussalam; or

(b) as part of his official or ceremonial dress on any official or ceremonial occasion.

(4) For the purposes of subsection (1), it is immaterial whether or not the device is visible or whether or not it is concealed in any way whatsoever.

Disturbance in public places.

30. Any person who —

(a) in any public place or at any meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of peace is likely to be occasioned; or

(b) having been given by any police officer any direction for the purpose of preventing obstruction or keeping order in any public place, without lawful excuse, contravenes any direction so given to him,

shall be guilty of an offence: Penalty, a fine of \$1,000 and imprisonment for one year.

[S 10/1991]

Subversive acts, words and articles

Subversive acts or words.

31. Any person who —

(a) does any subversive act; or

(b) utters any subversive words,

shall be guilty of an offence: Penalty, a fine of not less than \$8,000 and imprisonment for 8 years.

[S 10/1991]

Importation, making etc. of subversive articles.

32. Any person who imports, makes, prints, publishes, sells, offers for sale, issues, distributes, circulates or reproduces any subversive article shall be guilty of an offence: Penalty, a fine of not less than \$10,000 and imprisonment for 10 years:

[S 10/1991]

Provided that no person shall be convicted of an offence against this section if he proves to the satisfaction of the court that the article in respect of which he is charged was imported, made, printed, published, sold, offered for sale, issued, distributed, circulated or reproduced, as the case may be, without his authority, consent and knowledge, and without any want of due care or caution on his part, and that he did not know and had no reason to suspect the nature of the article.

Possession of subversive articles.

33. (1) Any person who without lawful excuse carries or has in his possession or under his control any subversive article shall be guilty of an offence: Penalty, a fine of not less than \$8,000 and imprisonment for 8 years.

[S 10/1991]

(2) Any person or any office bearer of any association or any responsible member or agent of any organisation who receives any subversive article shall deliver the same without delay to a police officer; and any person, office bearer, member or agent who fails to do so, or who, unless authorised so to do by a police officer not below the rank of superintendent of police, communicate the contents of such article to any other person, or publishes or otherwise disseminates or causes to be published or otherwise disseminated the contents of any such article shall be guilty of an offence: Penalty, a fine of not less than \$8,000 and imprisonment for 8 years.

[S 10/1991]

(3) Where in any prosecution under this section it is proved that a person was carrying or had in his possession or under his control a subversive article, he shall be deemed to have known the contents and the nature of the contents of such article:

Provided that no person shall be convicted of an offence against this section if he proves to the satisfaction of the court that —

(a) he was not aware of the contents and the nature of the contents of the subversive article which he was carrying or had in his possession or under his control; and

(b) he was carrying or had the subversive article in his possession or under his control in such circumstances that at no time did he have reasonable cause to believe or suspect that such article was a subversive article.

False reports and public mischief

Dissemination of false report.

34. Any person who, whether orally or in writing or by any other means, spreads false reports or makes false statements likely to cause public alarm or despondency shall be guilty of an offence: Penalty, a fine of \$3,000 and imprisonment for 3 years.

[S 10/1991]

Public mischief.

35. (1) Any person who, whether orally or in writing or by any other means, publishes, or gives to any person, any information which he knows to be false and which tends to give rise to apprehension for the safety of any person or property shall be guilty of the offence of public mischief: Penalty, a fine of \$5,000 and imprisonment for 5 years.

[S 10/1991]

(2) Where it is proved that the person charged with an offence against this section published or gave false information, it shall, until the contrary is proved, be presumed that he knew such information to be false.

Abetment and failure to report offences

Abetment and failure to report offences.

36. (1) Any person who abets the commission of any offence against this Act shall be guilty of an offence: Penalty, the same penalty as that provided for the offence abetted.

(2) Any person who knowing or having reasonable cause to believe that another person is guilty of any offence against this Act, fails to report the same to a police officer, shall be guilty of an offence: Penalty, a fine of \$5,000 and imprisonment for 3 years.

[S 10/1991]

PART V

GENERAL

Restriction on prosecution.

37. A prosecution for any offence against this Act shall not be instituted except with the consent of the Public Prosecutor:

Provided that —

(a) subject to the law for the time being in force relating to criminal procedure, a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Public Prosecutor to the institution of a prosecution for the offence has not been obtained, but the case shall not be further prosecuted until that consent has been obtained; and

(b) when a person is brought before a court under this section before the Public Prosecutor has consented to the prosecution, the charge shall be explained to him but he shall not be called upon to plead, and the provisions of the law for the time being in force relating to criminal procedure shall be modified accordingly.

Seizability and bailability of offences.

38. (1) A police officer may without warrant arrest any person found or reasonably suspected of committing or attempting to commit or of procuring or abetting any person to commit an offence against this Act; and for the purposes of the Criminal Procedure Code (Chapter 7), every offence against this Act shall be seizable.

(2) Bail shall be discretionary in respect of every offence against this Act other than an offence under section 28.

Jurisdiction of Court of a Magistrate.

39. Without prejudice to the jurisdiction of the High Court, a Court of a Magistrate shall have jurisdiction to try any offence against this Act, other than an offence against section 28, and to impose any penalty prescribed therefor a fine of \$30,000 and not exceeding 7 years imprisonment.

[S 10/1991]

Publicity for certain orders and directions.

40. (1) When any order is made or direction is given under section 10 or any provision of Part III (other than section 17), the person making such order or giving such direction shall cause notice of the effect of such order or direction to be given as soon as may be, in such manner as he thinks necessary for bringing it to the notice of all persons, who, in his opinion, ought to have notice of it; and such order or direction shall have effect as soon as such notice has been given, without publication in the *Gazette*.

(2) Without prejudice to section 15 of the Interpretation and General Clauses Act (Chapter 4), any order made or direction given under any provision to which subsection (1) applies may at any time during its continuance be varied or cancelled by any person empowered to make such order or give such direction but without prejudice to the previous validity of the order or direction or to anything done thereunder or to the power of such person to make a fresh order or give a fresh direction under such provision as aforesaid.

Application of section 36 of Chapter 4.

41. For the avoidance of doubt, it is hereby declared that section 36 of the Interpretation and General Clauses Act (Chapter 4) (which contains provisions as to offences under two or more laws) shall apply to this Act.

SCHEDULE

(section 21(1)(a)(iii))

OFFENCES

Penal Code (Chapter 22) Sections 143, 144, 145, 147, 148, 151, 152, 153, 157, 158,
160, 379, 380, 382, 430, 431, 436 and 438.