

No. S 41

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

ANTI-TERRORISM (FINANCIAL AND OTHER MEASURES) ORDER, 2002

ARRANGEMENT OF SECTIONS

Section

1. Citation and long title.
2. Interpretation.
3. Prohibition against provision or collection of funds for terrorists.
4. Prohibition against dealing with property of terrorists.
5. Prohibition against provision of resources and services for benefit of terrorists.
6. Prohibition against false threats of terrorists acts.
7. General prohibition.
8. Duty to provide information.
9. Immunity from proceedings.
10. Protection of persons for acts done under Order.
11. Power to declare person a terrorist.
12. Directions to discharge Brunei Darussalam's international obligations.
13. Offences.
14. Regulations.

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

ANTI-TERRORISM (FINANCIAL AND OTHER MEASURES) ORDER, 2002

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation and long title.

1. (1) This Order may be cited as the Anti-Terrorism (Financial and other Measures) Order, 2002.

(2) The long title of this Order is "An Order to make provision for measures to be taken against terrorism".

Interpretation.

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

"funds" includes cheques, bank deposits and other financial resources;

"Minister" means the Minister of Finance;

"terrorist" means any person who —

(a) commits, or attempts to commit, any terrorist act;

(b) prepares for any terrorist act;

(c) participates in or facilitates the commission of any terrorist act;

(d) promotes or encourages any terrorist act; or

(e) is otherwise concerned in any terrorist act,

and includes any person declared in an order made under section 11 to be a terrorist;

"terrorist act" means the use or threat of action (whether in Brunei Darussalam or elsewhere) —

(a) where the action —

(i) involves serious violence against any person;

- (ii) involves serious damage to property;
- (iii) endangers any person's life;
- (iv) creates a serious risk to the health or safety of the public or a section of the public;
- (v) involves the use of firearms or explosives;
- (vi) involves releasing into the environment or any part thereof, or distributing or otherwise exposing the public or any part thereof to —
 - (A) any dangerous, hazardous, radioactive or harmful substance;
 - (B) any toxic chemical; or
 - (C) any microbial or other biological agent or toxin;
- (vii) is designed to disrupt any public computer system or the provision of services directly related to communications infrastructure, banking any financial services, public utilities, public transportation or public key infrastructure;
- (viii) is designed to disrupt the provision of essential emergency services; or
- (ix) involves prejudice to public security or national defence;

(b) where the use or threat is intended or reasonably regarded as intending to —

- (i) influence the Government or any other government; or
- (ii) intimidate the public or a section of the public.

(2) In this Order, any reference to a terrorist act includes any act referred to in subsection (2) or (3) of section 6.

(3) For the purposes of this section, a reference to the public includes a reference to the public of any country or territory outside Brunei Darussalam.

Prohibition against provision or collection of funds for terrorists.

3. No person shall in Brunei Darussalam, and no citizen of Brunei Darussalam and no company incorporated or registered under the Companies Act (Chapter 39) shall outside Brunei Darussalam, —

(a) provide funds to any person by any means, directly or indirectly; or

(b) collect funds for any person by any means, directly or indirectly,

if he knows or there are reasonable grounds for him to suspect that the funds will be used to commit any terrorist act or facilitate the commission of any terrorist act.

Prohibition against dealing with property of terrorists.

4. No person shall in Brunei Darussalam, and no citizen of Brunei Darussalam and no company incorporated or registered under the Companies Act (Chapter 39) shall outside Brunei Darussalam, —

(a) deal, directly or indirectly, in any property that is owned or controlled by or on behalf of any terrorist or any other person owned or controlled by any terrorist, including funds derived or generated from property owned or controlled, directly or indirectly, by any terrorist or any other person owned or controlled by any terrorist;

(b) enter into or facilitate, directly or indirectly, any financial transaction relating to a dealing in property referred to in paragraph (a); or

(c) provide any financial services or any other related services in respect of any property referred to in paragraph (a), to or for the benefit of, or on the direction or order of, any terrorist or any other person owned or controlled by any terrorist.

Prohibition against provision of resources and services for benefit of terrorists.

5. (1) No person shall in Brunei Darussalam, and no citizen of Brunei Darussalam and no company incorporated or registered under the Companies Act (Chapter 39) shall outside Brunei Darussalam, make available —

(a) any funds or any other financial assets or economic resources; or

(b) any other financial or related services.

for the benefit of any prohibited person.

(2) In subsection (1), "prohibited person" means —

(a) any terrorist;

(b) any person owned or controlled by any terrorist; or

(c) any person acting on behalf of or at the direction of any person referred to in paragraphs (a) or (b).

Prohibition against false threats of terrorists acts.

6. (1) No person shall in Brunei Darussalam, and no citizen of Brunei Darussalam and no company incorporated or registered under the Companies Act (Chapter 39) shall outside Brunei Darussalam, communicate or make available by any means any information which he knows or believes to be false to any person with the intention of inducing in him or in any other person a false belief that a terrorist act has been, is being or will be carried out.

(2) No person shall in Brunei Darussalam, and no citizen of Brunei Darussalam and no company incorporated or registered under the Companies Act (Chapter 39) shall outside Brunei Darussalam, place any article or substance in any place with the intention of inducing in some other person a false belief that —

(a) the article or substance is likely to explode or ignite and thereby cause personal injury or damage to property; or

(b) the article contains or the substance consists of —

(i) any dangerous, hazardous, radioactive or harmful substance;

(ii) any toxic chemical; or

(iii) any microbial or other biological agent or toxin, that is likely to cause death, disease, personal injury or damage to property.

(3) No person shall in Brunei Darussalam, and no citizen of Brunei Darussalam and no company incorporated or registered under the Companies Act (Chapter 39) shall outside Brunei Darussalam, despatch or transport any article or substance by any means with the intention of inducing in some other person a false belief that —

(a) the article or substance is likely to explode or ignite and thereby cause personal injury or damage to property; or

(b) the article contains or the substance consists of —

- (i) any dangerous, hazardous, radioactive or harmful substance;
- (ii) any toxic chemical; or
- (iii) any microbial or other biological agent or toxin,

that is likely to cause death, disease, personal injury or damage to property.

(4) For the purposes of this section, a reference to a person inducing in any other person a false belief does not require that first-mentioned person to have any particular person in mind as the person in whom he intends to induce that false belief.

General prohibition.

7. No person shall in Brunei Darussalam, and no citizen of Brunei Darussalam and no company incorporated or registered under the Companies Act (Chapter 39) shall outside Brunei Darussalam, knowingly do anything that causes, assists or promotes, or is intended to cause, assist or promote, any act or thing prohibited by section 3, 4, 5 or 6.

Duty to provide information.

8. Any person who in Brunei Darussalam, and any citizen of Brunei Darussalam and any company incorporated or registered under the Companies Act (Chapter 39) who or which outside Brunei Darussalam, —

(a) has possession, custody or control of any property belonging to any terrorist or any person owned or controlled by any terrorist; or

(b) has information about any transaction or proposed transaction in respect of any property belonging to any terrorist or any person owned or controlled by any terrorist.

shall immediately inform the Commissioner of Police and any such other person as the Minister may designate of that fact or information and provide such further information relating to the property, transaction or proposed transaction as the Commissioner of Police or such designated person may require.

Immunity from proceedings.

9. No action, suit or other legal proceedings shall lie against —

(a) any party to a contract for failing, neglecting or refusing to carry out any act required by that contract; or

(b) any person for failing, neglecting or refusing to carry out any act under any written law,

where such failure, neglect or refusal is solely attributable to, or occasioned by, the provisions of this Order or any regulations made thereunder.

Protection of persons for acts done under Order.

10. No person shall be liable in respect of any act done by him in the execution or purported execution of this Order or any regulations made thereunder if he did it in the honest belief that his duty under this Order or any regulations made thereunder required or entitled him to do it.

Power to declare person a terrorist.

11. (1) The Minister may by order published in the *Gazette* declare any person named and described therein to be a terrorist for the purposes of this Order:

Provided that he may make such an order in respect of any person only if he believes that such person has been concerned in any terrorist act.

(2) The Minister may at any time amend any order made under subsection (1).

(3) An application may be made to the Minister to revoke an order made in respect of any person under subsection (1) by —

(a) that person; or

(b) any other person affected by the making of an order in respect of that person.

(4) The Minister, shall, after giving an applicant under subsection (3) an opportunity to be heard, make a decision which shall be final and shall not be called in question by any court on any ground whatsoever.

Directions to discharge Brunei Darussalām's international obligations.

12. (1) The Minister may issue such directions to any financial institution or any class of financial institution as he considers necessary in order to discharge or facilitate the discharge of any obligation binding on Brunei Darussalam by virtue of a decision of the Security Council of the United Nations relating to terrorism.

(2) Any financial institution to which a direction has been issued shall comply with it notwithstanding any other duty imposed on it by any written law, rule of law or contract; and in carrying out any act in compliance with that

direction the financial institution shall not be treated as being in breach of any such written law, rule of law or contract.

(3) No financial institution shall disclose any direction issued to it if the Minister has notified it that he is of the opinion that any such disclosure would be against the public interest.

(4) A financial institution which fails or refuses to comply with a direction issued to it, or which discloses a direction issued to it in contravention of subsection (3), is guilty of an offence and liable on conviction to a fine not exceeding \$20,000.

(5) In this section, "financial institution" means any person engaging in any relevant financial business as defined in section 4 of the Money-Laundering Order, 2000 (S 44/2000).

Offences.

13. (1) Any person in Brunei Darussalam, and any citizen of Brunei Darussalam outside Brunei Darussalam, who contravenes section 3, 4, 5, 6, 7 or 8 is guilty of an offence and liable on conviction to a fine not exceeding \$100,000, imprisonment for a term not exceeding 5 years or both.

(2) Every person who commits or does any act with intent to commit, or who counsels, procures, aids, abets or incites any other person to commit, or conspires with any other person (whether in Brunei Darussalam or elsewhere) to commit any offence under this Order or any regulations made thereunder is guilty of an offence and liable on conviction to a fine not exceeding \$100,000, imprisonment for a term not exceeding 5 years or both.

(3) Where an offence under this Order committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

(a) any director, manager, secretary or other similar officer of that body corporate, or any person who was purporting to act in that capacity; or

(b) any other person who holds a controlling interest in that body corporate,

he, as well as the body corporate, is also guilty of that offence and liable to be proceeded against and punished accordingly.

(4) Nothing in this Order or any regulations made thereunder shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an offence under this Order or any regulations made

thereunder, or from being liable under that other written law to any punishment or penalty higher or other than that provided by this Order or the regulations, but no person shall be punished twice for the same offence.

(5) No prosecution shall be instituted under this Order or any regulations made thereunder without the written consent of the Attorney General.

Regulations.

14. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as he considers necessary or expedient for carrying into effect the provisions of this Order, including (without prejudice to the generality of the foregoing) provision for —

(a) the apprehension and trial of persons in breach of or contravening the regulations;

(b) empowering any person or class of persons to exercise, when investigating any offence under this Order or any regulations made thereunder, all or any of the powers of a police officer under the Criminal Procedure Code (Chapter 7) in relation to seizable offences; and

(c) the forfeiture and seizure of funds and assets of any person declared in an order made under section 11 to be a terrorist.

(2) Any regulations made under this Order shall not be invalid by reason only of that fact that they deal with any matter provided for by any other written law, or because of repugnancy to or inconsistency with any other written law.

(3) Any regulations made under this Order may provide a penalty on conviction for the breach or contravention thereof not exceeding a fine of \$50,000, imprisonment for a term not exceeding 2 years or both.

Made this 3rd. day of Rabiulakhir, 1423 Hijriah corresponding to the 14th. day of June, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM