

No. S 22

**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

SEDITION ACT (AMENDMENT) ORDER, 2018

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(Order made under Article 83(3))

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

Citation

1. This Order may be cited as the Sedition Act (Amendment) Order, 2018.

Amendment of section 3 of Chapter 24

2. Section 3 of the Sedition Act, in this Order referred to as the Act, is amended, in subsection (1) —

(a) in paragraph *(e)*, by deleting “and hostility” and by substituting “, hostility or hatred” therefor;

(b) by repealing paragraph *(f)* and by substituting the following new paragraph therefor —

“*(f)* to question, or to directly or indirectly lower or adversely affect, or otherwise bring into derogation, the rights, status, position, discretion, powers, privileges, sovereignty or prerogatives of His Majesty the Sultan and Yang Di-Pertuan or Her Majesty Duli Raja Isteri, as the case may be; or”.

Substitution of section 4

3. Section 4 of the Act is repealed and the following new section substituted therefor —

“**Seditious offences**

4. (1) Subject to subsection (3), any person who —

(a) does or attempts to do, or makes preparation to do, or conspires with any person to do, any act with a seditious intention;

(b) utter any words with a seditious intention;

(c) prints, publishes or causes to be published, sells, offers for sale, distributes or reproduces any seditious publication;

(d) imports or propagates any seditious publication,

is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 15 years; such seditious publication shall be forfeited and may be destroyed or otherwise disposed of as the court directs.

(2) Any person who without lawful excuse has in his possession any seditious publication is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 15 years; such publication shall be forfeited and may be destroyed or otherwise disposed of as the court directs.

(3) Whoever commits an offence under subsection (1) or (2) involving a seditious intention under section 3(1)(a) or (f) relating to His Majesty the Sultan and Yang Di-Pertuan or Her Majesty Duli Raja Isteri is guilty of an offence and liable on conviction to imprisonment for a term not less than 3 years and not exceeding 15 years.

(4) It shall be a defence to a charge under subsection (2) that, if the person charged did not know that the publication was seditious when it came into his possession, he did, as soon as the nature of the publication became known to him, deliver the publication to the officer in charge of the nearest police station.”.

Insertion of new section 4B

4. The Act is amended by inserting the following new section immediately after section 4A —

“Power of Court to prohibit circulation of seditious publications

4B. (1) Whenever on the application of the Public Prosecutor it is shown to the satisfaction of the Court that the issue or circulation of a seditious publication —

(a) is, or if commenced or continued, would be likely to lead to unlawful violence; or

(b) appears to have the object of promoting feelings of hostility between different classes or races of the community,

the Court shall make an order (in this section referred to as a prohibition order) prohibiting the issuing and circulation of that publication (in this section referred to as a prohibited publication) and requiring every person having any copy of the prohibited publication in his possession, power or control forthwith to deliver every such copy into the custody of the police.

(2) An order under this section may be made *ex parte* on the application of the Public Prosecutor in chambers.

(3) It shall be sufficient if the order so describes the prohibited publication that it can be identified by a reasonable person who compares the prohibited publication with the description in the prohibition order.

(4) Every person on whom a copy of a prohibition order is served by any police officer shall forthwith deliver to that police officer every prohibited publication in his possession, power or control, and, if he fails to do so, he is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 3 years or both.

(5) Every person to whose knowledge it comes that a prohibited publication is in his possession, power or control shall forthwith deliver every such publication into the custody of the police, and, if he fails to do so, he is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 3 years or both.

(6) The Court may, if it thinks fit, either before or after or without service of the prohibition order on any person, issue a warrant authorising any police officer —

(a) to enter and search any premises specified in the order;

(b) to seize and carry away every prohibited publication there found; and

(c) to use such force as may be necessary for the purpose.

A copy of the prohibition order and of the search warrant shall be left in a conspicuous position at every building or place so entered.

(7) The owner of any prohibited publication delivered or seized under this section may, at any time within 14 days after the delivery or seizure, apply to the Court by originating summons for the discharge of the prohibition order, and if the Court, on the hearing of the application, decides that the prohibition order ought not to have been made, it shall discharge the order and shall order the prohibited publication delivered by or seized from the applicant to be returned to him.

(8) Every prohibited publication delivered or seized under this section with respect to which an application under subsection (7) is not filed within the time aforesaid or which is not ordered to be returned to the owner is deemed to be forfeited to the Government.

(9) For the purposes of this section, “Court” means the High Court or the Intermediate Court.”.

Amendment of section 5

5. Section 5 of the Act is amended —

(a) in subsection (1), by deleting “not below the rank of Inspector” from the second line;

(b) in subsection (2), by deleting “not below the rank of Inspector” from the first two lines.

Amendment of section 6

6. Section 6 of the Act is amended by deleting “not below the rank of Inspector” from the first line.

Substitution of section 7

7. Section 7 of the Act is repealed and the following new section substituted therefor —

“Legal proceedings

7. (1) No person shall be prosecuted for an offence under section 4 without the written consent of the Public Prosecutor.

(2) In such written consent, the Public Prosecutor may designate any court to be the court of trial.”.

Substitution of section 8

8. Section 8 of the Act is repealed and the following new section substituted therefor —

“Evidence

8. No person shall be convicted of an offence under section 4(1)(c) or (d) if the person proves that —

(a) the publication in respect of which he is charged was printed, published or caused to be published, sold, offered for sale, distributed, reproduced, imported or propagated, as the case may be, without his authority, consent and knowledge and without any want of due care or caution on his part; or

(b) he did not know and had no reasonable ground to believe that the publication had a seditious intention.”.

Made this 8th. day of Syaaban, 1439 Hijriah corresponding to the 24th. day of April, 2018 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM