

LAWS OF BRUNEI

CHAPTER 155

SUMMONSES AND WARRANTS
(SPECIAL PROVISIONS)

ARRANGEMENT OF SECTIONS

Section

1. Citation
2. Interpretation
3. Service of summons to an accused person between Brunei Darussalam, Malaysia and Singapore
4. Service of summons to a witness between Brunei Darussalam, Malaysia and Singapore
5. Execution of a warrant issued in lieu of or in addition to summons
6. Proof of Malaysia or Singapore documents
7. Rules
8. Retrospective effect in certain cases

S.14/84

SUMMONSES AND WARRANTS (SPECIAL PROVISIONS) ACT

An Act to make provision for the service in Brunei Darussalam of summonses and other process issued by courts in Malaysia and Singapore, and for matters connected therewith

S.16/84

Commencement : as to Singapore – 19th May 1984

S.38/84

as to Malaysia – 1st November 1984

Citation

1. This Act may be cited as the Summonses and Warrants (Special Provisions) Act.

Interpretation

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

“Court” has the same meaning assigned to it in the appropriate Criminal Procedure Code ;

“Magistrate” —

(a) in relation to Malaysia includes a President of a Sessions Court ;

(b) in relation to Singapore includes a District Judge ;

“Penal Code” means the appropriate Penal Code ;

“summons” includes any subpoena or other process for requiring the attendance of a witness in a criminal trial, criminal inquiry or other criminal proceeding under the appropriate Criminal Procedure Code but does not include summons to a juror or an assessor.

3. (1) Where under the provisions of any law in force in Malaysia or Singapore a Court or a Magistrate in Malaysia or Singapore has issued a summons requiring a person accused of an offence to appear before any Court in Malaysia or Singapore, and such person is, or is suspected of being in or on his way to Brunei Darussalam, a Magistrate in Brunei Darussalam may, if satisfied that the summons was issued by a Court or a Magistrate in Malaysia or Singapore, endorse the summons with his name and designation and seal it with the seal of his Court, and such summons may then be served on such person as if it were a summons issued by a Magistrate in Brunei Darussalam under the provisions of the Criminal Procedure Code, and such person shall, on service of the summons so endorsed, be legally bound to obey the summons, and if he intentionally omits to obey such summons he shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding five hundred dollars, or to both, and in any such trial a certificate signed by a Magistrate in Malaysia or Singapore that such person had omitted to obey the summons shall be sufficient evidence that he had intentionally omitted to obey the summons unless the contrary be proved, and no process shall issue on such Magistrate in Malaysia or Singapore or any other officer of Court in Malaysia or Singapore or the person who served such summons to give evidence at such trial on behalf of any party.

Service of
summons to
an accused
person
between
Brunei
Darussalam,
Malaysia and
Singapore

(2) Where under the provisions of any law in force in Malaysia or Singapore corresponding to subsection (1), a summons to a person accused of any offence issued by a Court or a Magistrate in Brunei Darussalam has been endorsed by a Magistrate in Malaysia or Singapore and served on the person accused, such summons shall for the purposes of the Criminal Procedure Code be deemed to have been as validly served as if such service had been effected in Brunei Darussalam, and if such person intentionally omits to obey the summons he shall be liable to be tried and punished in Brunei Darussalam, and at any such trial a certificate signed by a Magistrate in Malaysia or Singapore that such summons was duly served on

the person accused, and an affidavit of such service by the person who served the summons may be given in evidence and shall be sufficient evidence of the service of the summons unless the contrary be proved, and no process shall issue on such Magistrate in Malaysia or Singapore or any other officer of Court in Malaysia or Singapore or the person who served such summons to give evidence at such trial on behalf of any party.

Service of
summons to a
witness
between
Brunei
Darussalam,
Malaysia and
Singapore

4. (1) Where under the provisions of any law in force in Malaysia or Singapore a Court, a Judge, a Magistrate, or any other officer of Court, in Malaysia or Singapore has issued a summons requiring a person to appear before any Court in Malaysia or Singapore as a witness to give evidence in any criminal trial, criminal inquiry or other criminal proceeding, and such person is, or is suspected of being in or on his way to Brunei Darussalam, a Magistrate in Brunei Darussalam may, if satisfied that the summons was issued by a Court, a Judge, a Magistrate, or other officer of Court, in Malaysia or Singapore, endorse the summons with his name and designation and seal it with the seal of his Court, and such summons may then be served on such person as if it were a summons issued by a Court, a Judge, a Magistrate or an officer of Court having authority to issue same, in Brunei Darussalam under the provisions of the Criminal Procedure Code, and such witness shall, on service of the summons so endorsed, and on payment or tender of a reasonable amount for his expenses, be legally bound to obey the summons, and if he intentionally omits to obey such summons he shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding five hundred dollars, or to both, and in any such trial a certificate signed by an officer of Court in Malaysia or Singapore that such person had failed to obey the summons shall be sufficient evidence that he had intentionally omitted to obey the summons unless the contrary be proved, and no process shall issue on such officer or Court in Malaysia or Singapore to give evidence at such trial on behalf of any party.

(2) Where under the provisions of any law in force in Malaysia or Singapore corresponding to subsection (1) a summons requiring a person to appear before any Court in Brunei Darussalam as a witness to give evidence in any criminal trial, criminal inquiry or other criminal proceeding has been duly endorsed in Malaysia or Singapore and served on the witness, such summons shall for the purposes of the Criminal Procedure Code be deemed to be validly served as if such service had been effected in Brunei Darussalam, and if such person intentionally omits to obey the summons he shall be liable to be tried and punished in Brunei Darussalam, and at any such trial a certificate signed by a Magistrate in Malaysia or Singapore that such summons was duly served on the witness and a reasonable amount for his expenses paid or tendered to him, and an affidavit of such service and the payment or tender of such expenses may be given in evidence and shall be sufficient evidence of the service of the summons and the payment or tender of the expenses unless the contrary be proved, and no process shall issue on such Magistrate in Malaysia or Singapore or any other officer of Court in Malaysia or Singapore or the person who served the summons and paid or tendered the expenses to give evidence at such trial on behalf of any party.

5. (1) Where a Court in Malaysia or Singapore has issued a warrant in lieu of a summons or in addition to a summons for the arrest of a person under the provisions of the law of Malaysia or Singapore corresponding to section 52 of the Criminal Procedure Code of Brunei Darussalam, and such person is or is suspected of being in or on his way to Brunei Darussalam, a Magistrate in Brunei Darussalam may, if satisfied that such warrant was duly issued in Malaysia or Singapore, endorse the warrant with his name and designation and seal it with the seal of his Court, and such warrant may then be executed on such person as if it were a warrant issued in Brunei Darussalam under the provisions of the Criminal Procedure Code.

Execution of
a warrant
issued in
lieu of or in
addition to
summons

Cap. 7

(2) Where under the provisions of any law in force in Malaysia or Singapore corresponding to subsection (1) a warrant issued by a Court in Brunei Darussalam has been duly endorsed in Malaysia or Singapore and executed on the person named in the warrant, such warrant shall for the purposes of the Criminal Procedure Code be deemed to have been as validly executed as if such execution had been effected in Brunei Darussalam.

(3) Where a warrant has been executed in Brunei Darussalam pursuant to subsection (1), the person arrested shall be produced as soon as possible before a Magistrate in Brunei Darussalam, who shall, if satisfied that he is the person specified in the warrant direct that the arrested person be transferred forthwith in custody to the appropriate Court in Malaysia or Singapore and any such person shall while in such custody, be deemed for all purposes to be in lawful custody :

Provided that such Magistrate may, if for reasons to be recorded by him he is satisfied that it is in the interests of justice so to do, notwithstanding that the warrant of arrest contains no provision for the grant of bail to the person arrested, release such person on bail conditional of his appearing before the appropriate Court in Malaysia or Singapore at a time to be specified in the bond and bail bond ; and the provision of the Criminal Procedure Code relating to bail and bonds shall apply to such bond and bail bond.

(4) In addition to the liability to forfeiture of a bond and bail bond executed under the proviso to subsection (3) and to payment of the penalty thereof, the person released on such bond and bail bond who intentionally omits to appear before the appropriate Court in Malaysia or Singapore in accordance with the terms of the bond and bail bond shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding five hundred dollars, or to both.

(5) In proceedings for the forfeiture of a bond and bail bond executed under the proviso to subsection (3) and for the payment of the penalty thereof, and in a trial of an offence under subsection (4) a certificate signed by a Magistrate in Malaysia or Singapore that the person released on such bond and bail bond had omitted to appear before the appropriate Court in Malaysia or Singapore in accordance with the terms of the bond and bail bond shall be sufficient evidence that the person had intentionally omitted to appear before the appropriate Court in Malaysia or Singapore in accordance with the terms of the bond and bail bond unless the contrary be proved, and no process shall issue on such Magistrate in Malaysia or Singapore or any other officer of Court in Malaysia or Singapore to give evidence at such proceeding on behalf of any party.

6. Where in a proceeding under this Act a document —

Proof of
Malaysia or
Singapore
documents

(a) purporting to be a summons, warrant or certificate and purporting to be signed or issued by a Judge, Magistrate or an officer of Court in Malaysia or Singapore ; or

(b) purporting to be an affidavit of a person in Malaysia or Singapore and purporting to be signed by the person who made it,

is given in evidence by the prosecutor, it shall be presumed until the contrary is proved that such document is such summons, warrant, certificate or affidavit, as the case may be, and is so signed or issued, as the case may be.

7. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules generally for carrying this Act into effect, and in particular but without prejudice to the generality of the foregoing, such rules may provide for —

Rules

(a) facilitating communication between the Courts in Brunei Darussalam and the Courts in Malaysia or Singapore ;

(b) the removal of persons arrested under the provisions of section 5 of this Act and their control and maintenance until such time as they are handed over to the persons named in the warrants as entitled to receive them ; and

(c) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies.

Retrospective
effect in
certain cases

8. The provisions of this Act shall apply to summonses and warrants —

(a) received in Brunei Darussalam from Malaysia or Singapore after the commencement of this Act notwithstanding that they were issued before the commencement of this Act or relate to offences committed before the commencement of this Act ;

(b) received in Brunei Darussalam from Malaysia or Singapore before the commencement of this Act but which have not yet been served or executed.

SUBSIDIARY LEGISLATION

Notification under section 1

SUMMONSES AND WARRANTS
(SPECIAL PROVISIONS)
(APPLICATION TO MALAYSIA) NOTIFICATION

S.38/84

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
2. Application to Malaysia

Commencement : 1st November 1984

Citation

1. This Notification may be cited as the Summonses and Warrants (Special Provisions) (Application to Malaysia) Notification.

Application to Malaysia

2. The application of the Act in relation to Malaysia shall be subject to the following conditions, that is to say —

(a) if the Attorney General is of the opinion that a summons under section 3 or 4 or a warrant under section 5, if served or executed, as the case may be, within Brunei Darussalam, would result in the person against whom the summons or warrant was issued, being compelled to appear in Malaysia to be tried or punished for an offence of a political character, the Attorney General may at any time by order in writing signify to the Magistrate that he is of such an opinion and require him not to endorse the summons or warrant ;

(b) upon the receipt by the Magistrate of an order under paragraph (a) it shall not be lawful for the Magistrate if he has not done so, to endorse such summons or warrant ;

(c) if prior to the receipt of such an order under paragraph (a) the Magistrate had already endorsed such summons or warrant, the Magistrate shall upon the receipt of such an order from the Attorney General by order cancel the endorsement on such summons or warrant and thereupon any person who has been arrested and is in custody in Brunei Darussalam pursuant to such endorsement shall forthwith be released.