

LAWS OF BRUNEI

CHAPTER 150

CRIMINAL LAW (PREVENTIVE DETENTION) ACT

S 47/84

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S 37/05

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LAWS OF BRUNEI
REVISED EDITION 2008

CHAPTER 150
CRIMINAL LAW (PREVENTIVE DETENTION)

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CRIMINAL LAW (PREVENTIVE DETENTION) ACT

An Act to provide for the detention and police supervision of persons who have been associated with activities of a criminal nature and for purposes connected with the matters aforesaid

Commencement: 26th November 1984

Citation.

1. This Act may be cited as the Criminal Law (Preventive Detention) Act.

Power of Minister to make orders.

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

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

(b) if he is satisfied that it is necessary that such person be subject to the supervision of the police, by order direct that such person be subject to the supervision of the police for any period not exceeding 3 years from the date of such order.

(2) For the purposes of this Act, “Minister” means the Minister responsible for law*.

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

3. (1) Every order made by the Minister* under section 2 shall, together with a written statement of the grounds upon which the Minister* made the order, be referred by the Minister* to an advisory committee constituted as provided in section 10, within 28 days of the making of such order.

* Transferred to the Minister of Home Affairs with effect from 16th September 1998 — [S 33/98]

(2) The advisory committee shall submit to His Majesty the Sultan and Yang Di-Pertuan a written report on the making of such order. The advisory committee may consider any representation made by a person subject to such order and may make in its written report such recommendations as it shall think fit.

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

Power to substitute order for police supervision.

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

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

Restrictions on person subject to supervision.

5. (1) Any person directed to be subject to the supervision of the police under section 2 or section 4 (hereinafter in this Act referred to as a person subject to supervision under this Act) shall be subject to the obligations imposed upon persons subject to police supervision under section 264 of the Criminal Procedure Code (Chapter 7) and shall also be subject to all or any of the following restrictions as the Minister* may by order direct —

(a) he shall be required to reside within the limits of any police district specified in the order;

(b) he shall not be permitted to change his residence without the written authority of a police officer not below the rank of Inspector;

* Transferred to the Minister of Home Affairs with effect from 16th September 1998 — [S 33/98]

(c) except in so far as may be otherwise provided by the order, he shall not leave Brunei Darussalam without the written authority of a police officer not below the rank of Inspector;

(d) he shall at all times keep the officer in charge of the police district in which he resides notified of the house or place in which he resides;

(e) he shall be liable, at such time or times as may be specified in the order, to present himself at the nearest police station;

(f) he shall remain within doors or within such area as may be defined in the order, between such hours as may be specified in the order, unless he obtains special permission to the contrary from the officer in charge of the police district in which he resides;

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

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

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

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

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

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 3 years and not less than one year.

* Transferred to the Minister of Home Affairs with effect from 16th September 1998 — [S 33/98]

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

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

(a) is found between the hours of sunset and sunrise frequenting or loitering in or about any public place or in the neighbourhood of any place of public entertainment; or

(b) at any time is found in the company of 2 or more persons subject to supervision under this Act; or

(c) at any time is found in or near any place in which any act of violence or breach of the peace is being or has just been committed,

and who is unable satisfactorily to account for his presence at such place or time or in such company shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 3 years and not less than one year.

Taking of photographs and finger impressions.

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

(2) Any person who being legally bound under subsection (1) to submit to the taking of his photographs or finger impressions refuses or fails to submit thereto on demand shall be guilty of an offence and shall be liable on conviction to imprisonment for 6 months and to a fine of \$500.

Extension of orders.

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

[S 37/05]

(2) His Majesty the Sultan and Yang Di-Pertuan may from time to time extend the period for which a person is directed to be under the supervision of the police by any order confirmed under the provisions of

section 3(3) and may at any time refer any such order for further consideration by an advisory committee.

[S 37/05]

Constitution of advisory committees.

10. For the purposes of this Act the Minister* may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, from time to time appoint one or more advisory committees each consisting of not less than 2 persons.

Powers and procedure of advisory committees.

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

(2) Every member of an advisory committee shall be deemed to be a public servant within the meaning of the Penal Code (Chapter 22) and shall have in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duty under the provisions of this Act the like protection and privileges as are by law given to a judge in the execution of his office.

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

Disclosure of information.

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

Manner of detention and powers to order removal.

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

* Transferred to the Minister of Home Affairs with effect from 16th September 1998 — [S 33/98]

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

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

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

Temporary release of detainees to engage in employment. [S 37/05]

13A. (1) The Minister* may, on the recommendation of an advisory committee appointed for the purposes of this section, direct that a detainee shall be released from day to day to engage in such employment, including self-employment, as the Minister* may specify.

(2) Any direction given under subsection (1) shall have effect for a period to be fixed by the Minister* and may be subject to such conditions and restrictions as may be imposed by the Minister*.

(3) The Minister* may at any time revoke any direction made under subsection (1).

(4) The Minister* may, subject to such conditions as he thinks fit, grant leave to a detainee in respect of whom a direction has been made under subsection (1) to spend his leave at such place as the Minister* may specify.

(5) The Minister* may at any time revoke any leave granted to a detainee under subsection (4).

(6) Where any direction made under subsection (1) is in force in respect of a detainee or any leave is granted under subsection (4) to a detainee, the Superintendent of the place of detention shall release the detainee at such times and for such periods as are necessary to give effect to the direction or grant of leave.

* Transferred to the Minister of Home Affairs with effect from 16th September 1998 — [S 33/98]

(7) If any detainee in respect of whom a direction has been made under subsection (1) or leave has been granted under subsection (4) remains at large without lawful excuse or fails to return to his place of detention after the direction or leave has been revoked, he shall be deemed to be unlawfully at large and to have escaped from lawful custody.

(8) Every person released under this section shall continue to be in the legal custody of the Superintendent of the place of detention from which he was released during every period for which he is so released.

(9) In this section, “detainee” means any person who is detained in pursuance of an order made under section 2.

Power to detain suspected persons.

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

(2) No person shall be detained under the provisions of this section for a period exceeding 24 hours except with the authority of a police officer of or above the rank of Assistant Superintendent or for a period of 48 hours in all:

Provided that if an officer of or above the rank of Superintendent of Police is satisfied that the necessary enquiries cannot be completed within the aforesaid period of 48 hours he may authorise the further detention of such person for an additional period not exceeding 14 days and shall on giving such authorisation forthwith report the circumstances to the Commissioner of Police.

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

Power to arrest persons ordered to be detained.

15. (1) Any police officer may, without warrant, arrest any person found at large in respect of whom there is in existence a detention order made by the Minister* under the provisions of section 2 and shall forthwith report such arrest to the Commissioner of Police.

* Transferred to the Minister of Home Affairs with effect from 16th September 1998 — [S 33/98]

(2) Any person arrested in pursuance of the provisions of subsection (1) of this section shall be deemed to be in lawful custody and may be detained for a period not exceeding 48 hours in any prison or in any police station pending the issuing of instructions by the Minister* for his further detention.

Power to enter and search.

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

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

Officers of Bureau to exercise powers conferred on police officers under sections 14, 15 and 16. [S 37/05]

16A. (1) Subject to this section, the powers conferred upon a police officer under sections 14, 15 and 16 may be exercised by an officer of the Bureau.

(2) The powers conferred upon a police officer of or above the rank of Assistant Superintendent under section 14(2) and under section 16 may be exercised by the Director, the Deputy Director or an Assistant Director of the Bureau.

(3) The power conferred upon an officer of or above the rank of Superintendent of Police under the proviso of section 14(2) may be exercised by the Director or the Deputy Director of the Bureau.

(4) Subject to subsection (5), where the power conferred upon an officer of or above the rank of Superintendent of Police under the proviso of section 14(2), or the power conferred upon a police officer under section 15(1), is exercised by an officer of the Bureau in accordance with this section, the duty to report to the Commissioner of Police under those sections shall be read as a duty to report in a similar manner to the Director of the Bureau.

* Transferred to the Minister of Home Affairs with effect from 16th September 1998 — [S 33/98]

(5) The duty to report to the Director of the Bureau referred to in subsection (4) shall not apply where the power under the proviso of section 14(2) or under section 15(1) was exercised by the Director of the Bureau himself.

(6) In this section —

“Bureau” means the Narcotics Control Bureau;

“Director of the Bureau”, “Deputy Director of the Bureau” and “Assistant Director of the Bureau” mean, respectively, the Director, the Deputy Director and an Assistant Director of the Narcotics Control Bureau appointed under section 2A of the Misuse of Drugs Act (Chapter 27);

“officer of the Bureau” has the same meaning assigned to it under the Misuse of Drugs Act (Chapter 27).

Powers of Public Prosecutor.

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

Rules.

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

(2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, such rules may provide for the issue by the Commissioner of National Registration appointed under the National Registration Act (Chapter 19) of special identity cards to all or any class of persons subject to supervision under this Act and provide for the form, custody, production, inspection, cancellation, alteration, endorsement on and replacement of such cards and the substitution thereof for identity cards issued to such persons under any written law and for all other matters necessary or desirable in connection with such cards or the carrying thereof or the enforcement of such rules, including the prescription of penalties not exceeding in respect of any offence a fine not exceeding \$5,000, imprisonment for a term not exceeding 3 years or both.

* Transferred to the Minister of Home Affairs with effect from 16th September 1998 — [S 33/98]

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Criminal Law (Preventive Detention)

CAP. 150

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**CRIMINAL LAW (PREVENTIVE DETENTION) ACT
(CHAPTER 150)**

**CRIMINAL LAW (PREVENTIVE DETENTION)
(ADVISORY COMMITTEES) RULES**

S 47/05

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Criminal Law (Preventive Detention) **CAP. 150, R 1** 1

[Subsidiary]

SUBSIDIARY LEGISLATION

**CRIMINAL LAW (PREVENTIVE DETENTION)
(ADVISORY COMMITTEE) RULES**

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2008 Ed. *Criminal Law (Preventive Detention)* **CAP. 150, R 1 3**
[Subsidiary]

SUBSIDIARY LEGISLATION

Rule made under section 18(1)

**CRIMINAL LAW (PREVENTIVE DETENTION)
(ADVISORY COMMITTEES) RULES**

Commencement: 21st May 2005

Citation.

1. These Rules may be cited as the Criminal Law (Preventive Detention) (Advisory Committees) Rules.

Interpretation.

2. In these Rules —

“advisory committee” means an advisory committee appointed under section 10 of the Act;

“order” means an order made by the Minister under section 2.

Members of committees.

3. (1) Every advisory committee shall consist of a chairman, an alternate chairman and a panel of members.

(2) An alternate chairman shall have all the powers conferred on the chairman by these Rules.

(3) For the purpose of carrying out its functions under section 3 in respect of any order made by the Minister, each advisory committee shall normally be composed of the chairman and 5 members but the proceedings of the advisory committee shall not be invalidated by the absence of 2 of the 5 members.

Secretary of committees.

4. The Minister may appoint one or more public officers, either by name or by office, to be the secretary of the advisory committees appointed under the Act. The secretary shall attend all meetings of every advisory committee.

Compliance with section 3.

5. It shall be sufficient compliance with section 3 if the Minister refers an order made by him to the secretary of an advisory committee.

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4 CAP. 150, R 1 *Criminal Law (Preventive Detention)*

2008 Ed.

[Subsidiary]

Procedure for meetings.

6. (1) The secretary of an advisory committee shall, in consultation with the chairman, arrange all the meetings of the advisory committee and shall, as soon as possible thereafter, cause to be served on the person against whom an order has been made a written notice in the form set out in the Schedule appointing a time and place at which the advisory committee will consider the grounds upon which the Minister made the order.

(2) The notice shall be served not less than 10 days before the date on which the advisory committee sits to consider the order made by the Minister.

(3) Service of the notice shall be effected in such manner as the secretary of the advisory committee shall generally or specially determine.

Hearing in respect of order.

7. (1) The person upon whom a notice has been served in accordance with rule 6 may appear at the time, date and place specified in the notice either personally or, with the leave of the advisory committee, by an advocate and solicitor and make any representation in respect of the order made against him.

(2) Any such person who does not desire to appear personally or by an advocate and solicitor may cause to be delivered to the chairman a written statement signed by him or by his advocate and solicitor setting forth his representation.

(3) The advisory committee may refuse to consider any such written statement which does not reach the hands of the chairman at or before the time appointed for the hearing specified in the notice served under rule 6.

Postponements.

8. Every advisory committee may postpone or adjourn any meeting.

Meeting in private.

9. Every advisory committee shall sit in private.

Matters of which committee may take cognisance.

10. (1) When considering an order made by the Minister, an advisory committee shall have regard to the person's association with activities of a criminal nature and to any written or other report, information, document or evidence which may by the direction of the Minister be placed before the advisory committee.

(2) No written or other report, information document or evidence, or any part thereof, which may be placed before the advisory committee shall, unless authorised by the Minister, be disclosed to any person other than the secretary or members of the advisory committee.

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Criminal Law (Preventive Detention) **CAP. 150, R 1 5**

[Subsidiary]

Protection of witnesses.

11. The representation of any person shall, if he so requests, be taken by the advisory committee in the absence of the person against whom the order has been made and his advocate and solicitor, if any, and of all other persons except the members and staff of the advisory committee. Such evidence shall, if necessary, be taken in such circumstances as shall ensure that the identity of the witness is protected from discovery.

Report of committee.

12. The report of the advisory committee to His Majesty the Sultan and Yang Di-Pertuan under section 3(2) shall be secret and shall not be disclosed to any person other than a public officer who has the express or implied authority of the Government to prepare, see or comment on that report.

Evidence.

13. An advisory committee may, in its discretion, hear any witness and may admit or reject any evidence adduced, whether oral or documentary and whether admissible or inadmissible under any written law relating to the admissibility of evidence.

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6 CAP. 150, R 1 *Criminal Law (Preventive Detention)*

2008 Ed.

[Subsidiary]

SCHEDULE

(rule 6(1))

NOTICE OF HEARING

To:

Take notice that at am/pm on 20.....
at the advisory committee will
proceed to hear any representations you wish to make in respect of the order made by the
Minister of Home Affairs against you.

You have the right to make such representations in the manner provided in rule 7 of
the Criminal Law (Preventive Detention) (Advisory Committees) Rules, which reads as
follows —

“Hearing in respect of order.

7. (1) The person upon whom a notice has been served in accordance with rule 6
may appear at the time, date and place specified in the notice either personally or,
with the leave of the advisory committee, by an advocate and solicitor and make any
representation in respect of the order made against him.

(2) Any such person who does not desire to appear personally or by an advocate
and solicitor may cause to be delivered to the chairman a written statement signed by
him or by his advocate and solicitor setting forth his representation.

(3) The advisory committee may refuse to consider any such written statement
which does not reach the hands of the chairman at or before the time appointed for
the hearing specified in the notice served under rule 6”.

The grounds for the making of the order against you are —

.....
.....

Dated this day of 14..... Hijriah corresponding
to the day of 20.....

.....
Secretary

Available from
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The Law Building, Jalan Tutong
Bandar Seri Begawan BA1910
Brunei Darussalam

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