

LAWS OF BRUNEI

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LAWS OF BRUNEI
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CHAPTER 7
CRIMINAL PROCEDURE CODE

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CRIMINAL PROCEDURE CODE

An Act to establish a Code of Criminal Procedure

Commencement: 1st May 1952

PART I

PRELIMINARY

Chapter I

Citation and application

1. (1) This Act may be cited as the Criminal Procedure Code and is generally referred to in this Act as “this Code”.

(2) *(Repealed by S 6/2016).*

(3) For the avoidance of doubt, this Code shall be read subject to Article 84C of the Constitution of Brunei Darussalam, and nothing in this Code shall be construed as conferring on any court any jurisdiction or power to entertain any proceedings referred to in Article 84C of the Constitution of Brunei Darussalam.

[S 32/2005]

Interpretation

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

“bailable offence” means an offence shown as bailable in the First Schedule to this Code or which is made bailable by any other written law for the time being in force;

“Chief Justice” means the Chief Justice of the Supreme Court for Brunei Darussalam;

“Commissioner of Police” means the Commissioner of Police, Royal Brunei Police Force;

“complaint” means the allegation made orally or in writing to a Magistrate with a view to his taking action under this Code that some person whether known or unknown has committed or is guilty of an offence;

“Court” means the High Court and a Court of a Magistrate;

“Court of Appeal” means the Court of Appeal of the Supreme Court for Brunei Darussalam;

“District Officer” includes, where the context so permits, a Dato Penghulu, a Penghulu and a Ketua;

“fine” includes any fine, pecuniary penalty or forfeiture or compensation adjudged upon any conviction of any crime or offence or for the breach of any written law for the time being in force by any Court in Brunei Darussalam;

[S 32/2005]

“High Court” means the High Court of the Supreme Court for Brunei Darussalam;

“inquiry” includes every inquiry conducted under this Code before a Magistrate;

“Judge” means a Judge of the Supreme Court and includes, where the context so permits, the Chief Justice;

“judicial proceedings” means any proceedings in the course of which evidence is or may be legally taken;

“Magistrate” means a Magistrate appointed by His Majesty the Sultan and Yang Di-Pertuan under the Subordinate Courts Act (Chapter 6) or under any written law;

[S 32/2005]

“medical officer” means a registered medical practitioner employed by Government and if no such officer is available then any other duly registered medical practitioner or any hospital assistant authorised by the Director-General of Medical Services either generally or for any specific purpose to exercise the functions of a medical officer under this Code;

[GN 273/2002]

“non-bailable offence” means an offence other than a bailable offence;

“non-seizable offence” means an offence for which and “non-seizable case” means a case in which a police officer may not ordinarily arrest without warrant according to the third column of the First Schedule or under the provisions of any other written law for the time being in force;

“offence” means any act or omission made punishable by any other written law for the time being in force;

“officer in charge of a police district or police station” means the officer appointed to perform the duties of that office and when such officer is absent therefrom or unable from illness to perform his duties, the police officer present and acting in the district or station who is next in rank below such officer;

“place” includes a house, building, tent and vessel;

“Police District” means any area which has been constituted a police district by regulations made under the Royal Brunei Police Force Act (Chapter 50), and unless and until districts are so constituted means an ordinary administrative district;

“police officer” means any member of the Royal Brunei Police Force, and includes a special police officer when mobilised or deemed to be mobilised for active service and any person vested under any written law with the powers of a police officer;

[S 4/2007]

“postal article” means any letter, postcard, book, document, pamphlet, sample parcel or package or other article whatsoever transmitted by post;

“Registrar” means the Chief Registrar, a Deputy Chief Registrar, a Senior Registrar or a Registrar of the Supreme Court and includes a Deputy or Assistant Registrar;

“seizable offence” means an offence for which, and “seizable case” means a case in which, a police officer may ordinarily arrest without warrant according to the third column of the First Schedule or under the provisions of any other written law for the time being in force;

“summons case” means a case relating to an offence not being a warrant case;

“Supreme Court” means the Supreme Court of Brunei Darussalam established by the Supreme Court Act (Chapter 5);

“warrant case” means a case relating to an offence punishable with death or with imprisonment for a term exceeding 6 months;

“youthful offender” includes any child convicted of an offence punishable by fine or imprisonment who, in the absence of legal

proof to the contrary, is above the age of 7 years and under the age of 18 years in the opinion of the Court before which such child is convicted.

(2) Words which refer to acts done extend also to illegal omissions.

(3) All words and expressions used herein and defined in the Penal Code (Chapter 22) and not hereinbefore defined shall be deemed to have the meanings attributed to them by that Code.

(4) The marginal notes of this Code shall not affect the construction thereof.

Trial of offences under Penal Code and against other written laws

3. All offences under the Penal Code shall be inquired into and tried according to the provisions hereinafter contained, and all offences under any other law shall be inquired into and tried according to the same provisions, subject however to any other written law for the time being in force regulating the manner or place of inquiring into or trying such offences.

Saving of powers of Supreme Court

4. Nothing in this Code shall be construed as derogating from the powers or jurisdiction of the Supreme Court.

PART II

CONSTITUTION AND POWERS OF CRIMINAL COURTS

Chapter II

Criminal Courts generally

Classes of criminal Courts

5. (1) The Courts for the administration of criminal justice in Brunei Darussalam to which this Code applies shall be the following —

(a) High Court;

(b) Courts of Magistrates.

(2) A Judge may sit in and constitute a Court of a Magistrate.

Court to be open

6. (1) The place in which any criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them.

(2) The presiding Judge or Magistrate may, if he thinks fit, on special grounds of public policy or expediency in his discretion, order at any stage of any inquiry into, or trial of, any particular case that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court. In every such case, the grounds on which the order is made shall be recorded.

(3) This section does not apply to witnesses who shall ordinarily be excluded from the Court until they give evidence.

Section 6 read subject to other Acts [S 62/2004]

6A. Section 6 shall be read subject to section 15 of the Supreme Court Act (Chapter 5), section 7 of the Intermediate Courts Act (Chapter 162) and section 7 of the Subordinate Courts Act (Chapter 6).

Jurisdiction

7. Subject to the provisions of this Code, the jurisdiction of the High Court and a Court of a Magistrate in criminal matters shall extend to any offence committed —

(a) wholly or partly within Brunei Darussalam;

(b) on board any ship registered in Brunei Darussalam;

(c) on board any aircraft registered in Brunei Darussalam;

(d) on the high seas if the offence is piracy by the law of nations;

(e) by any person outside Brunei Darussalam who abets, or enters a conspiracy to commit, an offence within Brunei Darussalam, whether or not any overt act in furtherance of such conspiracy takes place within Brunei Darussalam; or

(f) by a subject of His Majesty the Sultan and Yang Di-Pertuan, whether the offence was committed within or outside Brunei Darussalam.

Powers of Courts

8. (1) Subject to the other provisions of this Code, any offence under the Penal Code may be tried by —

(a) the High Court;

(b) a Court of a Magistrate where such offence is shown in the eighth column of the First Schedule to be so triable.

(2) Where a Court of a Magistrate is given power by the eighth column of the First Schedule to try an offence for which such Court has no power to award the maximum punishment, the Court shall, if it is of the opinion that the punishment it has power to award is inadequate, commit the accused person for trial by the High Court.

Offences under other written laws

9. (1) Subject to the other provisions of this Code, any offence under any other written law shall, when any Court is mentioned in this behalf in such written law, be tried by such Court.

(2) When no Court is so mentioned, it may be tried by the High Court or any other Court to which this Code applies:

Provided that no Court of a Magistrate shall by virtue of this subsection try an offence which is punishable with imprisonment for a term which may exceed 5 years.

Sentences which High Court may pass

10. The High Court may pass any sentence authorised by law.

Sentences which Courts of Magistrates may pass

11. (1) Without prejudice to any provision of any other written law conferring special jurisdiction on Courts of Magistrates, such Courts may pass a sentence of imprisonment for a term not exceeding 3 years or a fine not exceeding \$5,000 or, where the Chief Justice by notification published in the *Gazette* confers upon any Magistrate special jurisdiction, then in a Court

presided over by such Magistrate, the sentence may be increased to imprisonment for a term of 7 years or a fine of \$10,000.

(2) A Court of a Magistrate may pass any lawful sentence, combining any of the sentences which it is authorised by law to pass.

(3) His Majesty the Sultan and Yang Di-Pertuan may limit the jurisdiction of any Magistrate.

Power of Magistrates to sentence to imprisonment in default of fine

12. (1) A Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorised by section 254:

Provided that the term is not in excess of the Magistrate's powers under this Code.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 11.

Sentence in case of conviction of several offences at one trial

13. (1) When a person is convicted at one trial of two or more distinct offences, the Court may, subject to the provisions of section 71 of the Penal Code (Chapter 22), sentence him for such offences to the several punishments prescribed therefor which such Court is competent to inflict, such punishments to commence the one after the expiration of the other in such order as the Court may direct unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before the High Court:

Provided that —

(a) in no case shall such person be sentenced to imprisonment for a longer period than 15 years;

(b) the aggregate punishment shall not exceed three times the amount of punishment which the Magistrate in the exercise of his ordinary jurisdiction is competent to inflict.

(3) For the purposes of appeal, aggregate sentences passed under this section in cases of convictions for several offences at one trial shall be deemed to be a single sentence.

Outstanding offences [S 6/2016]

13A. (1) If the accused is found guilty of an offence in any criminal proceedings begun by or on behalf of the Public Prosecutor, the Court in determining and passing sentence may with the consent of the prosecution and the accused, take into consideration any other outstanding offences that the accused admits to have committed.

(2) If the outstanding offences referred to in subsection (1) were not begun by or on behalf of the Public Prosecutor, the Court must first be satisfied that the person or authority by whom those proceedings were begun consents to that course of action.

(3) When consent is given under subsection (1) or (2) and any outstanding offences are taken into consideration in determining and passing sentence, such fact must be entered in the Court's record.

(4) After being sentenced, the accused may not, unless his conviction for the original offence under subsection (1) is set aside, be charged or tried for any such offence that the Court had taken into consideration under this section.

Criminal jurisdiction of Magistrates

14. Subject to the provisions of this Code, every Magistrate shall have cognisance of and power and authority to —

(a) hear, try, determine and dispose of in a summary way prosecutions for offences cognisable by such Magistrate;

(b) inquire into offences committed or alleged to have been committed with a view to committal for trial by the High Court;

(c) inquire into complaints of offences and summons and examine witnesses relating such offences and summons and

apprehend and issue warrants for the apprehension of criminals and offenders, and deal with them according to law;

(d) issue search warrants under the provisions of this Code in that behalf, and require persons to furnish security for the peace or for their good behaviour according to law;

(e) hold inquests; and

(f) do all other matters and things which a Magistrate is empowered to do by this Code or any other Act.

Reformatory training [S 9/2006]

14A. (1) Where a person is convicted by the Intermediate Courts or the High Court of an offence punishable with imprisonment and that person —

(a) is, on the day of his conviction, above the age of 18 years and under the age of 21 years: or

(b) is, on the day of his conviction, above the age of 14 years and under the age of 18 years, prior to his conviction, been dealt with by a Court in connection with another offence and had, in respect of that other offence, been ordered to be sent to an approved school established under section 61 of the Children and Young Persons Act (Chapter 219),

and the Court is satisfied, having regard to his character and previous conduct and to the circumstances of the offence of which he is convicted, that it is expedient with a view to his reformation and the prevention of crime that he should undergo a period of training in a reformatory training centre, that Court may, *in lieu* of any other sentence, pass a sentence of reformatory training.

(2) Where a person is convicted by a Court of a Magistrate of an offence punishable with imprisonment and that person —

(a) is, on the day of his conviction, above the age of 18 and under the age of 21; or

(b) is, on the day of his conviction, above the age of 14 and under the age of 18 and has, prior to his conviction, been dealt with by a Court in connection with another offence and had, in

respect of that other offence, been ordered to be sent to an approved school established under section 61 of the Children and Young Persons Act (Chapter 219),

and the Court of a Magistrate is satisfied of the matters mentioned in subsection (1), the Court may commit him in custody for sentence to the High Court.

(3) Where a person is so committed for sentence, the High Court shall inquire into the circumstances of the case and may —

(a) if satisfied of the matters mentioned in subsection (1), sentence him to reformatory training; or

(b) in any other case, deal with him in any manner in which the Court of a Magistrate might have dealt with him.

(4) Where a person has been ordered by a Juvenile Court under the Children and Young Persons Act (Chapter 219) to be brought before a High Court, the High Court shall inquire into the circumstances of the case and may —

(a) if satisfied that it is expedient with a view to his reformation that he should undergo a period of training in a reformatory training centre, sentence him to reformatory training; or

(b) in any other case, deal with him in any manner in which the Juvenile Court might have dealt with him.

(5) Before a sentence of reformatory training is passed under this section, and before a person is committed for sentence under subsection (2), the Court shall consider any report or representations made by or on behalf of the Director of Prisons on the offender's physical and mental condition and his suitability for the sentence; and if the Court has not received such a report or representations it shall remand the offender in custody for such a period or periods, not exceeding 3 weeks in the case of any single period, as the Court thinks necessary to enable the report or representations to be made.

(6) A copy of any report or representation made to the Court by the Director of Prisons for the purposes of subsection (5) shall be given by the Court to the offender or his legal representative.

(7) A person sentenced to reformatory training shall be detained subject to his release in accordance with the Third Schedule and while so detained shall be treated in such manner as may be prescribed by rules made under section 384.

PART III

GENERAL PROVISIONS

Chapter III

Aid and information to Magistrates and police and persons making arrests

Public when to assist Magistrates and police

15. (1) Every person is bound to assist a Magistrate, police officer or District Officer reasonably demanding his aid —

(a) in the taking or preventing the escape of any other person whom such Magistrate, police officer or District Officer is authorised to arrest;

(b) in the prevention of a breach of the peace or of any injury attempted to be committed to any railway, tramway, canal, dock, wharf, telegraph or public property;

(c) in the suppression of a riot or affray.

(2) Every person failing to give such assistance as is required by this section is guilty of an offence under section 187 of the Penal Code (Chapter 22).

Aid to persons other than police officer executing warrant

16. When a warrant is directed to a person other than a police officer, any other person may aid in the execution of such warrant if the person to whom the warrant is directed is near at hand and acting in the execution of his warrant.

Public to give information of certain matters

17. (1) Every person aware —

(a) of the commission of or the intention of any other person to commit any offence punishable under the following sections of the Penal Code (Chapter 22): 121, 121A, 122, 123, 124A, 130, 143, 144, 145, 147, 148, 194, 232, 234, 302, 304, 307, 308, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, 460, 489A, 489D;

(b) of any sudden or unnatural death or death by violence or of any death under suspicious circumstances, or of the body of any person being found dead without its being known how such person came by death,

shall in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the officer in charge of the nearest police station or to a police officer or to the nearest District Officer of such commission or intention or of such sudden, unnatural or violent death or of the finding of such dead body, as the case may be.

(2) If any person discovers any dead body and he has reason to believe that the deceased met with his death through an unlawful act or omission, he shall not remove or in any way alter the position of the body except so far as is necessary for its safety.

(3) Every person failing to give such information as is required by this section is guilty of an offence under section 176 of the Penal Code (Chapter 22).

Police officer bound to report certain matters

18. Every police officer and every District Officer shall forthwith communicate to the nearest Magistrate or police officer in charge of a police station any information which he may have or obtain respecting —

(a) the occurrence of any sudden or unnatural death or of any death under suspicious circumstances;

(b) the finding of the dead body of any person without it being known how such person came by his death.

*Chapter IV**Arrest, escape and re-taking***Arrest, how made**

19. (1) In making an arrest, the police officer or other person making the arrest shall actually touch or confine the body of the person to be arrested unless there is a submission to the custody by word or action.

(2) If such person forcibly resists the endeavour to arrest him or attempts to evade the arrest, the police officer or other person may use all means necessary to effect the arrest.

[S 32/2005]

(3) The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

(4) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for 15 years.

Search of place entered by persons sought to be arrested

20. (1) If any person acting under a warrant of arrest or any police officer or District Officer having authority to arrest has reason to believe that any person to be arrested has entered into or is within any place, the person residing in or in charge of such place shall, on demand of such person acting as aforesaid or of such police officer or District Officer, allow him free ingress thereto and afford all reasonable facilities for a search therein.

(2) If ingress to such place cannot be obtained under subsection (1), it shall be lawful in any case for a person acting under a warrant, and in any case in which a warrant may be issued but cannot be obtained without affording the person to be arrested an opportunity to escape, for a police officer or District Officer —

(a) to enter such place and search therein; and

(b) in order to effect an entrance into such place, to break open any outer or inner door or window of any place whether that of the person to be arrested or of any other person if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

(3) If any place to be searched is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or police officer shall before entering the apartment, give notice to the woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Search of persons in place searched under warrant

21. Whenever a search for anything is or is about to be lawfully made in any place in respect of any offence, all persons found therein may be lawfully detained until the search is completed, and they may, if the thing sought is in its nature capable of being concealed upon the person, be searched for it by or in the presence of a Magistrate or of a police officer not below the rank of Inspector or of a police officer in charge of a police station.

Power to break open any place for purposes for liberation

22. Any police officer or other person authorised to make an arrest may break open any place in order to liberate himself or any other person who having lawfully entered for the purpose of making an arrest is detained therein.

Mode of searching women

23. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

Search of persons arrested

24. Whenever a person is arrested —

(a) by a police officer under a warrant which does not provide for the taking of bail or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail;

(b) without warrant or by a private person under a warrant and the person arrested cannot legally be admitted to bail or is unable to furnish bail,

the police officer making the arrest or, when the arrest is made by a private person, the police officer to whom such private person makes over the person arrested, may search such person and place in safe custody all articles other than necessary wearing apparel found upon him, and any of such articles

which there is reason to believe were the instruments or the fruits or other evidence of the crime may be detained until his discharge or acquittal.

25. *(No section).*

Power to seize offensive weapons

26. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by law to produce the person arrested.

Search of person for name and address

27. Every person lawfully in custody, who by reason of incapacity from intoxication, illness, idiocy, mental disorder or infancy is unable to give a reasonable account of himself, may be searched for the purpose of ascertaining his name and place of abode.

[S 25/2014]

When police officer may arrest without warrant

28. (1) Any police officer or District Officer may, without an order from a Magistrate and without a warrant, arrest —

(a) any person who has been concerned in any seizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned;

(b) any person having in his possession without lawful excuse, the burden of proving which shall lie on such person, any implement of house breaking;

(c) any person who has been proclaimed under section 49;

(d) any person in whose possession anything is found which may reasonably be suspected to be stolen or fraudulently obtained property and who may reasonably be suspected of having committed an offence with reference to such thing;

(e) any person who obstructs a police officer while in the execution of his duty or who has escaped or attempts to escape from lawful custody;

(f) any person reasonably suspected of being a deserter from the Royal Brunei Armed Forces or Royal Brunei Police Force or Gurkha Reserve Unit 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 Brunei Darussalam;

(g) any person taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing a seizable offence;

(h) any person who has no ostensible means of subsistence or who cannot give a satisfactory account of himself;

(i) any person who is by repute a habitual robber, housebreaker or thief or a habitual receiver of stolen property knowing it to be stolen or who by repute, habitually commits extortion or in order to commit extortion, habitually puts or attempts to put persons in fear of injury;

(j) any person in the act of committing in his presence a breach of the peace;

(k) any person subject to the supervision of the police who fails to comply with the requirements of section 265.

(2) Nothing in this section shall be held to limit or to modify the operation of any other written law empowering a police officer or District Officer to arrest without a warrant.

Refusal to give name and residence or naming residence outside Brunei Darussalam

29. (1) When any person in the presence of a police officer or District Officer commits or is accused of committing a non-seizable offence and refuses on the demand of a police officer or District Officer to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such police officer or District

Officer in order that his name or residence may be ascertained, and he shall, within 24 hours of the arrest, exclusive of the time necessary for the journey, be taken before the nearest Magistrate unless before that time his true name and residence are ascertained, in which case such person shall be forthwith released on his executing a bond for his appearance before a Court if so required.

(2) When any person is thus brought before a Magistrate, the Magistrate may either require him to execute a bond, with or without a surety, for his appearance before a Court if so required, or may order him to be detained in custody until he can be tried.

(3) When any person in the presence of a police officer or District Officer commits or is accused of committing a non-seizable offence and on the demand of a police officer or District Officer to give his name and residence gives as his residence a place outside Brunei Darussalam, he may be arrested by such police officer or District Officer and shall be brought forthwith either before the nearest Magistrate who may require him to execute a bond, with or without a surety, for his appearance before a Court if so required, or may order him to be detained in custody until he can be tried, or before a police officer in charge of a police station who may require him to furnish a bond, with or without a surety, for his appearance before a Court if required.

Person arrested by District Officer, how dealt with

30. A District Officer making an arrest without a warrant shall without unnecessary delay make over the person so arrested to the nearest police officer or in the absence of a police officer, take such person to the nearest police station, and a police officer shall receive every such person into custody.

Pursuit of offenders

31. For the purpose of arresting, any person whom he has power to arrest without a warrant a police officer may pursue any such person into any part of Brunei Darussalam.

Arrest by private persons

32. (1) Any private person may arrest any person who, in his view, commits a non-bailable and seizable offence or who has been proclaimed under section 49 and shall without unnecessary delay make over the person

so arrested to the nearest police officer or, in the absence of a police officer, take such person to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of section 28, a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-seizable offence and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which the police officer has reason to believe to be false, or gives a residence which is not within Brunei Darussalam, he shall be dealt with under section 29.

(4) If there is no reason to believe that he has committed an offence, he shall be at once released.

(5) Any person who commits an offence on or with respect to the property of another may, if his name and address are unknown, be apprehended by the person injured or by any person who is using the property to which the injury is done, or by the servant of either of such persons or by any person authorised by or acting in aid of either of such persons, and may be detained until he gives his name and address and satisfies such person that the name and address so given are correct or until he can be delivered into the custody of a police officer.

(6) If any person lawfully apprehended under subsection (5) assaults or forcibly resists the person by whom he is so apprehended or any person acting in his aid he is guilty of an offence and liable on conviction to a fine of \$800.

How person arrested is to be dealt with

33. (1) A police officer making an arrest without a warrant shall without unnecessary delay and subject to the provisions herein as to bail or previous release, take or send the person arrested before a Court of a Magistrate.

(2) No police officer shall detain in custody a person arrested without a warrant for a longer period than under all the circumstances of the case is reasonable.

(3) Such period should not ordinarily exceed 48 hours exclusive of the time necessary for the journey from the place of arrest to the Court,

unless there are exceptional circumstances which render this not reasonably practicable.

[S 63/2002]

(4) Any police officer making an arrest under this section shall, unless the circumstances are such that the person arrested can be in no doubt with regard to the reason for his arrest, immediately upon such arrest is effected, notify to the arrested person the reason for his arrest.

Release of person arrested

34. No person who has been arrested by a police officer shall be released except on his own bond or on bail or under the order in writing of a Judge or Magistrate or officer in charge of a police station.

Offence committed in Magistrate's presence

35. When any offence is committed in the presence of a Magistrate, he may himself arrest or authorise any person to arrest the offender, and may thereupon, subject to the provisions herein as to bail, commit the offender to custody.

Arrest by or in presence of Magistrate

36. Any Magistrate may at any time arrest or authorise the arrest in his presence of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Power on escape to pursue and re-take

37. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place and deal with such person as he might have done on the original taking.

Provisions of sections 20 and 22 to apply to arrests under section 37

38. The provisions of sections 20 and 22 apply to arrests under section 37 although the person making the arrest is not acting under a warrant and is not a police officer having authority to arrest.

*Chapter V**Processes to compel appearance**Summons***Form of summons; by whom served**

39. (1) Every summons to appear issued by a Court under this Code shall be in writing and signed by a Magistrate or, in the case of the Supreme Court, by the Chief Justice, a Judge or the Registrar, and it shall bear the seal of the Court.

(2) Such summons shall ordinarily be served by a police officer or if the summons is in connection with an offence under a written law which it is the duty of a Government department to enforce, by an officer of such Government department. The Court issuing the summons may if it sees fit direct it to be served by any other person.

[S 32/2005]

Service of summons

40. (1) The summons shall if practicable be served personally on the person summoned by tendering or delivering to him a copy thereof under the seal of the Court.

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt for the copy.

(3) In the case of a corporation, the summons may be served on the secretary or other like officer of the corporation.

(4) Where the person to be summoned cannot by the exercise of due diligence be found, the summons may be served by leaving a copy thereof for him with some adult member of his family or with his servant residing with him.

(5) Where the person summoned is in the service of the Government, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed, and such head shall thereupon cause the summons to be served in the manner provided by this section, and shall return it to the Court under his signature and duly indorsed by the person on whom it was served as required by subsection (2).

Procedure when personal service cannot be effected

41. When the person to be summoned cannot by the exercise of due diligence be found and service cannot be effected as directed by section 40(4), the serving officer shall in the presence of two witnesses affix a copy of the summons to some conspicuous part of the house or other place in which the person summoned ordinarily resides and in such case the summons, if the Court so directs either before or after such affixing, shall be deemed to have been duly served.

Proof of service

42. When a summons issued by a Court is served, an affidavit of such service purporting to be made before an officer duly authorised to administer an oath shall be admissible in evidence.

*Warrant of arrest***Form of warrant of arrest**

43. (1) Every warrant of arrest issued by a Court under this Code shall be in writing and signed by a Magistrate or, in the case of the Supreme Court, by the Chief Justice, a Judge or the Registrar, and it shall bear the seal of the Court.

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it or until it is executed.

Court may by indorsement on warrant direct security to be taken

44. (1) Any Court issuing a warrant for the arrest of any person may, in its discretion, direct by indorsement on the warrant that if such person execute a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The indorsement shall state —

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound;

(c) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants, to whom directed

45. (1) A warrant of arrest shall ordinarily be directed to the officer in charge of police of the District in which it is issued and to all other police officers of Brunei Darussalam, and any police officer may execute such warrant in any part of Brunei Darussalam.

(2) The Court issuing a warrant may direct it to any person or persons by name, not being police officers, and all or any one or more of such persons may execute the same.

Notification of substance of warrant

46. Any warrant of arrest lawfully issued may be executed by any police officer at any time notwithstanding that the warrant is not in his possession at the time, but a police officer or other person executing a warrant of arrest shall notify the substance thereof to the person arrested, and shall, if so required by the person arrested, show him the warrant or a copy thereof under the seal of the Court issuing the warrant as soon as practicable after the arrest.

Person arrested to be brought before Court without delay [S 32/2005]

47. The police officer or other person executing a warrant of arrest shall, subject to the provisions of section 44 as to security, without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

48. *(No section).*

Proclamation and attachment

Proclamation for person absconding

49. (1) If the High Court or a Court of a Magistrate has reason to believe, whether after taking evidence or not, that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written

proclamation requiring him to appear at a specified place and at a specified time.

(2) The proclamation shall be published as follows —

(a) it shall be publicly read in some conspicuous place of the town, village or kampong in or near which such person ordinarily resides;

(b) it shall be fixed to some conspicuous part of the house or other place in which such person ordinarily resides or to some conspicuous place of such town, village or kampong; and

(c) a copy thereof shall be affixed to some conspicuous part of the Court house.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with and that the proclamation was published on such day.

Attachment of property of person proclaimed

50. (1) The Court issuing a proclamation under section 49 may at any time order the attachment of any property movable or immovable or both belonging to the proclaimed person.

(2) If the property ordered to be attached consists of debts or other movable property, the attachment shall be made by —

(a) seizure;

(b) the appointment of a receiver;

(c) an order in writing prohibiting the delivery of such property to the proclaimed person or to any one of his behalf; or

(d) all or any two of such methods as the Court thinks fit.

(3) If the property ordered to be attached is immovable, the attachment under this section shall be made through the Land Officer of the district in which the property is situated; and upon the receipt of an order of attachment, the Land Officer shall execute the attachment by —

(a) taking possession;

(b) the appointment of a receiver;

(c) an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any person on his behalf; or

(d) all or any two of such methods as he thinks fit.

(4) No such attachment of any land held under a title required by law to be registered shall take effect until the order of attachment is duly registered under the law for the registration of dealings with such land for the time being in force.

(5) If the proclaimed person does not appear within the time specified in the proclamation, the property shall be at the disposal of the Government, but it shall not be sold until the expiration of 6 months from the date of the attachment unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which case the Court may cause it to be sold whenever it thinks fit.

(6) Any person other than the person proclaimed may appear before the Court which made the order of attachment and claim, stating his title thereto, the property or any part thereof attached or ordered to be attached:

Provided that the claim is made within 3 months from the order of attachment.

(7) The Court shall record the claim so made and shall cause a copy thereof to be served upon the prosecutor together with a notice requiring him to attend before the Court on a day and at a time to be stated therein to show cause why the property, if attached, should not be released, or why such order of attachment should not be cancelled so far as it relates to the property so claimed.

(8) At the hearing, the Court shall proceed to inquire into the truth and justice of the claim so made and to take such evidence as may be necessary.

(9) Such inquiry shall be made, as nearly as may be practicable, in the manner prescribed by Chapter XIX for conducting trials without the aid of assessors.

(10) The Court shall, if satisfied of the truth and justice of the claim, direct the property to be released or the order to be cancelled, or is satisfied as aforesaid as to part only of the claim shall direct such part to be released or so much of the order as relates thereto to be cancelled.

(11) The Court may, in its discretion, award to the claimant costs and such expenses as it thinks proper which shall be paid by the Government.

Restoration of attached property

51. If within 2 years from the date of the attachment any person whose property is or has been at the disposal of the Government under section 50 appears voluntarily or is apprehended and brought before the Court by whose order the property was attached and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had no such notice of the proclamation as to enable him to attend within the time specified therein, the property or, if the property has been sold, the net proceeds of the sale or, if part only thereof has been sold, the net proceeds of the sale and the residue of the property shall after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

Other rules regarding summonses to appear and warrants of arrest

Issue of warrant *in lieu* of or in addition to summons

52. A criminal Court may, in any case in which it is empowered to issue a summons for the appearance of any person other than an assessor, after recording its reasons in writing, issue a warrant for his arrest —

(a) if either before the issue of summons or after the issue of the summons but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing

in accordance therewith and no reasonable excuse is offered for such failure.

Service and execution in any part of Brunei Darussalam

53. All summonses to appear and warrants of arrest issued by a Magistrate may be served or executed, as the case may be, in any part of Brunei Darussalam.

Power to take bond for appearance

54. When any person for whose appearance or arrest any Court is empowered to issue a summons or warrant is present in such Court, it may require such person to execute a bond with or without sureties for his appearance in such Court.

Arrest on breach of bond appearance

55. When any person who is bound by any bond taken under this Code to appear before a Court does not so appear, such Court may issue a warrant directing that such person be arrested and produced before it.

Chapter VI

Processes to compel production of documents and other movable property and for discovery of persons wrongfully confined

Summons to produce property or document

56. (1) Notwithstanding any other written law for the time being in force but subject to the provisions of the Evidence Act (Chapter 108), whenever any Court or police officer making a police investigation considers that the production of any property or document is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceedings under this Code by or before such Court or police officer, such Court may issue a summons or the police officer a written order to the person in whose possession or power such property or document is believed to be, requiring him to attend and produce it or to produce it at the time and place stated in the summons or order.

[S 63/2002; S 6/2016]

(1A) In the case of banker's books, no police officer below the rank of Superintendent shall exercise any powers conferred by this section or

order the production of such books unless at the place of business of the bank.

[S 63/2002]

(2) Any person required under this section merely to produce any property or document shall be deemed to have complied with the requisition if he causes such property or document to be produced instead of attending personally to produce the property or document.

(3) Nothing in this section shall be deemed to apply to any postal article, telegram or other document in the custody of the postal or telegraph authorities.

[S 63/2002]

(4) In this section, “bankers’ books” include ledgers, day books, cash books, account books and all other books used in the ordinary business of a bank, whether these records are in written form or kept on microfilm, magnetic tape or any other form of mechanical or electronic data retrieval system.

[S 63/2002]

Procedure as to postal articles etc.

57. If any postal article, telegram or other document is, in the opinion of the Court of Appeal or the High Court, wanted for the purpose of any investigation, inquiry, trial or other proceedings under this Code, such Court may require the postal or telegraph authorities to deliver the postal article, telegram or other document to such person as it may direct.

Provisions of sections 39 to 42 to apply

58. The provisions of sections 39, 40, 41 and 42 apply in relation to summonses under this Chapter.

Search warrants

When search warrant may be issued

59. (1) Where —

(a) any Court has reason to believe that a person to whom a summons under section 56 or a requisition under section 57 has

been or might have been addressed will not or would not produce the property or document as required by such requisition;

(b) such property or document is not known to the Court to be in the possession of any person; or

(c) the Court considers that the purposes of justice or of any inquiry, trial or other proceedings under this Code will be served by a general search or inspection,

the Court may issue a search warrant and the person to whom such warrant is directed may search and inspect in accordance therewith and with the provisions in this Chapter.

(2) Nothing in this section shall authorise any Court other than the Court of Appeal or the High Court to grant a warrant to search for a postal article, telegram or other document in the custody of the postal or telegraph authorities.

(3) A search warrant shall ordinarily be directed to the officer in charge of police of the District in which it is issued and to some other officers to be designated by name therein, and all or any of such police officers may execute such warrant.

(4) The Court issuing a search warrant may direct it to any person or persons by name, not being police officers, and all or any one or more of such persons may execute such warrant.

Power to restrict warrant

60. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend, and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Search of place suspected to contain stolen property, forged document etc.

61. If a Magistrate upon information and after such inquiry as he thinks necessary has reason to believe that —

(a) any place is used for the deposit or sale of stolen property, contraband goods or property unlawfully obtained;

(b) any place is used for the deposit, sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or forged trade marks, instruments or materials for counterfeiting coin or stamps or for forging;

(c) any offence against any written law for the time being in force relating to gambling, pawnbrokers, opium, distillation of arrack or other spirit is being or is likely to be committed in any place;

(d) any offence against the Societies Act (Chapter 203) or any other written law relating thereto for the time being in force, or any offence against any written law relating to the protection of women and girls, is being or is likely to be committed in any place; or

(e) any stolen property, contraband goods, property unlawfully obtained, forged documents, false seals or counterfeit stamps or coin, or forged trade marks, instruments or materials for counterfeiting coin or stamps or for forging or housebreaking are concealed, kept or deposited in any place,

he may by warrant authorise the person to whom it is directed to —

- (i) enter, with such assistance as may be required, such place;
- (ii) search the place in the manner specified in the warrant in the presence, if practicable, of two or more inhabitants of the neighbourhood;
- (iii) take possession of any property, goods, documents, seals, stamps, coins or trade marks therein found which he reasonably suspects to be stolen, contraband, unlawfully obtained, forged, false or counterfeit and also of any such instruments and materials as aforesaid;
- (iv) convey such property, goods, documents, seals, stamps, coins, trade marks or materials before a Judge or Magistrate, or guard them on the spot until the offender is taken before a Judge or Magistrate or otherwise dispose thereof in some place of safety; and

- (v) take into custody and bring before a Judge or Magistrate every person found in such place who appears to be guilty of any offence under paragraphs (c) and (d) or to have been privy to the deposit, sale or manufacture or keeping of any such property, goods, documents, seals, stamps, coins, trade marks, instruments or materials knowing or having reasonable cause to suspect the property or goods to have been stolen or to be contraband or otherwise unlawfully obtained, or the documents, seals, stamps, coins, trade marks, instruments or materials to have been forged, falsified or counterfeited or the instruments or materials to have been used or to be intended to be used for counterfeiting coin or stamps or for forging.

Form of search warrant

62. (1) Every search warrant issued by a Court under this Code shall be in writing and signed by a Judge or Registrar or by a Magistrate, as the case may be, and it shall bear the seal of the Court.

(2) Every such warrant shall remain in force for a reasonable number of days to be specified in the warrant.

(3) Search warrants issued under this Code may be executed in any part of Brunei Darussalam.

Search for persons wrongfully confined

63. If any Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search warrant, and the person to whom the warrant is directed may search for the person confined; the search shall be made in accordance therewith and the person, if found, shall be immediately taken before a Magistrate who shall make such order as in the circumstances of the case seems proper.

Persons in charge of closed places to allow search

64. (1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in or being in charge of the place shall on demand of the officer or other person executing the warrant and on

production of the warrant allow him free ingress thereto and afford all reasonable facilities for a search therein.

(2) If ingress to the place cannot be obtained, the officer or other person executing the warrant may proceed in the manner provided by section 20(2).

Magistrate issuing search warrant may attend at its execution

65. The Magistrate by whom a search warrant is issued may attend personally for the purpose of seeing that the warrant is duly exercised.

Magistrate may direct search in his presence

66. Any Magistrate may orally direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant.

Search without warrant

67. (1) If a police officer is informed that stolen property or contraband goods is or are concealed or lodged in any building or place, and that there is likelihood of the property or contraband goods being removed before a warrant under section 61 can be obtained, he may search the building or place without warrant and remove any the property or goods if—

(a) in the case of stolen property, the person claiming to be the owner or to be entitled to its possession, makes a declaration before him describing the property in detail and stating why he believes the property to have been stolen and to be in the building or place unlawfully, and accompanies the police officer in his search;

(b) in the case of contraband goods, he receives information from any officer of customs that certain contraband goods are believed to be in the building or place.

(2) If an officer of customs is informed and has good reason to believe such information, that contraband goods are concealed or lodged in any building or place and he has good reason to believe that such goods are likely to be removed before a warrant under section 61 can be obtained, he may search the building or place and remove any contraband goods found therein.

68. (No section).

List of all things seized to be made and signed

69. A list of all things seized in the course of a search made under this Chapter and of the places in which they are respectively found shall be prepared by the officer or other person making the search and signed by him.

Occupant may be present at search

70. The occupant of the place searched, or some person in his behalf, shall in every instance be permitted to attend during the search, and a copy of the list prepared and signed under section 69 shall be delivered to such occupant or person at his request.

PART IV

PREVENTION OF OFFENCES

Chapter VII

Security for keeping peace and for good behaviour

Security for keeping peace on conviction

71. (1) Whenever any person is convicted of —

(a) any offence which involves a breach of the peace or of abetting the offence;

(b) committing criminal intimidation or criminal trespass; or

(c) being a member of an unlawful assembly,

and the Court before which such person is convicted is of opinion that it is necessary to require such person to execute a bond for keeping the peace, such Court may at the time of passing sentence on such person or *in lieu* of any sentence, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period in each instance as it thinks fit to fix, not exceeding 2 years if ordered by the High Court or one year if ordered by a Court of a Magistrate.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

Security for keeping peace in other cases

72. Whenever it appears to a Magistrate that any person is likely to commit a breach of the peace or to do any wrongful act that may probably occasion a breach of the peace, the Magistrate may, in such manner as provided in section 75, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

Security for good behaviour from suspected persons, vagrants and persons disseminating seditious matter

73. Whenever it appears to a Magistrate that —

(a) any person is behaving in a suspicious manner and that there is reason to believe such person is behaving in such manner with a view to committing an offence;

(b) any person has no ostensible means of subsistence or cannot give a satisfactory account of himself;

(c) any person either orally or in writing disseminates or attempts to disseminate or in any way abets the dissemination of —

(i) any seditious matter, that is, any matter the publication of which is punishable under the Seditious Act (Chapter 24); or

[S 32/2005]

(ii) any matter concerning a public servant which amounts to criminal intimidation or defamation under the Penal Code (Chapter 22); or

(d) any person has in his possession or custody any instrument which may be used for housebreaking or is armed with any lethal weapon and is unable to explain satisfactorily his movements or to account for the possession or custody of the housebreaking instruments or lethal weapon,

such Magistrate may, in such manner as provided in section 75, require such person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period not exceeding one year as the Magistrate thinks fit to fix.

Security for good behaviour from habitual offenders

74. Whenever it appears to a Magistrate that any person —

(a) is a habitual robber, housebreaker or thief, or a habitual receiver of stolen property knowing the property to have been stolen;

(b) habitually commits extortion or, in order to the committing of extortion, habitually puts or attempts to put persons in fear of injury;

(c) is a habitual protector or harbourer of thieves;

(d) is a habitual aider in the concealment or disposal of stolen property; or

(e) is a notorious bad liver or is a dangerous character,

the Magistrate may, in such manner as provided in section 75, require such person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period not exceeding one year as such Magistrate thinks fit to fix.

Summons or warrant if required

75. (1) When a Magistrate acting under section 72, 73 or 74 deems it necessary to require any person to show cause under such section, he shall, if such person has not been arrested without warrant and brought before the Court for the purpose of the inquiry mentioned in section 77, issue a summons requiring him to appear and show cause or, when such person is in custody but not present in Court, a warrant directing the officer in whose custody he is to produce him before the Court.

(2) Whenever it appears to the Magistrate upon the report of a police officer or upon other information, the substance of which report or information shall be recorded by the Magistrate, that there is reason to fear the commission of a breach of the peace and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

Form of summons or warrant

76. Every summons or warrant issued under section 75 shall contain a brief statement of the substance of the information on which the summons or warrant was issued, and shall state the amount of the bond to be executed, the term for which it is to be in force and the number, character and class of sureties, if any, required.

Inquiry to be held

77. (1) When any person appears or is brought before a Magistrate in compliance with a summons or in execution of a warrant issued under section 75, the Magistrate shall proceed to inquire into the truth of the information on which he has acted and to take such further evidence as may be necessary.

(2) When any person has been arrested without warrant and brought before a Magistrate for the purpose of being bound over either to keep the peace or to be of good behaviour, the Magistrate shall, instead of requiring him to show cause, explain to such person the purport and object of the inquiry and shall take such evidence as may be produced on either part.

(3) An inquiry under this section shall be made as nearly as may be practicable in the manner hereinafter prescribed for conducting summary trials before Magistrates except that no charge need be framed.

(4) For the purposes of this section, the fact that a person is a habitual offender may be proved by evidence of general repute or otherwise.

Order to give security

78. If upon such inquiry it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Provided that —

(a) no person shall be ordered to give security of a nature different from or for an amount larger than or for a period longer than that specified in the summons or warrant issued under section 75, if any;

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive, but shall be such as to afford the person against whom the order is made a fair chance of complying with it;

(c) when the person in respect of whom the inquiry is made is not competent to contract, the bond shall be executed only by his sureties.

Discharge of persons informed against

79. If, on an inquiry under section 77, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, the Magistrate shall make an entry on the record to that effect and if such person is in custody only for the purposes of the inquiry, shall release him or, if such person is not in custody, shall discharge him.

Proceedings in all cases subsequent to order to furnish security

Commencement of period for which security is required

80. (1) If any person in respect of whom an order requiring security is made under section 71 or 78 is at the time such order is made sentenced to or undergoing a sentence of imprisonment, the period for which the security is required shall commence on the expiration of such sentence.

(2) In other cases, the period shall commence on the date of such order.

Contents of bond

81. The bond to be executed by any person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit or the abetment of any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Power to reject sureties

82. A Court may in its discretion refuse to accept any particular person or persons offered as surety for good behaviour under this Chapter.

Imprisonment in default of sureties

83. (1) If any person ordered to give security under section 71 or 78 does not give such security on or before the date on which the period for which such security is to be given commences, he may be committed to prison, or if he already is in prison may be detained in prison, until such period expires or until within such period he gives such security to the Court which made the order requiring it or to the officer in charge of the prison in which he is detained.

(2) If such person is unable or unwilling to execute the bond but is willing to leave Brunei Darussalam and not return thereto for such period as the Court shall approve, the Court may, subject to the execution of any sentence of imprisonment to which he has been sentenced, order accordingly.

(3) Pending the departure of the offender from Brunei Darussalam, he may be remanded in custody.

Power to release person imprisoned for failing to give security

84. When a Court is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person, the Court may order such person to be discharged:

Provided that a Court of a Magistrate shall not exercise this power except in cases where the imprisonment is under its own order.

Magistrate to report in cases in which security has been ordered by superior Court

85. Whenever a Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter as ordered by a Court superior to his Court may be released without the hazard mentioned in section 84, the Magistrate shall make an immediate report of the case for the orders of the superior Court, and such Court may if it thinks fit order such person to be discharged.

Discharge of security

86. (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Magistrate to cancel any bond executed under this Chapter.

(2) On such application being made, the Magistrate shall issue a summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or be brought before him.

(3) When such person appears or is brought before the Magistrate, he shall cancel the bond and shall order such person to give for the unexpired portion of the term of the bond fresh security of the same description as the original security.

(4) Every such order shall, for the purposes of sections 81, 82, 83 and 84, be deemed to be an order made under section 71 or 78, as the case may be.

Chapter VIII

Unlawful assemblies

Unlawful assembly may be ordered to disperse by Magistrate etc.

87. A Magistrate, the Commissioner of Police or any police officer not below the rank of Inspector or officer in charge of a police district or police station may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

When unlawful assembly may be dispersed by use of civil force

88. If upon being so commanded, any such assembly does not disperse, or if, without having been commanded to disperse, it conducts itself in such a manner as to show a determination not to disperse, a Magistrate, the Commissioner of Police or any police officer not below the rank of Inspector or officer in charge of a police district or police station may —

(a) proceed to disperse such assembly by force; and

(b) require the assistance of any male person, not being an officer, soldier, sailor or airman of the Royal Brunei Armed Forces or of any armed forces lawfully serving within Brunei Darussalam, for the purpose of dispersing such assembly,

and if necessary arresting and confining the persons who form part of it in order to disperse such assembly or that they may be punished according to law.

Use of military force

89. If any such assembly cannot be otherwise dispersed and if it is necessary for the public security that it should be dispersed, a Magistrate or a police officer may cause it to be dispersed by military force.

[S 6/2016]

Magistrate may require any officer in command of troops to disperse unlawful assembly

90. (1) When a Magistrate or a police officer determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers, sailors or airmen of the Royal Brunei Armed Forces or of any armed forces lawfully serving within Brunei Darussalam to disperse such assembly by military force and to arrest and confine such persons forming part of it as the Magistrate or the police officer may direct or as it may be necessary to arrest and confine in order to disperse the assembly or that they may be punished according to law.

[S 6/2016]

(2) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force and do as little injury to person and property as may be consistent with dispersing the assembly and arresting and detaining such persons.

When commissioned officer may disperse unlawful assembly by military force

91. When the public security is manifestly endangered by any such assembly, and when neither a Magistrate nor a police officer empowered by section 90 to require such an assembly to be dispersed by military force can be communicated with, any commissioned officer of the Royal Brunei Armed Forces or of any armed forces lawfully serving within Brunei Darussalam may disperse such assembly by military force and may arrest and confine any person forming part of it in order to disperse such assembly or that they may be punished according to law; but if while he is acting under this section it becomes practicable for him to communicate with any Magistrate or gazetted police officer, he shall do so and shall obey the instructions of such Magistrate or police officer as to whether he shall or shall not continue such action.

Protection against prosecution for acts done under this Chapter

92. No prosecution against any Magistrate or police officer or any officer, soldier, sailor or airman of any armed forces, for any act purporting to be done under this Chapter, shall be instituted in any criminal Court except with the sanction of His Majesty the Sultan and Yang Di-Pertuan in Council; and —

(a) no Magistrate or police officer acting under this Chapter in good faith;

(b) no person doing any act in good faith in compliance with a requisition under section 88 or 90;

(c) no inferior officer, soldier, sailor or airman doing any act in obedience to any order which he was bound to obey;

(d) no officer acting under section 91 in good faith,

shall be deemed to have thereby committed an offence.

*Chapter IX**Public nuisances***Magistrate may make conditional order for removal of nuisance**

93. (1) Whenever a Magistrate considers, on receiving a report or other information and on taking such evidence, if any, as he thinks fit, that —

(a) any unlawful obstruction or nuisance should be removed from any way, harbour, lake, river or channel which is or may be lawfully used by the public or from any public place;

(b) any trade or occupation or the keeping of any goods or merchandise by reason of its being injurious to the health or physical comfort of the community should be suppressed or removed or prohibited;

(c) the construction of any building or the disposal of any substance likely to occasion conflagration or explosion should be prevented or stopped;

(d) any building or tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by and that in consequence, its removal, repair or support is necessary; or

(e) any tank, well or excavation adjacent to any such way as aforesaid or to any public place should be fenced in such a manner as to prevent danger arising to the public,

the Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tree, substance, tank, well or excavation, within a time to be fixed in the order to —

- (i) remove such obstruction or nuisance;
- (ii) suppress or remove such trade or occupation;
- (iii) remove such goods or merchandise;
- (iv) prevent or stop the construction of such building;
- (v) remove, repair or support such building;
- (vi) lop or fell such tree;
- (vii) alter the disposal of such substance;
- (viii) fence such tank, well or excavation,

or appear before the Magistrate at a time and place to be fixed by the order and move to have the order set aside or modified in manner hereinafter provided.

(2) For the purposes of this section, a “public place” includes also property belonging to the Government and grounds left unoccupied for sanitary or recreative purposes.

Conditional order to be served or notified

94. (1) The order and any notice or order given or made under this Chapter shall, if practicable, be served on the person against whom it is made in manner in this Code provided for service of a summons.

(2) If the order cannot be served, a copy thereof shall be posted at such place as may be the fittest for conveying the information to such person.

Person against whom order is made to appear and show cause

95. The person against whom the order is made shall —

(a) perform within the time specified in the order that act directed thereby; or

(b) appear in accordance with such order and show cause against the same.

Consequence of failure to do so

96. If the person does not perform such act or appear and show cause as required by section 95, the order shall be made absolute.

Procedure on appearance to show cause

97. (1) If the person appears and shows cause against the order, the Magistrate shall take evidence in the matter.

(2) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(3) If the Magistrate is not satisfied, the order shall be made absolute.

Procedure on order being made absolute

98. When an order has been made absolute under section 96 or 97, the Magistrate shall give notice of the order to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice and inform him that, in case of disobedience, he will be liable to the penalty prescribed in that behalf in section 188 of the Penal Code (Chapter 22):

Provided that if such person is a corporation, it shall be liable only to the fine prescribed by that section.

Consequence of disobedience to order

99. (1) If the order is not performed within the time fixed, the Magistrate may cause it to be performed and may recover the costs of performing it either by sale of the buildings, goods or other property removed by order or by the distress and sale of any other movable property of such person.

(2) No suit shall lie in respect of anything done in good faith under this section.

Injunction pending final decision

100. (1) If the Magistrate making an order under section 93 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury pending the final decision of the case.

(2) In default of such person forthwith obeying the injunction, the Magistrate may use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

Power to prohibit repetition or continuance of public nuisance

101. A Magistrate may order any person not to repeat or continue a public nuisance as defined in the Penal Code (Chapter 22) or any other written law in force for the time being.

Chapter X

Temporary orders in urgent cases of nuisance

Power to issue order absolute at once in urgent cases

102. (1) In cases where in the opinion of a Magistrate immediate prevention or speedy remedy is desirable, the Magistrate may by a written order stating the material facts of the case and served in manner provided in section 94 direct any person —

(a) to abstain from a certain act; or

(b) to take certain order with certain property in his possession or under his management,

if the Magistrate considers that such direction is likely to prevent or tends to prevent obstruction, annoyance or injury to any persons lawfully employed, or danger to human life, health or safety, or a riot or an affray.

(2) An order under this section may in cases of emergency or in cases where the circumstances do not admit the serving in due time of notice upon the person against whom the order is made, be made *ex parte*.

(3) An order under this section may be directed to a particular person or to the public generally when frequenting or visiting a particular place.

(4) Any Magistrate may rescind or alter any order made under this section by himself or his predecessor in office.

(5) No order under this section shall remain in force for more than one month from the making thereof.

Chapter XI

Disputes as to immovable property

Procedure where dispute concerning land etc. is likely to cause breach of peace

103. (1) Whenever a Magistrate is satisfied, from a police report or other information, that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend his Court within a time to be fixed by the Magistrate and to make oral or written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section and of section 105, “land or water” includes buildings, markets, fisheries, crops or other produce of land and the rents or profits of any such property.

(3) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate directs, and at least one copy shall, if reasonably practicable, be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall then, without reference to the merits of the claims of any such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take

such further evidence (if any) as he thinks necessary, and if possible decide whether any and which of the parties is then in actual possession of the subject:

Provided that —

(a) if it appears to the Magistrate that any party has, within 2 months next before the date of such order, been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date;

(b) if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute pending his decision under this section.

(5) Nothing in this section shall preclude any party so required to attend from showing that no such dispute exists or has existed, and in such case, the Magistrate shall cancel the order and all further proceedings therein shall be stayed.

(6) If the Magistrate decides that one of the parties is then in actual possession of the subject, he shall issue an order declaring such party to be entitled to retain possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of the possession until the eviction.

(7) Proceedings under this section shall not abate by reason only of the death of any of the parties thereto.

Power to attach subject of dispute

104. If the Magistrate decides that none of the parties is then in actual possession or is unable to satisfy himself as to which of them is then in actual possession of the subject of dispute, he may attach it until a competent civil Court has determined the rights of the parties thereto or the persons entitled to possession thereof.

Disputes concerning rights over land or water

105. (1) Whenever a Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right to do or prevent the doing of anything in or upon any land or water, he may —

(a) inquire into the matter; and

(b) if it appears to him that such right exists, make an order permitting such thing to be done or directing that such thing shall not be done, as the case may be, until the person objecting to such thing being done or claiming that such thing may be done obtains the decision of a competent civil Court adjudging him to be entitled to prevent the doing of or to do such thing, as the case may be.

(2) No order shall be made under this section permitting the doing of anything unless —

(a) where the right to do such thing is exercisable at all times of the year, the right has been exercised within 3 months next before the institution of the inquiry; or

(b) where the right is exercisable only at particular seasons, the right has been exercised during the season next before such institution.

Order as to costs

106. (1) When any costs have been incurred by any party to a proceeding under this Chapter for witnesses, the Magistrate giving a decision under section 103, 104 or 105 may assess such costs and direct by whom the costs shall be paid, whether by such party or by any other party to the proceeding and whether in whole or in part or proportion.

(2) All costs so directed to be paid may be recovered as if they were fines.

Chapter XII

Preventive action of police

Police to prevent offences

107. Every police officer may interpose for the purpose of preventing and shall, to the best of his ability using all lawful means, prevent the commission of any offence.

Information of design to commit offences

108. Every police officer receiving information of a design to commit any offence shall communicate such information to the police officer to whom he is subordinate and to any other officer whose duty it is to prevent or take cognisance of the commission of any such offence.

Arrest to prevent such offences

109. A police officer knowing of a design to commit any seizable offence may arrest without orders from a Magistrate and without a warrant the person so designing if it appears to such officer that the commission of the offence cannot otherwise be prevented.

Prevention of injury to public property

110. A police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

PART V

INFORMATION TO POLICE AND THEIR
POWERS TO INVESTIGATE*Chapter XIII**Duties of police officer on receiving information about offences***Information of offences**

111. (1) When information is received at a police station relating to the commission of an offence, being an offence of which it appears that no previous information has been received in the station, the officer in charge of the police station or a subordinate officer whose duty it is to receive reports shall proceed according to one of the subsections in this section.

(2) If the information is in writing, he shall forthwith mark on it the date and time of receipt, and, if practicable, the name and address of the person (other than a postal messenger) by whom it was delivered, and if it purports to be signed by the informant, he shall file it as a report and record the facts in a book kept for this purpose.

(3) If the information is given orally and he considers it practicable to reduce it to writing forthwith, he shall record or cause to be recorded in a book kept for this purpose a report containing the name and address of the informant, the date and time of his arrival at the station, the substance of the information and such other particulars as the nature of the case may require, and such report shall be signed by the informant, (or if he refuses to sign, a note of such refusal shall be made with any reasons given for such refusal), by the recording officer and by the interpreter, if any.

(4) If the information is given orally and it appears to him impracticable to proceed forthwith under subsection (3), he shall immediately make a note of first information in the station diary, and, if an investigation is to proceed, as soon thereafter as circumstances permit, a fuller statement by the informant shall be recorded under the provisions of subsection (3).

Duty of police to investigate offences

112. Subject to the provisions of any other written law and to any lawful order or direction given to him in that behalf, every police officer shall investigate any offence the commission of which he has reason to suspect and to take such action as he deems necessary to prevent the repetition or aggravation of any offence:

Provided that the Public Prosecutor may direct that the investigation of such non-seizable offences as may be specified in such direction need not be undertaken by the police but nothing in this Chapter shall be deemed to preclude any police officer from making such investigation as may be necessary to satisfy himself that the offence is an offence to which such direction relates.

Body samples [S 4/2007]

112A. (1) A police officer making an investigation under this Chapter may cause a body sample of a person to be obtained for forensic analysis if he has reasonable cause to believe that the body sample may confirm or disprove whether that person was involved in an offence punishable with imprisonment.

(2) If appropriate consent for a body sample to be taken is refused without good cause or cannot be obtained despite all reasonable efforts, that person may be taken before a Magistrate who may, if satisfied that there is reasonable cause to believe that the body sample may confirm or disprove

whether that person was involved in an offence punishable with imprisonment, order that that person provide the body sample required.

(3) Where it is shown that the appropriate consent from a person was refused without good cause, the Court in determining whether —

(a) there is a case to answer against him; or

(b) he is guilty of the offence with which he has been charged,

may draw such inference from the refusal as it thinks proper and, based on such inference, may treat that refusal as corroboration or as amounting to corroboration of any relevant evidence against him.

Persons permitted to take body samples [S 4/2007]

112B. (1) A body sample may only be taken by —

(a) a person registered under the Medical Practitioners and Dentists Act (Chapter 112);

(b) a police officer who has received training for that purpose;

(c) any other suitably qualified or trained person who is authorised by the Commissioner of Police for that purpose.

(2) Before taking a body sample, the person permitted under subsection (1) to take it must satisfy himself that such taking will not endanger the person from whom it is to be taken.

(3) The fact that a body sample has been taken under this section shall be recorded by the person taking it in such form or manner as may be required by the Commissioner of Police.

(4) A person from whom a body sample is lawfully required under section 112A who —

(a) refuses, without reasonable excuse, to give a body sample or to allow it to be taken from him; or

(b) otherwise hinders or obstructs the taking of a body sample,

is guilty of an offence under section 186 of the Penal Code (Chapter 22) and the person permitted under subsection (1) to take the body sample may, with such assistance as is required, use such force as is reasonably necessary for the purpose of taking the sample.

Interpretation for sections 112A and 112B [S 4/2007]

112C. In sections 112A and 112B —

“appropriate consent” means —

(a) in relation to a person who has attained the age of 18 years, his consent in writing;

(b) in relation to a person who has attained the age of 14 years but has not attained the age of 18 years, the consent in writing of both that person and of his parent or guardian;

(c) in relation to a person who has not attained the age of 14 years, the consent in writing of his parent or guardian,

given to the police officer in charge of the case after the person concerned or his parent or guardian, as the case may be, has been informed by the police officer of the purpose for which a body sample is required and the manner by which it is to be taken;

“body sample” means —

(a) a sample of head hair, including the roots thereof;

(b) a sample taken from a nail or from under the nail;

(c) a swab taken from any part, other than a private part, of a person’s body but not any other body orifice;

(d) a swab taken from a person’s mouth;

(e) saliva;

(f) an impression of any part of a person's body other than an impression of a private part or an impression of the face;

(g) an intimate sample, being a body sample that is obtained by means of any invasive procedure;

“intimate sample” means —

(a) a sample of blood, semen or any other tissue fluid, urine or hair other than head hair;

(b) a dental impression; or

(c) a swab taken from a private part of a person's body or from a person's body orifice other than the mouth;

“private part” in relation to a person's body, means the genital or anal area and includes the breasts in the case of a woman.

Public not to have right to compel police officer to investigate alleged offences

113. Nothing in this Chapter shall be deemed to confer any right upon any member of the public to compel any police officer to investigate whether an offence and, if so, what offence, has been committed but it shall be the duty of any police officer making an investigation under this Chapter upon request in that behalf by the informant to inform him whether the police propose to prosecute and, if so, in respect of what offences.

Exercise of special powers

114. Every police officer making an investigation under this Chapter if in charge of a police station or not below the rank of Lance-Corporal may exercise the powers given by sections 115, 120 and 121.

Police officer's power to require attendance of witness

115. (1) A police officer making an investigation under this Chapter may by order in writing require the attendance before himself of any person who, from the information given or otherwise, appears to be acquainted with the circumstances of the case, and such person shall attend as so required.

(2) If any such person refuses to attend as so required, the police officer may report the refusal to a Magistrate who may thereupon in his

discretion issue a summons or warrant to secure the attendance of such person as required by the order mentioned in subsection (1).

Examining of witnesses by police

116. (1) A police officer making a police investigation under this Chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

(2) The person shall be bound to state truly the facts and circumstances which he is acquainted concerning the case save only that he may decline to make, with regard to any fact or circumstances, a statement which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) A statement made by any person under the provisions of this section shall be read over to him and shall, after correction if necessary, be signed by him.

Statement to police officers

117. (1) In any criminal proceedings, any statement made by any person including a person in the custody of a police officer, whether it amounts to a confession or not or is oral or in writing, made at any time, whether before or after that person is charged and whether in the course of a police investigation or not, by that person to or in the hearing of any police officer shall be admissible in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) The Court shall admit under subsection (1) a statement made by an accused, only if the prosecution satisfies the Court that the statement was voluntary, that is to say that it was not obtained by violence, inducement, threat or oppression by a person in authority.

(3) Where any person is charged with an offence or officially informed that he may be prosecuted for it, he shall be served with a notice in writing, which shall be explained to him, to the following effect —

“You have been charged with/informed that you may be prosecuted for —

(set out the charged)

Do you wish to say anything in answer to the charge? If there is any fact on which you intend to rely in your defence in court, you are advised to mention it now, if you fail to do so before your trial, the court may draw such inferences, adverse to you, as it may think proper. If you wish to mention any fact now, and you would like it written down this will be done”.

(4) No statement made by an accused person in answer to a written notice served on him pursuant to subsection (3) shall be construed as a statement obtained by any violence, inducement, threat or oppression as is described in subsection (2), if it is otherwise voluntary.

(5) In subsection (3), “officially informed” means informed by a police officer or any other person charged with the duty of investigating offences or charging offenders.

(6) The Court shall admit under subsection (1) a statement made by an accused if such a statement is made after the impression caused by any such inducement, threat or promise as is referred to in subsection (2) has, in the opinion of the Court, been fully removed.

Notice of alibi

117A. (1) In any trial, the accused shall not without the leave of the Court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi.

(2) Without prejudice to subsection (1), on any such trial the accused shall not without the leave of the Court call any other person to give evidence in support of an alibi unless —

(a) the notice under subsection (1) includes —

(i) the name and address of the witness; or

(ii) if the name and address is not known to the defendant at the time he gives the notice, any information in his possession which might be of material assistance in finding the witness;

(b) if the name or the address is not included in that notice, the Court is satisfied that the accused, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained;

(c) if the name or the address is not included in that notice, but the accused subsequently discovers the name or address or receives other information which might be of material assistance in finding the witness, he forthwith gives notice of the name, address or other information, as the case may be;

(d) if the accused is notified by or on behalf of the prosecutor that the witness has not been traced by the name or at the address given, he forthwith gives notice of any such information, which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.

(3) The Court shall not refuse leave under this section if it appears to the Court that the accused was not informed of the requirement of this section.

(4) Any evidence tenders to disprove an alibi may, subject to any direction by the Court as to the time it is to be given, be given before or after evidence is given in support of the alibi.

(5) Any notice purporting to be given under this section on behalf of the accused by his advocate or solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the accused.

(6) A notice under subsection (1) shall either be given in Court during, or at the end of, the committal proceedings or be given in writing to the prosecutor, and a notice under subsection (2)(c) or (d) shall be given in writing to the prosecutor.

(7) A notice required by this section to be given to the prosecutor may be given by delivering it to the Attorney General or by leaving it at the Attorney General's office, or by sending it by registered post addressed to the Attorney General at his office.

(8) In this section —

“evidence in support of an alibi” means evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been at the place where the offence is alleged to have been committed at the time of its alleged commission;

“prescribed period” means the period expiring not less than 10 days prior to the commencement of the trial.

(9) In computing the prescribed period, there shall be disregarded any day which is a public holiday.

Proof by written statement

117B. (1) In any criminal proceedings, a written statement by any person shall, subject to the conditions mentioned in subsection (2), be admissible as evidence to the same extent as oral evidence to the same effect by that person.

(2) A statement may be tendered in evidence under subsection (1) if —

(a) the statement purports to be signed by the person who made it;

(b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief; and

(c) before the hearing at which the statement is tendered in evidence, a copy of the statement is served, by or on behalf of the party proposing to tender it, on each of the other parties to the proceedings:

Provided that paragraph (c) does not apply if the parties agree before or during the hearing that the statement shall be so tendered.

(3) If a statement tendered in evidence under subsection (1) —

(a) is made by a person under the age of 18 years, it shall give his age;

(b) is made by a person who cannot read it, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read;

(c) refers to any other document as an exhibit, the copy served on any other party to the proceedings under subsection (2)(c) shall be accompanied by a copy of that

document or by such information as may be necessary in order to enable the party on whom it is served to inspect that document or a copy thereof.

(4) Notwithstanding that the written statement of a person may be admissible as evidence by virtue of this section —

(a) the party by whom or on whose behalf a copy of the statement was served may call the person making the statement to give additional evidence in the case, which may include matters which are not contained in the statement; and

(b) the maker of the statement shall attend the trial for cross-examination and re-examination.

(5) So much of any statement as is admitted in evidence by virtue of this section shall, unless the Court otherwise directs, be read aloud at the hearing and where the Court so directs an account shall be given orally of so much of any statement as is not read aloud.

(6) Any document or objects referred to as an exhibit and identified in a written statement admitted in evidence under this section shall be treated as if it had been produced as an exhibit and identified in Court by the maker of the statement.

(7) A document required by this section to be served on any person may be served —

(a) by delivering to him or to his solicitor; or

(b) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office, or by sending it by registered post addresses to the secretary or clerk of that body at that office.

(8) In this section, “Court” includes a Magistrate.

Proof by formal admission

117C. (1) Subject to the provisions of this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purposes of those proceedings by or on behalf of the prosecutor or accused and the admission by any party of any such fact under this section

shall as against that party be conclusive evidence in those proceedings of the fact admitted.

(2) An admission under this section —

(a) may be made before or during the proceedings;

(b) if made otherwise than in Court, shall be in writing;

(c) if made in writing by an individual, shall purport to be signed by the person making it and, if so made by a body corporate, shall purport to be signed by a director or manager, or the secretary or clerk, or some other similar officer of the body corporate;

[S 32/2005]

(d) if made on behalf of an accused who is an individual, shall be made by his advocate or solicitor;

(e) if made at any stage before the trial by an accused who is an individual, must be approved by his advocate or solicitor (whether at the time it was made or subsequently) before or during the proceedings in question.

(3) An admission under this section for the purpose of proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter (including any appeal or trial).

(4) An admission under this section may with the leave of the Court be withdrawn in the proceedings for the purpose of which it is made or any subsequent criminal proceedings relating to the same matter.

(5) In this section, “Court” includes a Magistrate.

Failure to account for objects, substances or marks

117D. (1) Where a person is arrested by a police officer and —

(a) (i) there is on his person;

(ii) in or on his clothing or footwear;

(iii) otherwise in his possession; or

(iv) in any place in which he is at the time of his arrest, any object, substance or mark, or there is any mark on any such object;

(b) that or another police officer investigating the case reasonably believes that the presence of the object, substance or mark may be attributable to the participation of the person arrested in the commission of an offence specified by the police officer;

(c) the police officer informs the person arrested that he so believes, and requests him to account for the presence of the object, substance or mark; and

(d) the person fails or refuses to do so,

then if, in any proceedings against the person for the offence so specified, evidence of those matters is given, subsection (2) applies.

(2) Where this subsection applies, the Court —

(a) in determining whether there is a case to answer; and

(b) in determining whether the accused is guilty of the offence charged,

may draw such inferences from the failure or refusal as appear proper.

(3) Subsections (1) and (2) apply to the condition of clothing or footwear as they apply to a substance or mark thereon.

(4) Subsections (1) and (2) do not apply unless the accused was told in ordinary language by the police officer when making the request mentioned in subsection (1)(c) what the effect of this section would be if he failed or refused to comply with the request.

(5) This section applies in relation to officers of customs as it applies in relation to police officers.

(6) This section does not preclude the drawing of any inference from a failure or refusal of the accused to account for the presence of an object, substance or mark or from the condition of clothing or footwear which could properly be drawn apart from this section.

(7) This section does not apply in relation to a failure or refusal which occurred before the commencement of this section.

Failure to account for presence

117E. (1) Where —

(a) a person arrested by a police officer was found by him at a place at or about the time the offence for which he was arrested is alleged to have been committed;

(b) that or another police officer investigating the offence reasonably believes that the presence of the person at that place and at that time may be attributable to the latter's participation in the commission of the offence;

(c) the police officer informs the person that he so believes, and requests him to account for his presence; and

(d) the person fails or refuses to do so,

then if, in any proceedings against the person for the offence, evidence of those matters is given, subsection (2) applies.

(2) Where this subsection applies, the Court —

(a) in determining whether there is a case to answer; and

(b) in determining whether the accused is guilty of the offence charged,

may draw such inferences from the failure or refusal as appear proper.

(3) Subsections (1) and (2) do not apply unless the accused was told in ordinary language by the police officer when making the request mentioned in subsection (1)(c) what the effect of this section would be if he failed or refused to comply with the request.

(4) This section applies in relation to officers of customs as it applies in relation to police officers.

(5) This section does not preclude the drawing of any inference from a failure or refusal of the accused to account for his presence at a place which could properly be drawn apart from this section.

(6) This section does not apply in relation to a failure or refusal which occurred before the commencement of this section.

Interpretation for sections 117D and 117E and savings

117F. (1) In sections 117D and 117E —

“legal representative” means an advocate and solicitor;

“place” includes any building or part of a building, any vehicle, vessel, aircraft or hovercraft and any other place whatsoever.

(2) In sections 117D and 117E, references to an offence charged include reference to any other offence of which the accused could lawfully be convicted on that charge.

(3) A person shall not have a case to answer or be convicted of an offence solely on an inference drawn from such a failure or refusal as is mentioned in section 117D, 117E or 118.

(4) Nothing in section 117D, 117E or 118 prejudices the operation of a provision of any written law which provides (in whatever words) that any answer or evidence given by a person in specified circumstances shall not be admissible in evidence against him or some other person in any proceedings or class of proceedings (however described, and whether civil or criminal).

(5) In subsection (4), the reference to giving evidence is a reference to giving evidence in any manner, whether by furnishing information, making discovery, producing documents or otherwise.

(6) Nothing in section 117D, 117E or 118 prejudices any power of a Court, in any proceedings, to exclude evidence (whether by preventing questions being put or otherwise) at its discretion.

Circumstances in which inferences may be drawn from accused’s failure to mention particular facts when charged etc.

118. (1) Where in any criminal proceedings against a person for an offence, evidence is given that the accused, on being charged with the

offence or officially informed that he might be prosecuted for it, failed to mention any such fact, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention when so charged or informed, as the case may be, the Court —

(a) in determining whether to commit the accused for trial or whether there is a case to answer; and

(b) in determining whether the accused is guilty of the offence charged,

may draw such inferences adverse to the accused from the failure as appear proper, and the failure may, on the basis of such inferences, be treated as, or as capable of amounting to, corroboration of any evidence given against the accused in relation to which the failure is material.

(2) In subsection (1), “officially informed” means informed by a police officer or any other person charged with the duty of investigating offences or charging offenders.

(3) Nothing in subsection (1) or (2) shall in any criminal proceedings —

(a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence thereof would be admissible apart from those subsections; or

(b) be taken to preclude the drawing of any inference from any such silence or other reaction of the accused which could be drawn apart from those subsections.

(4) Subsections (1) and (2) do not apply as regards a failure to mention a fact if the failure occurred before 1st January 1985.

Power to record statements and confessions

119. (1) Any Magistrate may record any statement or confession made to him at any time before the commencement of the inquiry or trial.

(2) Such statement or confession shall be recorded in full in writing by the Magistrate to whom it is made and shall then be forwarded to

the Magistrate, if different, before whom the case is to be inquired into or tried.

(3) No Magistrate shall record any such statement or confession unless upon questioning the person making it he has reason to believe that it was made voluntarily; and when he records any confession, he shall make a memorandum at the foot of such record to the following effect —

I believe that this confession was voluntarily made. It was taken in my presence and hearing and was read over to the person making it and admitted by him to be correct and it contains a full and true account of what he said.

(Signed) *A, B.*

Magistrate

(4) The taking and recording of any statement or confession shall not disqualify a Magistrate who has so taken and recorded the statement or confession from inquiring into or trying the case.

(5) No oath or affirmation shall be administered to any person making a statement or confession as in this section provided.

Search by police officer

120. (1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that any evidence or thing necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place and that the evidence or thing cannot in his opinion be otherwise obtained without undue delay, the officer may search or cause search to be made for such evidence or thing in any place.

(2) The officer shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to the subordinate officer an order in writing specifying the thing for which search is to be made and the place to be searched, and the subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Code as to search warrants shall, so far as may be, apply to a search made under this section.

Police officer may require bond for appearance of complainant and witnesses

121. (1) If upon a police investigation made under this Chapter it appears to the officer making such investigation that there is sufficient evidence or reasonable ground of suspicion to justify the commencement or continuance of criminal proceedings against any person, the officer may require the complainant, if any, and so many of the persons who appear to the officer to be acquainted with the circumstances of the case, as he thinks necessary, to execute a bond to appear before a Court therein named and give evidence in the matter of the charge against the accused.

(2) If any complainant or witness refuses to execute such bond, the officer shall report the refusal to the Court which may thereupon in its discretion issue a warrant or summons to secure the attendance of the complainant or witness before itself to give evidence in the matter of the charge against the accused.

Surrender of travel documents [S 6/2016]

121A. (1) A Magistrate may, on the application of a police officer not below the rank of Inspector by written notice, require a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by him under this Code to surrender to a police officer not below the rank of Inspector any travel document in his possession.

(2) A notice under subsection (1) shall be served personally on the person to whom it is addressed.

(3) A person on whom a notice under subsection (1) is served shall comply with such notice forthwith.

(4) If a person on whom a notice under subsection (1) has been served fails to comply with the notice forthwith, he may thereupon be arrested and taken before a Magistrate.

(5) Where a person is taken before a Magistrate under subsection (4), the Magistrate shall, unless such person thereupon complies with the notice under subsection (1) or satisfies the Magistrate that he does not possess a travel document, by warrant commit him to prison there to be safely kept until —

(a) the expiry of the period of 28 days from the date of his committal to prison; or

(b) the person complies with the notice under subsection (1) and a Magistrate, by order, directs the Director of Prisons to discharge the person from prison (which order shall be sufficient warrant for the Director of Prisons so to do),

whichever occurs first.

(6) A travel document which is surrendered to a police officer not below the rank of Inspector under this section may be detained for 6 months from the date on which it was surrendered and may be detained for a further 3 months if a Magistrate, on application by a police officer not below the rank of Inspector, is satisfied that the investigation could not reasonably have been completed before the date of such application and authorises such further detention.

(7) All proceedings before a Magistrate under this section shall be conducted in chambers.

(8) In this section, “travel document” means a passport or other document establishing the identity or nationality of a holder.

Return of travel documents [S 6/2016]

121B. (1) When a travel document has been surrendered and retained by a police officer not below the rank of Inspector under section 121A, a person affected by such order may at any time make application in writing, to a Magistrate for its return, and every such application shall contain a statement of the grounds on which it is made.

(2) A Magistrate shall not consider an application made under subsection (1) unless he is satisfied that reasonable notice in writing of it has been given to the police officer not below the rank of Inspector.

(3) Before an application is granted under this section, the applicant may be required to —

(a) deposit such reasonable sum of cash money with the police officer not below the rank of Inspector as the Magistrate deems fit;

(b) provide local surety; or

(c) satisfy paragraphs (a) and (b).

(4) Any such applicant or surety may be required to deposit reasonable sum of cash money with the police officer not below the rank of Inspector as the Magistrate deems fit, for retention by the police officer not below the rank of Inspector until such time when the travel document is returned to the police officer not below the rank of Inspector.

(5) Failure of the applicant to return to Brunei Darussalam or to surrender the passport to the police officer not below the rank of Inspector within the specified time will render the deposit held by the police officer not below the rank of Inspector to be forfeited to the Government and the applicant may be arrested and dealt with in the same way that a person who fails to comply with the requirement under section 121A(1) may be arrested and dealt with under section 121A(4) and (5).

(6) An application under this section may be granted subject to the conditions that —

(a) the applicant shall further surrender his travel document to the police officer not below the rank of Inspector at such time as may be specified; and

(b) the applicant shall appear at such time and place in Brunei Darussalam as may be specified.

(7) Where a travel document is returned to the applicant under this section subject to a condition imposed under subsection (6), then after the time specified under the subsection, the provisions of section 121A(6) shall continue to apply in respect of the travel document surrendered by the applicant pursuant to the condition as if no return had been made to the applicant under this section.

Diary of proceedings in police investigation [S 6/2016]

122. (1) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary setting forth —

(a) the time at which the order for investigation, if any, reached him;

(b) the time at which he began and closed the investigation;

(c) the place or places visited by him;

(d) the person or persons questioned by him; and

(e) a statement of the circumstances ascertained through his investigation.

(2) Notwithstanding anything contained in the Evidence Act (Chapter 108), an accused person shall not be entitled, either before or in the course of any inquiry or trial, to call for or inspect the diary.

(3) If the police officer who has made the investigation refers to the diary, the entries only as the prosecutor or the police officer has referred to shall be shown to the accused and the Court shall, upon request of the prosecutor or the police officer, cause any other entry to be concealed from view or obliterated.

Report of police officer

123. Every investigation under this Chapter shall be completed without unnecessary delay and if, as a result of the investigation, it is desired to institute criminal proceedings against any person, the officer in charge of the case may, subject to any direction of the Public Prosecutor, forward to a competent Court having jurisdiction a draft charge setting out the details of the offence with which the person is to be charged.

PART VI
PROCEEDINGS IN PROSECUTIONS

Chapter XIV

Jurisdiction of criminal Courts in inquiries and trials

124. — 130. *(No sections).*

Conditions requisite for initiation of proceedings

Power to take cognisance of offences

131. Subject to the provisions of this Code, a Judge or Magistrate may take cognisance of an offence —

(a) upon receiving a complaint as provided by section 133;

(b) upon his own knowledge or suspicion that such offence has been committed;

(c) on any person being brought before him in custody without process and accused of having committed an offence which such Judge or Magistrate has jurisdiction either to inquire into or to try.

Sanction required for prosecution for certain offences

132. (1) No Magistrate shall take cognisance of —

(a) any offence punishable under section 121, 121A, 122, 123 or 505 of the Penal Code (Chapter 22), except with the previous sanction of the Public Prosecutor;

(b) any offence punishable under sections 172 to 188 of the Penal Code (Chapter 22), except with the previous sanction of the Public Prosecutor or on the complaint of the public servant concerned or of some public servant to whom he is subordinate;

(c) any offence punishable under section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, 228 or 228A of the Penal Code (Chapter 22), except with the previous sanction of a

Judge or the Public Prosecutor or, when such offence is alleged to have been committed in, or in relation to, any proceedings in any Court, except on the complaint of such Court, or of some other Court to which such Court is subordinate;

(d) any offence described in section 463 or punishable under section 471, 475 or 476 of the Penal Code (Chapter 22), except with the previous sanction of a Judge or the Public Prosecutor or, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document given in evidence in such proceedings, except on the complaint of such Court, or of some other Court to which such Court is subordinate;

(e) any offence punishable under section 493, 494, 495 or 496 of the Penal Code (Chapter 22), except upon a complaint made by some person aggrieved by such offence or by a Judge or the Public Prosecutor.

(2) The provisions of subsection (1) with reference to the offences named therein apply also to the abetment of such officers and to attempts to commit them.

Chapter XV

Complaints

Examination of complainant

133. (1) When a Judge or Magistrate takes cognisance of an offence on complaint, the Judge or Magistrate shall at once examine the complainant upon oath or affirmation and the substance of the examination shall be reduced to writing and shall be signed by the complainant and also by the Judge or Magistrate.

(2) Where the complaint is made in writing by a Court or by a public servant acting or purporting to act in his official capacity, the Judge or Magistrate need not examine the complainant, but he may, if he considers it necessary, examine such public servant either on oath or affirmation or otherwise.

Postponement of issue of process

134. If the Judge or Magistrate sees reason to doubt the truth of a complaint of an offence of which he is authorised to take cognisance, he may, when the complainant has been examined, record his reason for doubting the truth of the complaint and may then postpone the issue of process for compelling the attendance of the person complained against and either inquire into the case himself or direct some police officer to make inquiries for the purpose of ascertaining the truth or falsehood of the complaint and report to him the result of the inquiries.

Dismissal of complaint

135. (1) The Judge or Magistrate before whom a complaint is made may dismiss the complaint if, after examining the complainant and recording his examination and considering the result of the inquiry, if any, made under section 134 there is in his judgment no sufficient ground for proceeding.

(2) The Judge or Magistrate, if he dismisses the complaint, shall record his reasons for doing so.

*Chapter XVI**Commencement of proceedings***Issue of process**

136. (1) If in the opinion of a Judge or Magistrate taking cognisance of an offence, there is sufficient ground for proceeding and the case appears to be one in which according to the fourth column of the First Schedule a summons should issue in the first instance, he shall issue a summons for the attendance of the accused.

(2) If the case appears to be one in which according to that column a warrant should issue in the first instance, he may issue —

(a) a warrant; or

(b) if he thinks fit, a summons for causing the accused to be brought or to appear at a certain time before himself or some other Judge or Magistrate having jurisdiction.

(3) Nothing in this section shall be deemed to affect the provisions of section 52.

Personal attendance of accused may be dispensed with

137. (1) Whenever a Judge or Magistrate issues a summons he may, if he sees reason to do so, dispense with the personal attendance of the accused.

(2) The Judge or Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings direct the personal attendance of the accused, and if necessary enforce such attendance in the manner provided under section 136.

*Chapter XVII**Preliminary inquiries into cases triable by High Court***Procedure in inquiries preparatory to committal**

138. (1) In the case of persons charged with any of the following offences —

(a) offences against the State, as defined in Chapter VI of the Penal Code (Chapter 22);

(b) murder;

(c) any offence in respect of which the punishment of death is authorised by law,

a preliminary inquiry shall be held by a Magistrate with a view to the committal of the accused person for trial before the High Court.

(2) A preliminary inquiry shall also be held unless the Public Prosecutor otherwise directs whenever a person is accused of an offence which the Public Prosecutor has by declaration published in the *Gazette* declared to be an offence to which this subsection applies or if, in the case of an offence other than the foregoing if which a person may be accused, the Public Prosecutor directs that a preliminary inquiry shall be held in respect of such offence.

(3) All other cases shall be tried summarily.

(4) The provision of section 141 shall not be deemed to authorise a Magistrate to try any charge relating to an offence in respect of which a preliminary inquiry requires to be held by virtue of this section.

Committal for trial where accused wishes to plead guilty

139. Notwithstanding section 138(1), where an accused who is brought before a Magistrate states that he wishes to plead guilty to the charge preferred against him, the Magistrate shall record the facts of the case presented by the prosecution and if the facts disclose sufficient grounds for committing the accused, he shall satisfy himself that the accused understands the nature of the charge and intends to admit without qualification the offence alleged against him and, on being so satisfied, shall commit the accused for trial for the offence.

*Procedure at preliminary inquiries***Hearing and taking of evidence for prosecution**

140. (1) When the accused person is brought before him, the Magistrate shall proceed to hear the case for the prosecution and to take all such evidence as may be produced in support thereof and such other evidence as the Magistrate may think fit to call for.

(2) The accused person shall be allowed to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

(3) Nothing in this section shall prevent evidence being produced in support of the prosecution or called for by the Magistrate at any stage of the proceedings; provided that an opportunity is given to the accused to cross-examine and to answer and rebut such evidence.

(4) If the Magistrate calls for other evidence than that produced in the case for the prosecution, he shall record the fact on the depositions stating shortly the nature of the evidence he has called for.

(5) If the officer or other person conducting the prosecution applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or other thing, the Magistrate shall issue such process unless for reasons to be recorded he deems it unnecessary to do so.

When accused person to be discharged

141. (1) When the evidence referred to in section 140 has been taken and he has, if he thinks fit, examined the accused under section 220 for the

purposes of enabling him to explain any circumstance appearing against him in the evidence, the Magistrate shall if he finds that there are not sufficient grounds for committing the accused person for trial discharge him, unless it appears to the Magistrate that such person should be tried before himself or before some other Magistrate in which case he shall either —

(a) forthwith frame a charge or charges in writing and call upon the accused to plead thereto; or

(b) order the accused to be tried before some other Magistrate.

(2) If the Magistrate takes action under subsection (1)(a) it shall not be necessary for the Magistrate to recall and re-examine the witnesses for the prosecution, but the accused may require that any witness called for the prosecution may be recalled for further cross-examination.

(3) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if for reasons to be recorded by such Magistrate he considers that there are not sufficient grounds for committing the accused.

(4) When the Magistrate is of opinion that there are peculiar difficulties of circumstances connected with the case or whenever he shall be so directed by a superior Court, he may remand the accused or admit him to bail and he shall forthwith send the depositions to such superior Court for instructions.

When charge to be framed

142. (1) If after taking the evidence for the prosecution the Magistrate is of opinion that on the evidence as it stands there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand declaring with what offence or offences the accused is charged.

(2) As soon as the charge has been framed, it shall be read and explained to the accused and the Magistrate shall say to him these words or words to the same effect —

“Having heard the evidence against you, do you wish to say anything in answer to the charge? You are at liberty to make your defence now or you may reserve your defence until your trial before the High Court. You are not bound to say anything unless you wish to do so, but if you elect to make your defence now, any statement you may make or evidence you may give will be taken down in writing and may be put in at your trial”.

(3) A copy of the charge shall, if he so require, be given to the accused free of charge.

Committal of accused if defence reserved. Hearing and evidence for defence

143. (1) If the accused elects to reserve his defence, he shall forthwith be committed for trial before the High Court.

(2) If the accused elects to make his defence before the Magistrate, the Magistrate shall explain to him the provisions of section 221. The statement made by the accused, if any, shall be taken down in writing and read over to him and shall be signed by the Magistrate and kept with the depositions and transmitted with them as hereinafter mentioned.

(3) The evidence of the accused if he tenders himself as a witness in his own behalf *in lieu* of making a statement under subsection (2) and of any witnesses whom he may desire to call shall then be taken.

(4) The accused shall be a competent witness in his own behalf in all inquiries under this Chapter.

(5) If the accused applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or other thing, the Magistrate shall issue such process unless for reasons to be recorded he deems it unnecessary to do so.

Discharge or committal of accused

144. When the evidence referred to in section 143 has been taken, the Magistrate shall —

(a) if he finds that there are not sufficient grounds for committing him for trial, discharge the accused;

(b) if he finds that there are sufficient grounds for committing him for trial, commit the accused for trial before the High Court.

List of witnesses for defence on trial

145. (1) When the accused has been committed for trial under section 143 or 144, the Magistrate shall require him to give orally or in writing a list of the names and so far as practicable the addresses of the persons, if any,

whom he wishes to be summoned to give evidence on his trial, whether such persons have given evidence before the Magistrate or not, and shall record that he has so done.

(2) If the Magistrate thinks that any witness is included in the list mentioned in subsection (1) for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material and if he is not so satisfied may remove the name of such witness from the list, recording his reason for such action, or may require such sum to be deposited as the Magistrate thinks necessary to defray the expense of obtaining the attendance of such witness at the trial.

(3) The list of witnesses, as finally determined, shall be included in the record.

(4) The accused may at any time before his trial give to the Magistrate, or, if he is in custody, to the officer in charge of the prison for transmission to the Magistrate, a further list of persons whom he wishes to give evidence on his behalf on such trial, provided that such list be accompanied by a concise statement of the facts to be proved by such witness.

(5) The Magistrate on receiving such list and statement shall issue summonses to compel the attendance of such witnesses at the trial.

(6) The Magistrate shall also issue summonses to compel the attendance at the trial of all the witnesses included in the list framed under subsection (1).

Bond of witnesses

146. (1) Witnesses for the prosecution and defence whose attendance is necessary at the trial before the High Court and who appear before the committing Magistrate shall be bound over by him to be in attendance when called upon to give evidence at such trial and may in the discretion of the Magistrate be required to execute bonds and to find sureties for the observance of such bonds.

(2) If any witness refuses to execute the bond, the Magistrate may commit him to prison until the trial or until he gives satisfactory security that he will give evidence at the trial.

Record to be forwarded to trial Court

147. (1) When the accused is committed for trial, the committing Magistrate shall send the original record and any document, weapon or other thing which is to be produced in evidence to the Court to which the accused is committed.

(2) Any such thing which, from its bulk or otherwise, cannot conveniently be forwarded, may remain in the custody of the police.

(3) A list of all exhibits with a note of their distinguishing marks and showing which of such exhibits are forwarded with the record and which remain in the custody of the police, shall be sent with the record.

(4) The record shall comprise the following particulars —

(a) the serial number;

(b) the date of the commission of the offence;

(c) the date of the complaint, if any;

(d) the name, age, sex, residence and nationality (or race) of the complainant, if any;

(e) the name, age, sex, residence, if known, and nationality (or race) of the accused;

(f) the offence complained of and the offence proved, and the value of the property, if any, in respect of which the offence has been committed;

(g) the date of the summons or warrant and of the return day of the summons, if any, or on which the accused was first arrested;

(h) the date on which the accused first appeared or was brought before a Magistrate;

(i) the name and title of the officer or other person conducting the prosecution;

(j) the date of making of each adjournment or postponement, if any, and the date to which such adjournment or postponement

was made and the grounds of making the adjournment or postponement;

- (k) the date on which the proceedings terminated;
- (l) the order made;
- (m) the depositions;
- (n) the statement, if any, of the accused under section 142(2);
- (o) the charge;
- (p) the list of witnesses given by the accused.

Power to summon supplementary witnesses

148. (1) The Magistrate may summon and examine supplementary witnesses after the committal and before the commencement of the trial and bind them over in manner provided in section 146 to appear and give evidence.

(2) Such witnesses shall be examined in the presence of the accused, who shall have the right to cross-examine them.

Custody of accused pending trial

149. The Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody until and during the trial.

150. *(No section).*

Addresses

151. (1) In preliminary inquiries under this Chapter —

(a) the officer or other person conducting the prosecution need not open his case but may forthwith produce his evidence;

(b) when the evidence for the prosecution has been taken the accused may make such comments thereon as he thinks necessary;

(c) if the accused elects to make his defence before the Magistrate, he may after the examination of his witnesses sum up his case.

(2) If the accused addresses the Court in accordance with subsection (1)(b) or (c), the officer or other person conducting the prosecution shall have the right to reply.

Committal for trial without consideration of evidence

151A. (1) A Magistrate holding a preliminary inquiry into an alleged offence with a view to the committal of any person for trial by the High Court may, notwithstanding the other provisions of Chapter XVII, if satisfied that all the evidence before the Court (whether for the prosecution or the defence) consists of written statements tendered to him under section 151B, commit the accused person for trial for the offence without consideration of the contents of those statements, subject to subsection (2).

(2) The accused person may request the Magistrate to consider a submission that the statements disclose insufficient evidence to put the accused person on trial for the offence, in which case the Magistrate, if he agrees with the submission after hearing the officer conducting the prosecution, shall discharge the accused person.

Written statements *in lieu* of depositions

151B. (1) In any preliminary inquiry, a written statement made by any person shall, if the conditions mentioned in subsection (2) are satisfied, be admissible to the same extent as oral evidence and to the same effect given by that person would be admissible under the Evidence Act (Chapter 108).

(2) The conditions are that —

(a) the statement purports to be signed by the person who made it;

(b) the statement contains a declaration by that person that it is true to the best of his knowledge and belief;

(c) not less than 7 days before the statement is tendered in evidence, a copy of it is given, by or on behalf of the party proposing to tender it, to each of the other parties to the proceedings; and

(d) none of the other parties, before the statement is tendered in evidence at the preliminary inquiry objects to its being so tendered under this section.

(3) Notwithstanding that a written statement made by any person may be admissible in a preliminary inquiry by virtue of this section, the Magistrate by whom the preliminary inquiry is held may, of his own motion or on the application of any party to the proceedings, require that person to attend before him and give evidence.

(4) So much of any statement as is admitted in evidence by virtue of this section shall, unless the Magistrate for reasons to be recorded by him otherwise directs, be read aloud in Court at the preliminary inquiry by the party tendering it or his representative, or by an official of the Court, as the Magistrate may direct.

(5) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in Court by the maker of the statement.

(6) So much any statement as is admitted in evidence by virtue of this section shall, if the conditions mentioned in section 33 of the Evidence Act (Chapter 108) are satisfied, be deemed to be evidence given in a judicial proceedings for the purposes of that section.

(7) Subject to the provisions of sections 151A and 151B, the provisions of Chapter XVII apply, with any necessary exceptions, qualifications or modifications, to any preliminary inquiry to which the provisions of sections 151A and 151B apply.

(8) The Magistrate may exercise the powers conferred upon him by section 145 in respect of any person whose statement has been admitted in evidence by virtue of this section as if that person had appeared before him as a witness in the preliminary inquiry, and for that purpose may summon the maker of the statement to appear before him at any time before the trial of the person or persons committed, and may issue a warrant for the arrest of the maker of the statement if he fails to appear in answer to any such summons.

*Chapter XVIII**Charge***Form of charge**

152. (1) Every charge under this Code shall state the offence with which the accused is charged.

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

Illustrations

(a) *A* is charged with the murder of *B*. This is equivalent to a statement that *A*'s act fell within the definition of murder given in sections 299 and 300 of the Penal Code (Chapter 22); that it did not fall within any of the general exceptions of the same Code and that it did not fall within any of the five exceptions to section 300, or that if it did fall within exception one, one or other of the three provisos to that exception applied to it.

(b) *A* is charged under section 326 of the Penal Code (Chapter 22) with voluntarily causing grievous hurt to *B* by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Penal Code (Chapter 22) and that the general exceptions did not apply to it.

(c) *A* is accused of murder, cheating, theft, extortion, criminal intimidation, or using a false property mark. The charge may state that *A* committed murder cheating, theft, extortion or criminal intimidation or that he used a false property mark without reference to the definitions of those crimes contained in the Penal Code (Chapter 22); but the sections under which the offence is punishable must in each instance be referred to in the charge.

(d) *A* is charged under section 184 of the Penal Code (Chapter 22) with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person

153. (1) The charge shall contain such particulars as to the time and place of the alleged offence and the person, if any, against whom or the thing, if any, in respect of which it was committed as are reasonably sufficient to give the accused notice of the matter with which he is charged.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 165:

Provided that the time included between the first and last of such dates shall not exceed one year.

When manner of committing offence must be stated

154. When the nature of the case is such that the particulars mentioned in sections 152 and 153 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations

(a) *A* is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b) *A* is accused of cheating *B* at a given time and place. The charge must set out the manner in which *A* cheated *B*.

(c) *A* is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by *A* which is alleged to be false.

(d) *A* is accused of obstructing *B*, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which *A* obstructed *B* in the discharge of his functions.

(e) *A* is accused of the murder of *B* at a given time and place. The charge need not state the manner in which *A* murdered *B*.

(f) *A* is accused of disobeying a direction of the law with intent to save *B* from punishment. The charge must set out the disobedience charged and the law infringed.

Sense of words used in charge to describe offence

155. In every charge, words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Effect of errors

156. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars shall be regarded at any stage of the case as material unless the accused was in fact misled by such error or omission.

Illustrations

(a) *A* is charged under section 243 of the Penal Code (Chapter 22) with “having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit”, the word “fraudulently” being omitted in the charge. Unless it appears that *A* was in fact misled by this omission, the error shall not be regarded as material.

[S 32/2005]

(b) *A* is charged with cheating *B*, and the manner in which he cheated *B* is not set out in the charge, or is set out incorrectly. *A* defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) *A* is charged with cheating *B*, and the manner in which he cheated *B* is not set out in the charge. There were many transactions between *A* and *B*, and *A* had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(d) *A* is charged with the murder of Johan Samad on 6th June 1984. In fact the murdered person’s name was Jamil Samad and the date of the murder was 5th June 1984. *A* was never charged with any murder but one, and had heard the inquiry before the Magistrate which referred exclusively to the case of Jamil Samad. The Court may infer from these facts that *A* was not misled and that the error in the charge was immaterial.

(e) *A* was charged with murdering Jamil Samad on 5th June 1984 and with murdering Johan Samad (who tried to arrest him for the murder of Jamil Samad) on 6th June 1984. When charged with the murder of Jamil Samad, he was tried for the murder of Johan Samad. The witnesses present in his defence were witnesses in the case of Jamil Samad. The Court may infer from this that *A* was misled and that the error was material.

Procedure on arraignment on imperfect or erroneous charge

157. When any person is arraigned for trial on an imperfect or erroneous charge, the Court may frame a charge, or add to or otherwise alter

the charge as the case may be, having regard to the rules contained in this Code as to the form of charges.

Illustrations

(a) *A* is charged with the murder of *C*. A charge of abetting the murder of *C* may be added or substituted.

(b) *A* is charged with forging a valuable security under section 467 of the Penal Code (Chapter 22). A charge of fabricating false evidence under section 193 of the same Code may be added.

(c) *A* is charged with receiving stolen property knowing it to be stolen. During the trial, it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Penal Code (Chapter 22) cannot be added.

Court may alter or add to charge

158. (1) Any Court may alter or add to any charge at any time before judgment is pronounced or, in the case of trials with the aid of assessors, before the opinions of the assessors are expressed.

(2) Every such alteration or addition shall be read and explained to the accused.

When trial may proceed immediately after alteration or addition

159. (1) If a charge is framed or an alteration or addition is made under either of section 157 or 158, the Court shall forthwith call upon the accused to plead thereto and to state whether he is ready to be tried on such charge or altered or added charge.

(2) If the accused declares that he is not ready —

(a) the Court shall duly consider the reasons he may give; and

(b) if, in the opinion of the Court, proceeding immediately with the trial is not likely to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered or added charge had been the original charge.

When new trial may be directed or trial adjourned

160. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor, as mentioned in section 159, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

Stay of proceeding if prosecution of offence in altered charge requires prior sanction

161. If the offence stated in the new or altered or added charge is one for the prosecution of which prior sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Recall of witnesses when charge altered

162. Whenever a charge is altered or added by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon and examine, with reference to such alteration or addition, any witness who may have been examined, and may also call any further evidence which may be material.

Effect of material error

163. (1) If any appellate Court is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge, or by an error or alteration in the charge, it may direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

(2) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration

A is convicted of an offence, under section 196 of the Penal Code (Chapter 22), upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it probable that *A* had such knowledge and that he was misled in his defence by the omission from the charge of the statement that he had it, it may direct a new trial upon an amended charge, but, if it appears probable from the proceedings that *A* had no such knowledge, it shall quash the conviction.

Separate charges for distinct offences

164. For every distinct offence of which any person is accused, there shall be a separate charge.

Trial of offences

165. Subject to the provisions of this Code, charges for more than one offence may be tried at one trial.

Trial for more than one offence

166. (1) A person may be charged with and tried at one trial on any number of charges which are founded on the same facts or form or are a part of a series of offences of the same or a similar character.

(2) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with and tried at one trial for each of such offences.

(3) If several acts, of which one or more than one would by itself or themselves constitute an offence, when combined, constitute a different offence, the person accused of them may be charged with and tried at one trial for the offence constituted by such acts when combined, or for any offence constituted by any one or more of such acts.

(4) Nothing contained in this section shall affect section 71 of the Penal Code (Chapter 22).

Illustrations

To subsection (1) —

(a) *A* rescues *B*, a person in lawful custody, and in doing so causes grievous hurt to *C*, a Constable in whose custody *B* was. *A* may be charged with and tried for offences under sections 225 and 333 of the Penal Code (Chapter 22).

(b) *A* has in his possession several seals, knowing them to be counterfeit, and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Penal Code (Chapter 22). *A* may be separately charged with and convicted for the possession of each seal under section 473 of the Penal Code (Chapter 22).

(c) With intent to cause injury to *B*, *A* institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses *B* of having committed an offence, knowing that there is no just or lawful ground for such

charge. *A* may be separately charged with and convicted of two offences under section 211 of the Penal Code (Chapter 22).

(*d*) *A*, with intent to cause injury to *B*, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, *A* gives false evidence against *B*, intending thereby to cause *B* to be convicted of a capital offence. *A* may be separately charged with and convicted of a capital offence. *A* may be separately charged with and convicted of offences under sections 211 and 194 of the Penal Code (Chapter 22).

(*e*) *A* with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring, in the discharge of his duty as such to suppress the riot. *A* may be separately charged with and convicted of offences under sections 145, 325 and 152 of the Penal Code (Chapter 22).

(*f*) *A* threatens *B*, *C* and *D* at the same time with injury to their persons, with intent to cause alarm to them. *A* may be separately charged with and convicted of each of the three offences under section 506 of the Penal Code (Chapter 22).

The separate charges referred to in illustrations (*a*) to (*f*) respectively may be tried at the same time.

To subsection (2) —

(*g*) *A* wrongfully strikes *B* with a cane. *A* may be separately charged with and convicted of offences under sections 352 and 323 of the Penal Code (Chapter 22).

(*h*) Several stolen sacks of corn are made over to *A* and *B*, who know they are stolen property, for the purpose of concealing them. *A* and *B* thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain pit. *A* and *B* may be separately charged with and convicted of offences under sections 411 and 414 of the Penal Code (Chapter 22).

(*i*) *A* exposes her child with the knowledge that she is thereby likely to cause her death. The child dies in consequence of such exposure. *A* may be separately charged with and convicted of offences under sections 317 and 304 of the Penal Code (Chapter 22).

(*j*) *A* dishonestly uses a forged document as genuine evidence, in order to convict *B*, a public servant, of an offence under section 167 of the Penal Code (Chapter 22). *A* may be separately charged with and convicted of offences under sections 471 (read with 466) and 196 of the Penal Code (Chapter 22).

To subsection (3) —

(*k*) *A* commits robbery on *B*, and in doing so voluntarily causes hurt to him. *A* may be separately charged with and convicted of offences under sections 323, 392 and 394 of the Penal Code (Chapter 22).

Where it is doubtful what offence has been committed

167. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences;

and any number of such charges may be tried at once, or he may be charged in the alternative with having committed any one of those offences.

Illustrations

(a) *A* is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

(b) *A* states on oath before the committing Magistrate that he saw *B* hit *C* with a club. Before the High Court Judge, *A* states on oath that *B* never hit *C*. *A* may be charged in the alternative and convicted of intentionally giving false evidence although it cannot be proved which of these contradictory statements was false.

When person charged with one offence can be convicted of another

168. If in the case mentioned in section 167 the accused is charged with one offence and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed although he was not charged with it.

Illustration

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be) though he was not charged with such offence.

Person charged with offence can be convicted of attempt

169. When the accused is charged with an offence he may be convicted of having attempted to commit that offence, although the attempt is not separately charged.

Person charged with offence can be convicted of another

170. Where a person is charged with an offence and facts are proved which constitute another offence, he may be convicted of that other offence although he was not charged with it:

Provided that he may not be so convicted of any offence with a greater maximum sentence than that prescribed for the offence with which he was charged.

When persons may be charged jointly

171. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one person is accused of committing an offence and another of abetment of or attempt to commit the same offence, they may be charged and tried together or separately as the Court thinks fit, and the provisions contained in the former part of this Chapter shall apply to all such charges.

Illustrations

(a) *A* and *B* are accused of the same murder. *A* and *B* may be charged and tried together for the murder.

(b) *A* and *B* are accused of a robbery, in the course of which *A* commits a murder with which *B* has nothing to do. *A* and *B* may be tried together on a charge of the robbery and *A* alone with murder.

(c) *A* and *B* are both charged with a theft, and *B* is charged with two other thefts committed by him in the course of the same transaction. *A* and *B* may be both tried together on a charge charging both with the one theft and *B* alone with the two other thefts.

(d) *A* and *B*, being members of opposing factions in a riot, should be charged and tried separately.

(e) *A* and *B* are accused of giving false evidence in the same proceedings. They should be charged and tried separately.

Withdrawal of remaining charges on conviction on one of several charges

172. (1) When more charges than one are made against the same person and when a conviction has been had on one or more of them, the officer or other person conducting the prosecution may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into or trial of such charge or charges.

(2) Such withdrawal or stay shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn or not proceeded with.

Form of charges

173. All charges upon which persons are tried in Brunei Darussalam before the High Court shall be brought in the name of the Public Prosecutor,

and be as nearly as possible in accordance with the forms in the Second Schedule.

Chapter XIX

Trials without aid of assessors

Procedure

174. So far as practicable, the procedure laid down in this Chapter shall be observed by all Courts in trials under this Code without the aid of assessors.

Charge to be read and explained. Conviction on plea of guilty

175. (1) When the accused appears or is brought before the Court, a charge containing the particulars of the offence of which he is accused shall be framed and read and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.

(2) If the accused pleads guilty to a charge whether as originally framed or as amended under section 178, the plea shall be recorded as nearly as possible in the words used by him and he may be convicted thereon:

Provided that before a plea of guilty is recorded, the Court may hear the complainant and such other evidence as it considers necessary and shall ascertain that the accused understands the nature and consequences of his plea and intends to admit, without qualification, the offence alleged against him.

Procedure when no admission is made

176. (1) If the accused refuses to plead or does not plead or claims to be tried, the Court shall proceed to hear the complainant (if any) and to take all such evidence as may be produced in support of the prosecution and such further evidence (if any) as it may, of its own motion, cause to be produced.

(2) When the Court thinks it necessary, it shall obtain from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before itself such of them as it thinks necessary.

(3) The accused shall be allowed to cross-examine the complainant and all the witnesses for the prosecution, and the complainant or officer or other person conducting the prosecution may, if necessary, re-examine them.

(4) The Court may on behalf of the accused or prosecution or of its own motion put such questions to the witnesses as it considers necessary.

When no *prima facie* case

177. (1) If upon taking all the evidence referred to in section 176 and making such examination (if any) of the accused under section 220 as the Court considers necessary, it finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Court may, subject to the provisions of section 186, record an order of acquittal.

(2) Nothing in subsection (1) shall be deemed to prevent the Court from discharging the accused at any previous stage of the case if, for reasons to be recorded by the Court, it considers that the charge is groundless.

When *prima facie* case

178. (1) If such evidence has been taken and the Court has, if it thinks fit, examined the accused under section 220 for the purpose of enabling him to explain any circumstance appearing in the evidence against him, and the Court is of opinion that there are grounds for presuming that the accused has committed the offence charged or some other offence, which such Court is competent to try and which in its opinion it ought to try, it shall consider the charge recorded against the accused and decide whether it is sufficient and, if necessary, it shall amend the charge.

(2) The charge if amended shall be read and explained to the accused and he shall be again asked whether he is guilty or has any defence to make.

Defence

179. (1) If the accused does not plead guilty to the charge as amended or if no amendment is made, the accused shall then be called upon to enter upon his defence and to produce his evidence, and the Court shall explain to the accused the provisions of section 221, or may proceed in accordance with the provisions of section 160.

(2) If the accused elects to give evidence, his evidence shall ordinarily be taken before that of other witnesses for the defence.

(3) The complainant or officer or other person conducting the prosecution shall be allowed to cross-examine all the witnesses for the defence, and the accused may, if necessary, re-examine them.

(4) At any time when he is making his defence, the accused may be allowed to call and cross-examine any witnesses present in Court or its precincts.

(5) If the accused puts in any written statement, the Court shall file it with the record.

(6) An accused person who elects to give evidence may be cross-examined on behalf of any other accused person.

Summoning witnesses

180. (1) If the accused applies to the Court to issue any process for compelling the attendance of any witnesses (whether he has or has not been previously examined in the case) for the purpose of examination or cross-examination or the production of any document or other thing, the Court shall issue such process unless it considers that such application should be refused on the ground that it is made for the purpose of vexation, delay or for defeating the ends of justice. Such ground shall be recorded by it in writing.

(2) The Court may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purpose of the trial be deposited in Court, or may act under the provisions of section 383.

(3) The Court may at any time adjourn the hearing of a case if satisfied that this course is in the interests of justice.

Acquittal and sentence on conviction

181. (1) If the Court finds the accused not guilty, the Court shall record an order of acquittal.

(2) If the Court finds the accused guilty or a plea of guilty is recorded against him, it shall pass sentence according to law.

Non-appearance of complainant

182. When the proceedings have been instituted upon the complaint of some person upon oath under section 131 and upon any day fixed for the hearing of the case the complainant is absent and the offence may lawfully be compounded, the Court may, in its discretion, notwithstanding anything hereinbefore contained, discharge the accused at any time before calling on him to enter upon his defence.

Non-appearance of accused

183. (1) If in a summons case the accused does not appear at the time and place mentioned in the summons and it appears to the Court that the summons was duly served a reasonable time before the time appointed for appearing and no sufficient ground is shown for an adjournment, the Court may either proceed *ex parte* to hear and determine the complaint or may adjourn the hearing to a future day.

(2) Without prejudice to the provisions of section 137, if in the case of any offence —

(a) which is not punishable by imprisonment except in default of payment of a fine or which if punishable by imprisonment as well as by fine is not so punishable by a term of imprisonment exceeding 6 months; and

(b) which shall have been declared by the written law providing for it or by resolution of His Majesty the Sultan and Yang Di-Pertuan in Council to be an offence to which the procedure provided by this subsection is applicable,

the accused pleads guilty to such offence by letter addressed to the Court, the Court may in its discretion *in lieu* of proceeding under subsection (1) deal with the case in the same manner and with the same powers as if the defendant had actually appeared before it and pleaded guilty and as if such plea had been recorded and had not been withdrawn subject nevertheless to such modifications as may be required by the physical absence of the defendant:

Provided that the Court may at any stage before sentence and shall, if it considers a sentence of imprisonment should be imposed, revoke its decision to proceed under this subsection:

Provided further that the discretion conferred on the Court to proceed under this subsection shall be exercisable only if the complainant is a public officer and so requests.

(3) Whenever the procedure provided by subsection (2) is followed —

(a) the complainant shall furnish the Court with a statement of facts, including matters other than previous convictions which he desires the Court to take into consideration in passing sentence;

(b) the complainant shall cause particulars of any previous convictions upon which it is intended to rely to be served on the defendant together with the summons or not less than 5 clear days before the date fixed by the summons for the hearing;

(c) matters stated in mitigation of sentence in the letter addressed by the defendant to the Court may in so far as they are not disputed by the prosecution be taken into account in passing sentence;

(d) the summons shall contain an endorsement or accompanying instrument under the hand of the Magistrate presiding over such Court in such terms as the Chief Justice may in pursuance of section 400 approve;

(e) if the Court receives a letter purporting to be signed by the complainant and has no reason to believe that it was not in fact so signed, such letter shall be deemed to have been in fact so signed until evidence to the contrary is adduced; and

(f) the Court shall cause the defendant to be informed of any order made by the Court and shall afford him a reasonable time to comply therewith.

(4) If after a Court has proceeded under subsection (2), that Court or any Court exercising powers of revision or appeal in respect of such proceedings is satisfied that the defendant did not plead guilty by letter in such proceedings, the Court shall have power to declare such proceedings a nullity and to make any consequential or further order.

Addresses

184. In trials under this Chapter —

(a) the officer or other person conducting the prosecution may open the case by stating shortly the nature of the offence charged and the evidence by which he proposes to prove the guilt of the accused or he may forthwith produce his evidence;

(b) when the accused is called upon to enter on his defence, he may, before producing his evidence, open his case by stating the facts or law on which he intends to rely and making such comments as he thinks necessary on the evidence for the prosecution, and if the accused gives evidence or witnesses are examined on his behalf, he may sum up his case;

(c) the officer or other person conducting the prosecution shall have the right of reply on the whole case whether the accused adduces evidence or not.

185. *(No section).*

Public Prosecutor may decline to further prosecute at any stage [S 6/2016]

186. (1) At any stage of any trial before the delivery of judgment, the officer or other person conducting the prosecution may, if he thinks fit, inform the Court that he does not propose further to prosecute the accused upon the charge, and thereupon all proceedings on such charge against the accused may be stayed by leave of the Court and if so stayed, the accused shall be discharged.

[S 6/2016]

(2) Such discharge shall not amount to an acquittal unless the Court so directs, except in cases covered under section 172.

(3) The Court may require a person discharged under this section to execute a bond, with or without sureties, and during such period as the Court may direct, for his reappearance before the Court on the same charge and in the meantime to keep the peace and be of good behaviour.

Power to award compensation

187. (1) If in any case the Court acquits the accused and is of opinion that the complaint, information or charge was frivolous or vexatious it may,

in its discretion, either on the application of the accused or of its own motion, order the complainant or the person on whose information the complainant or charge was made, to pay to the accused or to each or any of the accused where there are more than one such compensation, not exceeding \$500, as the Court thinks fit:

Provided that the Court —

(a) shall record and consider any objections which the complainant or informant may urge against the making of the order; and

(b) shall record its reasons for making such order.

(2) The sum so awarded shall be recoverable as if it were a fine; provided that if it cannot be realised the imprisonment awarded *in lieu* thereof shall not exceed 30 days.

(3) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this subsection upon proof of the same.

Particulars to be recorded

188. In proceedings under this Chapter, the Court shall keep a record of the particulars of each case, so far as practicable, as follows —

(a) The following particulars shall be kept by the Court writer under the direction of the Judge or Magistrate —

- (i) the serial number;
- (ii) the date of the commission of the offence;
- (iii) the date of the complaint, if any;
- (iv) the name, age, sex, residence and nationality (or race) of the complainant, if any;
- (v) the name, age, sex, residence and nationality (or race) of the accused;

- (vi) the offence of which he is accused, the offence, if any, proved, and the value of the property in respect of which the offence has been committed;
- (vii) the date of the summons or warrant and of the return day of the summons, if any, or on which the accused was first arrested;
- (viii) the sentence or other final order.

(b) The following particulars shall be kept by the Judge or Magistrate —

- (i) the plea of the accused and his examination, if any;
- (ii) the date when the accused first appeared or was brought before the Court;
- (iii) the name and title of the officer or other person conducting the prosecution;
- (iv) the date of each adjournment or postponement and the date to which such adjournment or postponement was made and the grounds of making the adjournment or postponement;
- (v) the date on which the proceedings terminated;
- (vi) the finding;
- (vii) the sentence or other final order, including the order, if any, made with regard to any exhibits or property produced in connection with the case;
- (viii) the evidence of the witnesses;
- (xi) a list of the exhibits;
- (x) when a petition of appeal has been lodged, the grounds of the decision or the judgment if written.

Transfer of cases

189. (1) In any trial before a Magistrate in which it appears at any stage of the proceedings that from any cause any charge is one which in the opinion of such Magistrate ought to be tried by the High Court, the Magistrate shall stay proceedings in respect of such charge and transfer such charge to the High Court or if such charge relates to an offence in respect of

which a preliminary inquiry requires to be held proceed under Chapter XVII with a view to the committal of the accused for trial by the High Court, and shall record the order upon the proceedings.

(2) In any trial before a Magistrate in which at any stage of the proceedings it appears to the Public Prosecutor that from any cause any charge is one which ought to be tried by the High Court, the Public Prosecutor may direct the Magistrate to stay proceedings in respect of such charge and to transfer such charge to the High Court or to proceed under Chapter XVII with a view to the committal of the accused for trial by the High Court and the Magistrate shall record the direction upon the proceedings and comply therewith.

Committal of accused to High Court for sentence

189A. (1) In any trial before a Magistrate in which it appears to the Magistrate after the conviction of the accused that a greater punishment should be inflicted in respect of the offence of which the accused has been convicted than such Magistrate has power to inflict, the Magistrate may, *in lieu* of dealing with the accused in any manner in which the Magistrate has power to deal with him, commit him to the High Court for sentence.

(2) Whenever an accused is committed to the High Court under the provisions of subsection (1), the Magistrate may remand such accused in custody to a prison or to such other place as the Magistrate deems fit pending the decision of the High Court, and the High Court shall —

(a) as respects the conviction, satisfy itself as to the correctness legality or propriety of any finding and as to regularity of any proceedings of the inferior Court, and have the powers conferred upon a Judge by section 298; and

(b) as respects the sentence, have the power to sentence the accused in accordance with the provisions of law under which he was found guilty thereof by the High Court or, if the High Court finds the accused guilty under some other provision of law, in accordance with that provisions:

Provided that an accused whom the High Court has sentenced under this paragraph may appeal to the Court of Appeal against such sentence as if he were a person convicted before the High Court appealing against sentence.

*Chapter XX**Trials of capital offences***Trial of capital and certain other offences**

190. (1) In all cases where the accused is charged with an offence in respect of which punishment of death is authorised by law and in any other case or class of case as the Chief Justice shall prescribe on the application of the Attorney General, the accused shall be tried by a court consisting of two Judges of the High Court, one of whom shall be the presiding Judge.

(2) The decision of the Court as to the guilt of the accused in respect of such a charge shall be arrived at unanimously and where the decision is that the accused is guilty, judgment shall be entered accordingly and the Court shall proceed to pass sentence on the convicted person according to law.

(3) Where the two Judges fail to reach an unanimous decision as to the guilt of an accused, he shall not be convicted of that offence but may, if the two Judges agree, be convicted of any lesser offence of which he could have been charged based on the same facts:

Provided that where the failure to reach an unanimous decision as to the guilt of the accused rests on the ground that one of the two Judges has made a special finding under section 320, the accused shall be dealt with in accordance with section 321.

(4) Except as provided in this section, upon all questions relating to procedure and the admission or rejection of evidence in the course of a trial under this section, the presiding Judge shall have a casting vote in the event of disagreement between the two Judges.

(5) For the purposes of this section, a Judge of the Intermediate Courts shall be deemed to be a Judge of the High Court:

Provided that —

(a) a Judge of the Intermediate Courts shall not be the presiding Judge;

(b) a Judge of the Intermediate Courts shall not sit on the trial of any particular case unless he has been directed to do so by the

Chief Justice with the approval of the Permanent Secretary to the Office of the Prime Minister*.

(6) It shall not be open to the accused, either at the trial or on any appeal or other proceeding, to argue that a Judge of the Intermediate Courts is not competent to sit by reason only of the fact that such Judge has been appointed as a Deputy Public Prosecutor.

191. — 205. *(No sections).*

Chapter XXI

Assessors

206. — 215. *(No sections).*

Chapter XXII

General provisions as to inquiries and trials

Statement or evidence of accused

216. In cases which have been committed for trial to the High Court after a preliminary inquiry, the statement or evidence of the accused recorded by the committing Magistrate under section 143 may be put in and read as evidence.

217. — 219. *(No sections).*

Assistance to undefended accused

220. Without prejudice to section 221, if the accused is undefended, the Court may, in its discretion at the close of the evidence of any prosecution witness or at any stage prior to the closure of the case for the prosecution, question the accused as to his defence and as to whether or not he wishes to challenge or supplement any part of the prosecution evidence for the following purposes —

(a) assisting him to cross-examine the witnesses for the prosecution; or

* Transferred from the Minister of Law to the Permanent Secretary, Office of the Prime Minister, with effect from 26th July 1983 —
[S 37/1999]

(b) to enable the Court on behalf of the accused to put to any of such witnesses —

- (i) any defence advanced by the accused;
- (ii) any challenge as to the accuracy of the evidence; or
- (iii) any particular modifying or supplementing the evidence adduced:

Provided that no entry shall be made in the record of any answer made by the accused and that any such answer shall be disregarded except for those purposes.

Case for prosecution to be explained by Court to accused

221. (1) At every trial or inquiry, if and when the Court calls upon the accused for his defence, it shall inform and explain to him that he may, if he wishes —

(a) make an oath or affirmation and give evidence on his own behalf in the witness box upon which he is liable to be cross-examined; or

(b) remain silent,

and that he may in any case call such witnesses on his behalf as he considers fit.

(2) The Court may also in its discretion, which shall be exercised with due regard to any previous exercise of its discretion under section 220, direct the attention of the accused to such of the evidence of the prosecution which appears to the Court to call for an explanation from the accused.

(3) *(Deleted)*.

(4) The foregoing provisions of this section do not apply if the accused is defended by an advocate.

(5) The fact that the accused does not give evidence on oath or affirmation may be made the subject of any adverse comment by the prosecution, and the Court may draw such inference therefrom as it thinks just.

Procedure where accused does not understand proceedings

222. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial and, in cases other than cases before the High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall make therein such order or pass such sentence as it thinks fit.

Power to postpone or adjourn proceedings [S 6/2016]

223. (1) The Court may, by order in writing, postpone or adjourn any inquiry, trial or other proceedings on such terms as it thinks fit and for as long as it considers reasonable, if the absence of a witness or any other reasonable cause makes this necessary or advisable.

(2) Subject to subsection (3), if the accused is not on bail, the Court may by a warrant remand him in custody as it thinks fit.

(3) If it appears likely that further evidence may be obtained by a remand, the Court may so remand the accused in custody for the purpose of any investigation by a law enforcement agency but not for more than 15 days at a time.

(4) If the accused is on bail, the Court may extend the bail.

(5) The Court must record in writing the reasons for the postponement or adjournment of the proceedings.

(6) Whenever a Judge or Magistrate is not available to constitute a Court of requisite jurisdiction any Magistrate may, by order in writing, notwithstanding that he has no jurisdiction in the case, if the circumstances render it necessary so to do, from time to time postpone or adjourn the trial and may remand the accused either in custody or on bail until a Judge or Magistrate is available as aforesaid.

(7) Whenever a Magistrate acts under the provisions of subsection (6) of this section, he shall report the fact forthwith to the Judge or Magistrate, as the case maybe, having jurisdiction in the case.

Compounding offences

224. (1) The offences punishable under the sections of the Penal Code (Chapter 22) described in the first two columns of Part A of the table next following may, when no prosecution for such offence is actually pending, be compounded by the person mentioned in the third column of that table; or when a prosecution for such offence is actually pending, be compounded by such person with the consent of the Court before which the case is pending.

(2) The offences punishable under the sections of the Penal Code (Chapter 22) described in Part B of the table next following may, with the consent of the Court before which the case is pending, be compounded by the person to whom the hurt has been caused.

(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) When the person who would otherwise be competent to compound an offence under this section is not competent to contract, any person competent to contract on his behalf may compound such offence.

(5) The composition of an offence under this section shall have the effect of an acquittal of the accused.

(6) No offence under the Penal Code (Chapter 22) not mentioned in this section shall be compounded.

Table of offences

PART A

| Offence | Section of Penal Code applicable | Person by whom offence may be compounded |
|---|----------------------------------|--|
| Uttering words etc with deliberate intent to wound the religious feelings of any person | 298 | The person whose religious feelings are intended to be wounded |
| Causing hurt | 323, 334 | The person to whom the hurt is caused |
| Wrongfully restraining or confining any person | 341, 342 | The person restrained or confined |
| Assault or use of criminal force | 352, 355, 358 | The person assaulted or to whom criminal force is used |
| Unlawful compulsory labour | 347 | The person compelled to labour |

| Offence | Section of Penal Code applicable | Person by whom offence may be compounded |
|--|----------------------------------|--|
| Mischief when the only loss or damage caused is loss or damage to a private person | 426, 427 | The person to whom the loss or damage is caused |
| Criminal trespass | 447 | } The person in possession of the property trespassed upon |
| House trespass | 448 | |
| Criminal breach of contract of service | 490, 491 | The person with whom the offender has contracted |
| Defamation | 500 | } The person defamed |
| Printing or engraving matter knowing it to be defamatory | 501 | |
| Sale of printed or engraved substance containing defamatory matter knowing it to contain such matter | 502 | |
| Insult intended to provoke a breach of the peace | 504 | The person insulted |

PART B

| Offence | Section of Penal Code applicable |
|---|----------------------------------|
| Voluntarily causing grievous hurt | 325 |
| Voluntarily causing grievous hurt on sudden provocation | 335 |
| Causing hurt by an act which endangers life | 337 |
| Causing grievous hurt by an act which endangers life | 338 |

225. *(No section).*

Change of Magistrate during hearing or inquiry

226. Whenever any Magistrate after having heard and recorded the whole or any part of the evidence in an inquiry or a trial ceases to exercise jurisdiction therein and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and recommence the inquiry or trial:

Provided that —

(a) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and heard;

(b) the High Court may, whether there be an appeal or not, set aside any conviction had or commitment made on evidence not wholly recorded by the Magistrate before whom the conviction was had or the commitment made, if such Court is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

Detention of offenders attending in Court

227. (1) Any person attending a criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of examination for any offence of which such Court can take cognisance and which, from the evidence, he may appear to have committed, and may be proceeded against as though he had been arrested or summoned.

(2) When the detention takes place in the course of an inquiry under Chapter XVII, or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh and the witnesses re-heard.

Power to view

228. (1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceedings, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view, for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection:

Provided that, in the case of a trial with the aid of assessors, the Judge shall not act under this section unless an order is made under section 196 for a view by the assessors.

(2) The Judge or Magistrate may direct that the accused shall be present, and he shall take evidence at such place or places.

(3) Such memorandum shall form part of the record of the case.

Sunday or public holiday

229. No proceeding of any criminal Court shall be invalid by reason of its happening on a Sunday or public holiday.

*Chapter XXIII**Mode of taking and recording evidence in inquiries and trials***Evidence to be taken in presence of accused**

230. Except as otherwise expressly provided, all evidence taken under Chapters XVII, XIX, and XX shall be taken in the presence of the accused.

Manner of recording evidence

231. In inquiries and trials under this Code by or before a Magistrate, the evidence of the witnesses shall be recorded in the manner provided by this Chapter.

Record of trial

232. (1) In summons cases tried before a Magistrate, the Magistrate shall, as the examination of each witness proceeds, make a note of the substance of what such witness deposes, and such note shall be written in English or in romanised Malay by the Magistrate with his own hand in legible handwriting and shall form part of the record.

(2) In all other trials before a Magistrate and in all inquiries under Chapters XI, XVII and XXX, the evidence of each witness shall be taken down in legible handwriting in English or in romanised Malay by the Magistrate and shall form part of the record.

Mode of recording evidence

233. (1) Evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

(2) The Magistrate may, in his discretion, take down any particular question and answer.

Reading over evidence and correction

234. (1) The evidence of each witness taken in inquiries under Chapters XI and XVII shall be read over to him in the presence and hearing of the accused and shall, if necessary, be corrected.

(2) If the witness denies the correctness of any part of the evidence when the evidence is read over to him, the Magistrate may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(3) The evidence so taken down shall be interpreted to the witness, if necessary, in the language in which it was given or in a language which he understands.

(4) When a deposition has been read over to a witness and acknowledged to be correct, the Magistrate shall append to the evidence of the witness the letters "RA" and his initials which shall be deemed to be a certificate that the evidence has been read over and, if necessary, interpreted to the witness in the presence and hearing of the accused, and has been admitted by the witness to be correct.

(5) The absence of such a certificate in a deposition shall not be a bar to the deposition being received as evidence in any case in which it is desired to tender the deposition in evidence if it is proved by other evidence that the other requirements of this section were in fact complied with.

Interpretation of evidence to accused

235. (1) Whenever any evidence is given in a language not understood by the accused, it shall be interpreted to him in open Court in a language which he understands.

(2) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Remarks as to demeanour of witness

236. A Magistrate recording the evidence of a witness may, at the conclusion of such evidence and at the foot of the notes thereof, record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Judge to take notes of evidence

236A. In all criminal cases before the High Court, the presiding Judge shall take down in writing notes of the evidence adduced.

Other persons may be authorised to take notes of evidence [S 6/2016]

236AA. Notwithstanding any provisions of this Code, a Judge or Magistrate in an inquiry or trial may cause *verbatim* notes of evidence to be taken by another person of what each witness deposes, in addition to any note of the substance of what each witness deposes which may be made or taken by the Judge or Magistrate himself, and the *verbatim* notes shall form part of the record.

Evidence through live video or live television links [S 6/2016]

236B. (1) Notwithstanding any provisions of this Code or of any other written law, but subject to the provisions of this section, a person, other than the accused, whether within or outside Brunei Darussalam, may with the leave of the Court, give evidence through a live video or live television link in any inquiry, trial, appeal or other proceedings if the Court is satisfied that it is expedient in the interests of justice to do so.

(2) Notwithstanding any provision of this Code or of any other written law, the Court may order an accused to appear before it through a live video or live television link while in remand in Brunei Darussalam in proceedings for any of the following matters —

(a) an application for bail or release on personal bond;

(b) an extension of the remand of an accused under section 223.

(3) The Court may, in exercising its powers under subsection (1) or (2), make an order on all or any of the following matters —

(a) the persons who may be present at the place where the witness is giving evidence;

(b) the persons who may be excluded from the place while the witness is giving evidence;

(c) the persons in the courtroom who must be able to be heard, or seen and heard, by the witness and by the persons with the witness;

(d) the persons in the courtroom who must not be able to be heard, or seen and heard, by the witness and by the persons with the witness;

(e) the persons in the courtroom who must be able to see and hear the witness and the persons with the witness;

(f) the stages in the proceedings during which a specified part of the order is to have effect;

(g) any other order that the Court considers necessary in the interests of justice.

(4) The Court may revoke, suspend or vary an order made under this section if—

(a) the live video or live television link system stops working and it would cause unreasonable delay to wait until a working system becomes available;

(b) it is necessary for the Court to do so to comply with its duty to ensure fairness in the proceedings;

(c) it is necessary for the Court to do so in order that the witness can identify a person or a thing or so that the witness can participate in or view a demonstration or an experiment;

(d) it is necessary for the Court to do so because part of the proceedings is being heard outside a courtroom; or

(e) there has been a material change in the circumstances after the Court has made the order.

(5) Evidence given by a witness, whether within or outside Brunei Darussalam, through a live video or live television link by virtue of this section or of any other written law is deemed for the purposes of sections 193, 194, 195, 196, 205 and 209 of the Penal Code (Chapter 22) as having been given in the proceedings in which it is given.

(6) Where a witness gives evidence in accordance with this section or any other written law, he is deemed for the purposes of this Code to be giving evidence in the presence of the Court.

(7) In subsections (3), (5) and (6), a reference to “witness” includes a reference to an accused who appears before a Court through a live video or live television link under subsection (2).

(8) Where leave is given under subsection (1) in the case of any proceedings for the evidence to be given through a television link, a Court may sit, for the purpose of the whole or part of those proceedings, at a Court or at such other place as may be determined by a Judge, Magistrate or Registrar for the purposes of this section.

Video recordings of evidence from child-witnesses

236C. (1) This section applies in relation to proceedings for an offence to which section 236B(2) applies.

(2) In such proceedings, a video recording of an interview which —

(a) is conducted between an adult and a child who is not an accused, (in this section referred to as the child-witness); and

(b) relates to any matter in issue in those proceedings,

may, with the leave of the Court, be given in evidence in so far as it is not excluded under subsection (3).

(3) Where a video recording is tendered in evidence under this section, the Court shall (subject to the exercise of any power to exclude evidence which is otherwise admissible) give leave under subsection (2), unless it is empowered to refuse such leave under subsection (4).

(4) The Court shall refuse leave under subsection (2) if —

(a) it appears that the child-witness will not be available for cross-examination, either in person or through a live television link under section 236B;

(b) any rules of court requiring disclosure of the circumstances in which the video recording was made have not been complied with to its satisfaction; or

(c) the Court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the video recording ought not to be admitted.

(5) The Court may, if it gives leave under subsection (2) and is of the opinion that in the interests of justice any part of the video recording ought not to be admitted, direct that such part shall be excluded.

(6) In considering whether any part of a video recording ought to be excluded under subsection (5), the Court shall consider whether any prejudice to an accused, which might result from the admission to that part, is outweighed by the desirability of showing the whole or substantially the whole of the video recording.

(7) Where a video recording has been admitted in evidence under this section —

(a) the child-witness shall be called by the party who tendered it in evidence, either in person or through a live television link under section 236B; and

(b) the child-witness shall not be examined-in-chief on any matter which, in the opinion of the Court, has been dealt with in his video recording evidence.

(8) Where a video recording has been given in evidence under this section, any statement made by the child-witness which is disclosed by the video recording shall be treated as if made by him in direct order evidence; and accordingly —

(a) such statement shall be admissible evidence of any fact of which such evidence from him would be admissible;

(b) no such statement shall be capable of corroborating any other evidence given by him,

and in estimating the weight, if any, to be attached to such a statement, regard shall be had to all the circumstances from which any inference can reasonably be drawn, whether as to its accuracy or otherwise.

(9) A Magistrate holding a preliminary inquiry under Chapter XVII may consider any video recording in respect of which leave under subsection (2) is to be sought at the trial, notwithstanding that the child-witness is not called at the preliminary inquiry.

(10) Nothing in this section prejudices the admissibility of any video recording which would be admissible apart from this section.

(11) In this section —

“child” means a person who is under 14 years of age when the video recording was made;

“statement” includes any representation of fact, whether made in words or otherwise;

“video recording” means any recording, on any medium, from which a moving image may by any means be produced, and includes the accompanying sound-track.

[S 32/2005]

Rules of court for sections 236B and 236C

236D. The Chief Justice may make rules of court for the purposes of sections 236B and 236C.

Cross-examination of alleged child victim

236E. Notwithstanding any provision of this Code or of any other written law, no person who is charged with an offence to which section 236B(2) applies shall in person cross-examine any witness who —

(a) is alleged —

(i) to be the person against whom the offence was committed; or

(ii) to have witnessed the commission of the offence; and

(b) (i) is under 14 years of age; or

(ii) is to be cross-examined following the admission under section 236C of a video recording of evidence from him.

Chapter XXIII

[S 6/2016]

*Recording of proceedings by mechanical means***Application of this Chapter**

236F. Notwithstanding the provisions contained in this Code or provisions of any other written law, dealing with the mode of taking and recording of evidence, any mechanical means may be employed for the recording of any proceedings before the Court, and where mechanical means are employed, the provisions of this Chapter shall apply.

Interpretation of this Chapter

236G. In this Chapter —

“electronic record” means any digitally, electronically, magnetically or mechanically produced records stored in any equipment, device, apparatus or medium or any other form of storage such as disc, tape, film, sound track, and includes a replication of such recording to a separate storage equipment, device, apparatus or medium or any other form of storage;

“mechanical means” includes any equipment, device, apparatus or medium operated digitally, electronically, magnetically or mechanically;

“proceedings” includes any inquiry, trial, appeal, reference or revision, or any part of it, any application, judgment, decision, ruling, direction, address, submission and any other matter done or said by or before a Court, including matters relating to procedure.

Proceedings may be recorded by mechanical means or combination of mechanical means and other modes

236H. (1) A Judge or Magistrate shall have the discretion to direct that any proceedings before any Court be recorded, in whole or in part, by any mechanical means or a combination of any mechanical means.

(2) Where any Judge or Magistrate directs that any proceedings be recorded by any mechanical means, the Judge or Magistrate shall satisfy himself as to the efficiency and functional capability of such mechanical means and that the mechanical means used for recording is in good working order for the purpose of ensuring that the electronic record of such proceedings is clear and accurate.

(3) Notwithstanding that any proceedings are being recorded by any mechanical means, a Judge or Magistrate may —

(a) employ any other mode of taking and recording of evidence; and

(b) at any time, direct that such recording be discontinued and that the recording of such proceedings be continued by any other mechanical means or any other mode of taking and recording of evidence.

(4) Where a Judge or Magistrate makes a ruling that any evidence adduced is inadmissible or irrelevant and shall not form part of the record of proceedings, he may direct that the electronic record of that evidence be erased or otherwise omitted from the record of proceedings.

Electronic record to be transcribed

236I. (1) Where any proceedings before any Judge or Magistrate are recorded by any mechanical means, the Judge or Magistrate shall cause the electronic record of such proceedings to be transcribed by any person authorised in writing by the Judge or Magistrate.

(2) Upon the production of the transcript by any person authorised under subsection (1), the Judge or Magistrate shall ascertain the accuracy and reliability of such transcript and where the Judge or Magistrate makes a ruling that any evidence recorded is inadmissible or irrelevant and shall not form part of the record of proceedings, he may direct that the electronic record of that evidence be excluded from the record of proceedings.

(3) The transcript shall be authenticated by the signature of the Judge or Magistrate.

Safe custody of electronic record and transcript

236J. (1) The Judge or Magistrate shall cause any electronic record of any proceedings before the Judge or Magistrate and the authenticated copy of the transcript of that electronic record to be kept in safe custody.

(2) The electronic record shall not be erased, destroyed or otherwise disposed of —

(a) within the time allowed by law for instituting any appeal or revision in relation to the proceedings in question; or

(b) where an appeal, reference or revision in relation to the proceedings in question is instituted, until that appeal, reference or revision is finally determined or otherwise terminated.

Electronic filing, lodgement, submission and transmission of document

236K. Where any document relating to any proceedings is required to be filed, lodged with, submitted or transmitted to the Court, such filing, lodgement, submission or transmission may be done electronically as may be determined by the Court.

Issuance of Practice Direction

236L. The Chief Justice may, where necessary, issue Practice Direction relating to the use of mechanical means and any matter related to it.

Chapter XXIV

Judgment

Mode of delivering judgment

237. (1) The judgment in every trial in any criminal Court of original jurisdiction shall be pronounced in open Court, or the substance of such judgment shall be explained in open Court, either immediately or at some subsequent time of which due notice shall be given to the parties or their legal representatives, and the accused shall, if in custody, be brought up or, if not in custody, shall be required to attend to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or if he is acquitted in either of which cases, it may be delivered in the presence of his legal representative.

(2) Every such judgment shall be delivered in Malay or in English, and in some language understood by the accused. It shall contain the point or points for determination, the decision thereon, and the reasons for the decision. If the judgment is in writing, it shall be signed by the person delivering it and filed with the record of the proceedings. If the judgment is delivered orally, the substance of it shall be reduced to writing and filed with the record.

(3) It shall specify the offence (if any) of which, and the section of the Penal Code (Chapter 22) or other written law under which the accused is convicted, and the punishment to which he is sentenced.

(4) When the conviction is under the Penal Code (Chapter 22) and it is doubtful under which of two sections or under which of two parts of the same section of that Code the offence falls, the Court shall distinctly express the same and pass judgment in the alternative.

(5) If it is a judgment of acquittal, it shall state the offence of which the accused is acquitted, and direct that he be set at liberty.

(6) If the accused is convicted of an offence punishable with death and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed.

Address on sentence [S 6/2016]

237A. (1) Before a Court passes sentence on a person convicted of an offence, the officer or other person conducting the prosecution may address the Court with respect to that sentence.

(2) Without limiting the generality of subsection (1), the officer or other person conducting the prosecution may, in an address pursuant to that subsection —

(a) draw the attention of the Court to any aggravating circumstances, or the presence or absence of any extenuating circumstances, in relation to the offence;

(b) where the Court has a choice with regard to the kinds of sentence that it may impose in relation to the offence, comment on the appropriateness of those kinds of sentence; and

(c) where the Court has a choice with regard to those kinds of sentence, recommend that the Court impose one of those kinds of sentence.

(3) The failure by the officer or other person conducting the prosecution to exercise his right under subsection (1) to address the Court with respect to the sentence for the offence shall not be taken into account by

the Court in determining an appeal against that sentence by the Public Prosecutor.

Effect of certain offences on persons in respect of whom committed
[S 6/2016]

237B. (1) In determining the sentence to be imposed on a person for an offence to which this section applies, a Court shall take into account, and may, where necessary, receive evidence or submissions concerning any effect (whether long-term or otherwise) of the offence on the person in respect of whom the offence was committed.

(2) This section applies to —

(a) an offence which involves an assault on, or injury or threat of injury to, any person;

(b) an offence against —

(i) section 354 of the Penal Code (Chapter 22) (outraging modesty);

(ii) section 376 of the Penal Code (Chapter 22) (rape);

(iii) section 377 of the Penal Code (Chapter 22) (unnatural offences);

(iv) section 377A of the Penal Code (Chapter 22) (incest);

(v) section 2 of the Unlawful Carnal Knowledge Act (Chapter 29) (carnal knowledge);

(c) an offence which consists of attempting or conspiring to commit, or abetting the commission of, an offence referred to in paragraph (a) or (b).

(3) Where a Court is determining the sentence to be imposed on a person for an offence to which this section applies, the Court shall, upon application by the person in respect whom such offence was committed, hear the evidence of the person in respect of whom the offence was committed as to the effect of the offence on such person upon being requested to do so.

No sentence of death against person under 18 years [S 9/2006]

238. (1) Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the Court that at the time when the offence was committed he was under the age of 18 years but instead the Court shall sentence him to be detained during His Majesty the Sultan and Yang Di-Pertuan's pleasure, and, if so sentenced, he shall be liable to be detained in such place and under such conditions as the His Majesty the Sultan and Yang Di-Pertuan directs, and while so detained shall be deemed to be in legal custody.

(2) Subject to the powers of His Majesty the Sultan and Yang Di-Pertuan under this Code and any other written law, if a person is ordered to be detained under subsection (1), the Board of Visiting Justices for the prison or the board of visitors for any other place —

(a) shall review that person's case at least once a year; and

(b) may recommend to His Majesty the Sultan and Yang Di-Pertuan on the early release or further detention of that person,

and His Majesty the Sultan and Yang Di-Pertuan may thereupon order him to be released or further detained, as the case may be.

Judgment of death

239. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck until he is dead, but shall not state the place where, nor the time when, the sentence is to be carried out.

Judgment not to be altered

240. No Court, other than the High Court, having once recorded its judgment, shall alter or review the judgment:

Provided that a clerical error may be rectified at any time, and that any other mistake may be rectified at any time before the Court rises for the day.

Judgment to be explained and copy supplied

241. The judgment shall be translated or explained to the accused in a language which he understands and on his application, a copy of the judgment or, when he so desires, a translation in his own language, if

practicable, shall be given to him without delay. Such copy shall, in any case other than a summons case, be given free of cost.

242. — 243. (*No sections*).

Chapter XXV

Submission of sentences of death to His Majesty the Sultan and Yang Di-Pertuan

Submission of sentence of death to His Majesty the Sultan and Yang Di-Pertuan

244. (1) In every case in which sentence of death is pronounced, the trial Judge shall forward to the Chief Justice for transmission to His Majesty the Sultan and Yang Di-Pertuan the record of the case, together with a written report under seal stating whether, in his opinion, there are any reasons, and if so what reasons, why the sentence of death should not be carried out.

(2) Upon the expiration of the time prescribed for instituting an appeal or, if an appeal has been instituted upon the dismissal of the appeal, the Chief Justice shall, as soon as conveniently may be, forward the record and the report to His Majesty the Sultan and Yang Di-Pertuan together with, if there has been an appeal, an intimation of the decision of the Court of Appeal, and such report, if any, on the case as the Court of Appeal, or if there has been no appeal, the Chief Justice, may think fit to make.

(3) His Majesty the Sultan and Yang Di-Pertuan may cause the trial Judge to be summoned to attend the meeting of the Privy Council at which the sentence of death is to be considered and to produce his notes thereat.

(4) His Majesty the Sultan and Yang Di-Pertuan, after considering the report or reports and if the trial Judge has been summoned to attend after hearing the trial Judge, shall communicate to the High Court a copy under his hand and seal of any order he makes under this Code.

*Chapter XXVI**Execution of sentences***Execution of sentences of death**

245. (1) If His Majesty the Sultan and Yang Di-Pertuan has ordered that the sentence of death is to be carried out, the High Court shall, on receiving a copy under His Majesty the Sultan and Yang Di-Pertuan's hand and seal of the order, issue a warrant of execution under the seal of the Court and the hand of a Judge, and shall forward the warrant to the Director of Prisons.

[GN 68/1985]

(2) The Director of Prisons on receiving the warrant of execution shall appoint an officer to carry it into effect.

[GN 68/1985]

(3) His Majesty the Sultan and Yang Di-Pertuan may order a respite of the execution of the warrant and afterwards appoint some other time or place for its execution.

Procedure where it is alleged that woman convicted of capital offence is pregnant

246. (1) Where a woman convicted of an offence punishable with death is found in accordance with the provisions of this section to be pregnant, sentence of death shall not be passed on her, and where no alternative sentence for such offence is otherwise provided for, the sentence to be passed on her shall be a sentence of imprisonment for life.

(2) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the Court before whom she is convicted thinks fit to order so, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by the Court.

(3) The question whether the woman is pregnant shall be determined on such evidence as may be laid before the Court on the part of the woman or the Public Prosecutor, and such woman shall not be found to be pregnant unless such pregnancy is affirmatively proved.

(4) If in proceedings under this section it is found that the woman in question is not pregnant, the woman may, as of right, appeal to the Court of Appeal.

(5) If on an appeal under subsection (4) the Court is satisfied that the finding should be set aside, it shall quash the sentence passed on the woman in question and instead pass on her a sentence of imprisonment for life.

Persons of unsound mind

247. (1) If it is made to appear to His Majesty the Sultan and Yang Di-Pertuan by a report of two of the visiting Justices of the prison in which a prisoner under sentence of death is detained or by a report of the medical officer of such prison or otherwise, that the prisoner is mentally disordered or mentally defective then, without prejudice to any powers vested in His Majesty the Sultan and Yang Di-Pertuan to grant a pardon, respite or commutation, His Majesty the Sultan and Yang Di-Pertuan shall order that the person be examined forthwith by not less than two medical officers or medical practitioners who shall examine the prisoner and inquire into his mental condition.

(2) The medical officers or medical practitioners appointed under subsection (1) may in addition to examining the prisoner, consult the prison authorities and make such other inquiries which they think may assist them in reaching conclusions about the prisoner's state of mind and they shall make a report in writing to His Majesty the Sultan and Yang Di-Pertuan and they or the majority of them may certify in writing that he is insane:

Provided that if a Commission has been appointed under subsection (3), then *in lieu* of making any report, the medical officers or medical practitioners shall give evidence as to the matters aforesaid before such Commission.

(3) Whenever His Majesty the Sultan and Yang Di-Pertuan has made an order under subsection (1), he may also in his discretion appoint a Commission consisting of a Judge or a Magistrate and such number of suitable persons as he shall think fit, or other suitable persons to inquire formally into the question whether the prisoner is mentally disordered or defective or otherwise abnormal or subnormal and whether if the sentence of death is commuted, it is desirable in all circumstances that he should be detained in a psychiatric facility, prison or in some other fit place for safe custody.

[S 25/2014]

(4) For the purposes of this Code, the chairman of the Commission shall have all the powers of a Magistrate for the summoning

and examination of witnesses and the administration of oaths or affirmations and for compelling the production of documents and material objects.

(5) If after considering the report in subsection (2) of the findings and recommendations of the Commission appointed under subsection (3), it appears to His Majesty the Sultan and Yang Di-Pertuan that the prisoner is insane or that his mental condition is such that if he is detained in a prison there is a danger that he may cause physical injury to himself or others, His Majesty the Sultan and Yang Di-Pertuan may order that he be confined in such Government psychiatric facility or other suitable place for safe custody as may be specified in the order and if such an order is made, the prisoner shall be confined therein by virtue of this section.

[S 25/2014]

Procedure at execution

248. (1) *(Deleted)*.

(2) There shall be present at the execution the officer whom the Director of Prisons has appointed to carry out the sentence, a medical officer or hospital assistant and such other person as the Director of Prisons may require, and there may be present any minister of religion whom the Director of Prisons thinks proper to admit.

[GN 68/1985]

(3) As soon as may be after the judgment of death has been executed, a medical officer or hospital assistant shall examine the body of the person executed and shall ascertain the fact of death and shall sign a certificate thereof on the back of the warrant of execution and deliver the same to the Director of Prisons.

[GN 68/1985]

(4) *(Deleted)*.

(5) The Director of Prisons shall return the warrant of execution duly indorsed as required by this section to the Chief Justice.

[GN 68/1985]

Escape of prisoner

249. When a sentence of death is avoided by the escape of the person sentenced to death, execution of the sentence shall be carried into effect at such other time after his recapture as a Judge shall order.

Saving for irregularity

250. No omission or error as to time and place and no defect in form in any order or warrant given under this Chapter and no omission to comply with the provisions of section 248 shall be held to render illegal any execution carried into effect under such order or warrant or intended so to have been carried into effect, or shall render any execution illegal which would otherwise have been legal.

Date of commencement of sentence [S 63/2002]

251. Subject to the provisions of this Code, every sentence of imprisonment to which section 252 apply shall take effect from the date on which it was passed, unless the Court passing the sentence otherwise directs.

Execution of sentences of imprisonment

252. Where the accused is sentenced to imprisonment, the Court passing the sentence shall forward a warrant to the officer in charge of the prison in which he is to be confined and, unless the accused is already confined in the prison, shall send him in the custody of the police to the prison with the warrant.

Provisions as to sentences of fine

253. (1) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may, in its discretion, make both or either of the following orders —

(a) direct by the sentence that in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence;

(b) issue a warrant for the levy of the amount by distress and sale of any property belonging to the offender.

(2) A warrant for the levy of a fine may be executed at any place in Brunei Darussalam.

Imprisonment in default

254. Except in cases where the scale is specifically provided for in some other written law, the period for which the Court directs the offender to

be imprisoned in default of payment of fine shall not exceed the following scale —

(a) if the offence is punishable with imprisonment —

| <i>Where the maximum term of imprisonment</i> | <i>The period shall not exceed</i> |
|---|--|
| does not exceed 6 months | the maximum term or imprisonment |
| exceeds 6 months but does not exceed 2 years | 6 months |
| exceeds 2 years | one-quarter of the maximum term of imprisonment; |

(b) if the offence is not punishable with imprisonment —

| <i>Where the fine</i> | <i>The period shall not exceed</i> |
|---|--|
| does not exceed \$100 | one month |
| exceeds \$100 but does not exceed \$250 | 2 months |
| exceeds \$250 but does not exceed \$500 | 4 months |
| exceeds \$500 | 6 months. |

Termination of imprisonment when fine paid

255. (1) The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

(2) If, before the expiration of the time of imprisonment fixed in default of payment such a proportion of the money is paid or levied is such that the time of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

(3) The fine or any part thereof which remains unpaid may be levied at any time within 6 years after the passing of the sentence, and if under the sentence the offender is liable to imprisonment for a longer period than 6 years, then at any time prior to the expiration of that period, and the death of the offender does not discharge from liability any property which would after his death be legally liable for his debts.

Allowing time to pay fine and suspending execution of imprisonment

256. (1) When an offender has been sentenced to pay a fine, and the fine is not paid forthwith, the Court may make all or any of the following orders —

(a) direct that time be allowed for the payment of the fine;

(b) direct payment to be made of the fine by instalments;

(c) where the offender has been sentenced to imprisonment in default of payment of the fine under section 253, suspend the execution of the sentence of imprisonment and release the offender;

(d) direct that any order made under this subsection shall be conditional on the offender executing a bond with or without sureties for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made.

(2) When a fine is directed to be paid by instalments and default is made in the payment of any instalment, the same proceedings may be taken as if default had been made in the payment of all the instalments then remaining unpaid, and in such event, or where time has been allowed for the payment of the fine and the fine has not been paid within such time, the Court may, if no such order has previously been made, make both or either of the orders specified in section 253.

(3) The provisions of this section shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith, and if the person against whom the order has been made, on being required to enter into a bond such as is referred to in subsection (1)(d), fails to do so, the Court may at once pass sentence of imprisonment.

Mode of executing sentence of whipping

257. (1) When the accused is sentenced to whipping, the instrument to be used and the number of strokes shall be specified in the sentence. In no case shall the whipping exceed 24 strokes in the case of an adult or 18 strokes in the case of a youthful offender, anything in any written law to the contrary notwithstanding.

(2) Whipping shall be inflicted on such part of the person as the Permanent Secretary to the Office of the Prime Minister* from time to time generally directs.

(3) The rattan shall be not more than half an inch in diameter.

(4) In the case of a youthful offender, whipping shall be inflicted in the way of school discipline with a light rattan.

(5) When a person is convicted at one trial of any two or more distinct offences, any two or more of which are legally punishable by whipping, the combined sentences of whipping awarded by the Court for any such offences shall not, anything in any written law to the contrary notwithstanding, exceed a total number of 24 strokes in the case of adults and 18 strokes in the case of youthful offenders.

Certain persons not punishable with whipping

258. No sentence of whipping shall be executed by instalments, and none of the following persons shall be punishable with whipping —

(a) females;

(b) males sentenced to death;

(c) males whom the Court considers to be more than 50 years of age.

Medical certificate required

259. (1) The punishment of whipping shall not be inflicted unless a medical officer or hospital assistant is present and certifies that the offender is in a fit state of health to undergo such punishment.

* Transferred from the Minister of Law to the Permanent Secretary, Office of the Prime Minister, with effect from 26th July 1983 —
[S 37/1999]

(2) If, during the execution of a sentence of whipping, a medical officer or hospital assistant certifies that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Procedure if whipping cannot be inflicted

260. (1) In any case in which under section 259 a sentence of whipping is wholly or partially prevented from being executed, the offender shall be kept in custody until the Court which passed the sentence can revise it, and the Court may in its discretion either remit such sentence or sentence the offender *in lieu* of whipping, or *in lieu* of so much of the sentence of whipping as was not executed, to imprisonment for a term which may extend to 12 months, which may be in addition to any other punishment to which he has been sentenced for the same offence.

(2) Nothing in this section shall be deemed to authorise any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law or which the Court is competent to inflict.

Commencement of sentence of imprisonment on prisoner already undergoing imprisonment

261. (1) When a person who is an escaped convict or is undergoing a sentence of imprisonment, is sentenced to imprisonment, such imprisonment shall commence either immediately or at the expiration of the imprisonment to which he has been previously sentenced, as the Court awarding the sentence may direct. A sentence of death shall be executed notwithstanding the pendency of any sentence of imprisonment.

(2) Nothing in subsection (1) shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

Youthful offenders may be dealt with as provided by Children and Young Persons Act (Chapter 219) [S 9/2006]

262. When a youthful offender is convicted before any criminal Court of an offence punishable by fine, imprisonment or both, and whether or not the law under which that conviction was made provides that fine, imprisonment or both shall be imposed upon the person so convicted, that court may instead of sentencing him to a fine, or to a sentence of imprisonment of any kind, deal with him as provided by the Children and Young Persons Act (Chapter 219).

Offender may be dealt with as provided by Offenders (Probation and Community Service) Act (Chapter 220) [S 6/2006]

263. When any person, not being a youthful offender, is convicted before any criminal Court of an offence punishable by fine, imprisonment or both, and whether or not the law under which that conviction was made provides that fine, imprisonment or both shall be imposed upon the person so convicted, the court may, instead of sentencing him to a fine or imposing any term of imprisonment in default of payment of the fine, or to a sentence of imprisonment of any kind, deal with him as provided by the Offenders (Probation and Community Service) Act (Chapter 220).

263A. (*Repealed by S 6/2006*).

Sentence of police supervision

264. (1) When a person having previously been convicted of an offence punishable with imprisonment of either description for a term of 2 years or more is convicted of any other offence, also punishable with imprisonment of either description for a term of 2 years or more, the High Court or the Court of a Magistrate may, in addition to any other punishment to which it may sentence him, direct that he be subject to the supervision of the police for a period of not more than 3 years commencing immediately after the expiration of the sentence passed on him for the last of such offences.

(2) When any person subject to the supervision of the police is, while still subject to such supervision, sentenced to a term of imprisonment within Brunei Darussalam, any term spent in prison shall be excluded from the period of supervision.

Requirements from persons subject to supervision

265. (1) Every person subject to the supervision of the police who is at large within Brunei Darussalam shall —

(a) notify the place of his residence to the officer in charge of the Police District in which such place is situated;

(b) whenever he changes his place of residence within Brunei Darussalam, notify such change of residence to the officer in charge of the Police District which he is leaving and to the officer in charge of the Police District into which he goes to reside;

(c) whenever he changes his place of residence to a place outside Brunei Darussalam, notify such change of residence to the officer in charge of the Police District which he is leaving.

(2) Every person subject to the supervision of the police, if a male, shall once in each month report himself at such time as is determined by the officer in charge of the Police District in which he resides either to the police officer himself or to such other person as that officer directs, and the police officer or other person may upon each occasion of the report being made, take or cause to be taken the finger prints of the person so reporting.

[S 6/2016]

Penalty for non-compliance with section 265

266. If any person subject to the supervision of the police who is at large within Brunei Darussalam —

(a) remains in any place for 48 hours without notifying the place of his residence to the officer in charge of the Police District in which such place is situated;

(b) fails to comply with the requirements of section 265 on the occasion of any change of residence; or

(c) fails to comply with the requirements of section 265 as to reporting himself once in each month,

he shall in every such case, unless he proves to the satisfaction of the Court before which he is tried, that he did his best to act in conformity with the law, is guilty of an offence and liable on conviction to a fine of \$800 and imprisonment for a term not exceeding one year.

Warrant, by whom issuable; return of warrant

267. (1) Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor, or by another Judge or Magistrate acting in his place.

(2) When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it was issued with an indorsement under his hand certifying the manner in which the sentence has been executed.

Saving for prerogative of mercy of His Majesty the Sultan and Yang Di-Pertuan and Constitution [S 32/2005]

268. Nothing in this Code shall be deemed to interfere with or derogate from the prerogative of mercy of His Majesty the Sultan and Yang Di-Pertuan and from the provisions of the Constitution of Brunei Darussalam.

*Chapter XXVII**Previous acquittals or convictions***Person once convicted or acquitted not to be tried again for same offence**

269. (1) A person who has been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while the conviction or acquittal remains in force, not be liable to be tried again for the same offence nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 167 or for which he might have been convicted under section 168.

(2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under of section 166(1).

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened or were not known to the Court to have happened at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for any other offence constituted by the same acts which he may have committed, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) The dismissal of a complaint or the discharge of the accused is not an acquittal for the purposes of this section.

Illustrations

(a) *A* is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged upon the same facts with theft as a servant, or with theft simply, or with criminal breach of trust.

(b) *A* is tried upon a charge of murder and acquitted. There is no charge of robbery but it appears from the facts that *A* committed robbery at the time when the murder was committed; he may afterwards be charged with and tried for robbery.

(c) *A* is tried for causing grievous hurt and convicted. The person injured afterwards dies. *A* may be tried again for culpable homicide.

(d) *A* is tried and convicted of the culpable homicide of *B*. *A* may not afterwards be tried on the same facts for the murder of *B*.

(e) *A* is charged and convicted of voluntarily causing hurt to *B*. *A* may not afterwards be tried for voluntarily causing grievous hurt to *B* on the same facts unless the case comes within subsection (3).

Plea of previous acquittal or conviction

270. (1) The plea of a previous acquittal or conviction may be pleaded either orally or in writing and may be in the following form or to the following effect —

“The defendant says that by virtue of section 269 of the Criminal Procedure Code, he is not liable to be tried”.

(2) Such plea may be pleaded together with any other plea, but the issue raised by such plea shall be tried and disposed of before the issues raised by the other pleas are tried.

(3) On the trial of an issue on a plea of a previous acquittal or conviction, the proceedings of the Court on the former trial, and the proceedings (if any) of any preliminary inquiry on the previous or subsequent charge, shall be admissible in evidence to prove or disprove the identity of the charges.

PART VII

APPEALS, REFERENCE AND REVISION

*Chapter XXVIII**Appeals***Dissatisfied person may appeal**

271. Except as provided for in section 275, the accused person, the complainant or the Public Prosecutor, if he is dissatisfied with any judgment, sentence or order pronounced by any Magistrate in a criminal case or matter to which he is a party, may appeal to the High Court against such judgment, sentence or order for any error in law or in fact, or on the ground of the excessive severity or of the inadequacy of the sentence.

Procedure

272. (1) The appellant shall within 14 days from the time of such judgment, sentence or order being passed or made, file a petition in the Court of a Magistrate, paying at the same time the prescribed appeal fee.

(2) If the appellant is in custody, he may give notice of appeal within the said 14 days either orally or in writing to the officer in charge of the prison, and on payment of the prescribed appeal fee, the officer shall forthwith forward the notice or the purport thereof to the Court of a Magistrate.

(3) Every such petition of appeal shall be addressed to the High Court and shall state shortly the substance of the judgment appealed against and the grounds of appeal, and shall be signed by the appellant except where such notice is given orally as provided in subsection (2).

(4) No fee shall be payable when the appeal is made by a public servant acting in his official capacity.

273. — 274. *(No sections).*

Appeal against acquittal

275. When an accused person has been acquitted by a Magistrate, or where the appeal is on the ground that the sentence is insufficient, there shall

be no appeal except by, or with the sanction in writing of, the Public Prosecutor:

Provided that the petition of appeal required by section 272 may be filed provisionally pending the receipt of the sanction of the Public Prosecutor under this section.

Copy of record and petition to be sent to appellate Court

276. (1) When the appellant has complied with the provisions of section 272, and subject to the provisions of section 275, the Court appealed from shall make and transmit to the High Court a certified copy of the record of the proceedings in the case together with the petition of appeal.

(2) The originals of any documents which were put in at the trial shall, together with certified copies and if necessary, translations thereof, be forwarded with the record, and the Court shall also forward any other exhibits which it considers desirable.

Summary rejection of appeal

277. (1) On receiving the documents mentioned in section 276, the Judge shall peruse the document, and if he considers that there is no sufficient ground for interfering, he may reject the appeal summarily:

Provided that no appeal shall be rejected summarily except in the case mentioned in subsection (2), unless the appellant has had a reasonable opportunity of being heard either personally or in writing in support of the appeal.

(2) Where —

(a) an appeal is brought on the ground that the conviction is against the weight of the evidence or that the sentence is excessive; and

(b) it appears to the Judge that the evidence is sufficient to support the conviction and that there is nothing in the circumstances of the case which could raise a reasonable doubt whether the conviction was right or lead him to consider that the sentence ought to be reduced,

the appeal may without being set down for hearing, be summarily rejected by an order certifying that the appeal has been lodged without any sufficient ground of complaint.

(3) If an appeal is dismissed summarily, any appeal fee paid shall be refunded to the appellant.

Appeal specially allowed in certain cases

278. The Judge may, on the application of any person desirous of appealing who may be debarred from doing so upon the ground that he has not observed some formality or requirement of this Code, permit an appeal upon such terms and with such directions to the parties as he shall consider desirable, in order that substantial justice may be done in the matter.

Stay of execution pending appeal

279. Except in the case of a sentence of whipping (the execution of which shall be stayed pending appeal), no appeal shall operate as a stay of execution, but the Court passing the sentence or the Court to which the appeal lies or the Chief Justice may stay execution on any judgment, order, conviction or sentence pending appeal, on such terms as to security for the payment of any money or the performance or non-performance of any act or the suffering of any punishment ordered by or in such judgment, order, conviction or sentence as may seem reasonable.

Setting down appeals

280. If the Judge does not reject the appeal summarily, he shall cause notice to be given to the parties that the appeal will be heard.

Procedure at hearing

281. (1) An appeal may be conducted orally or, if the appellant so desires, in writing.

(2) The appellant, if present, shall be first heard in support of the appeal, the respondent, if present, shall be heard against it, and the appellant shall be entitled to reply.

(3) If the appellant does not appear to support his appeal, the Court shall consider his appeal and may make such order thereon as it may think fit.

Non-appearance of respondent

282. (1) If at the hearing of the appeal, the respondent is not present and the Judge is not satisfied that the notice of appeal was duly served upon him, the Judge shall not make any order in the matter of the appeal adverse to or to the prejudice of the respondent, but shall adjourn the hearing of the appeal to a future day for his appearance, and shall issue the requisite notice to him for service.

(2) If the service of such last-mentioned notice cannot be effected on the respondent, the Judge shall proceed to hear the appeal in his absence.

Arrest of respondent in certain cases

283. When an appeal is presented against an acquittal, the High Court may issue a warrant directing that the accused be arrested and brought before it, and may commit him to prison pending the disposal of the appeal or admit him to bail.

Appeal from acquittal

284. In an appeal from an order of acquittal, the High Court may —

(a) dismiss the appeal;

(b) direct that further inquiry be made or order a new trial on the same or an amended charge; or

(c) find the accused guilty of any offence of which the lower Court might have convicted him and pass sentence on him according to law.

Appeal from conviction

285. In an appeal from a conviction, the High Court may —

(a) dismiss the appeal;

(b) quash the conviction and sentence and acquit or discharge the accused;

(c) direct that further inquiry be made or order a new trial on the same or an amended charge;

(d) quash the conviction and convict the accused of any offence of which the lower Court might have convicted him, and maintain, reduce or increase the sentence or alter the nature of the sentence; or

(e) uphold the conviction and maintain, reduce or increase the sentence or alter the nature of the sentence.

Appeal as to sentence

285A. In an appeal as to sentence, the High Court may reduce or increase the sentence, or alter the nature of the sentence:

Provided that when on an appeal by the Public Prosecutor on the ground of the inadequacy of sentence, the High Court increases or alters the nature of the sentence, the respondent may appeal to the Court of Appeal against such increase or alteration as if he were a person convicted before the High Court appealing against sentence.

Appeal from other order

286. In an appeal from any other order, the High Court may —

- (a) dismiss the appeal;
- (b) direct that further inquiry be made; or
- (c) vary or reverse such order.

Order to take further evidence

287. (1) In dealing with any appeal under this Chapter, the High Court may, if it thinks additional evidence to be necessary or any witness should be recalled, either take such evidence itself or direct it to be taken by a Magistrate.

(2) When the additional evidence is taken by a Magistrate, he shall certify such evidence to the High Court which shall thereupon, as soon as may be, proceed to dispose of the appeal.

(3) Unless the High Court otherwise directs, the accused shall be present when the additional evidence is taken.

Judgment

288. (1) When the appeal has been heard, the High Court shall either at once or on some future day of which notice shall be given to the parties, deliver the judgment.

(2) The judgment shall ordinarily be delivered in open Court but in the absence of the appellant or for other just cause, the Court may deliver judgment by service of a written copy or may direct that the judgment be read out in the lower Court.

Certificate and consequence of judgment

289. (1) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed.

(2) Whenever an appeal is not dismissed, the certificate shall state the grounds upon which the appeal was allowed or the decision of the Courts of Magistrates was varied.

(3) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court and, if necessary, the record shall be amended in accordance therewith.

Death of accused

290. Every appeal under section 275 shall finally abate on the death of the accused.

Grounds for reversal of judgment of Courts of Magistrates

291. No judgment or order of a Court of a Magistrate shall be reversed or set aside unless it is shown to the satisfaction of the higher Court that the judgment or order was either wrong in law or against the weight of the evidence, or, in the case of a sentence, inappropriate in the circumstances of the case.

Reference to Court of Appeal from Courts of Magistrates on grounds of public interest

291A. (1) When —

(a) an appeal from the decision of a Court of a Magistrate in a criminal matter has been heard and determined by the High Court; and

(b) the Judge who heard the appeal or the Public Prosecutor, on his own behalf or on the application of any party to the proceedings, has, within one month of such determination or within such further time as the Court of Appeal may permit, signed and filed with the Registrar a certificate that the decision of the High Court involves a point of law which it is desirable in the public interest to have determined by the Court of Appeal,

such appeal shall be re-heard by the Court of Appeal.

(2) The provisions of subsection (1) shall, *mutatis mutandis*, apply —

(a) when any order has been made by the High Court to the prejudice of an accused under section 189A(2)(a);

(b) *(deleted by S 6/2016)*;

(c) when the High Court has determined a question of law reserved by a Court of a Magistrate for the consideration of the High Court under section 294; and

(d) when any order has been made by the High Court to the prejudice of the accused under section 298.

(3) Upon the filing of the certificate referred to in subsection (1), the Court of Appeal or any Judge may make such orders as it or he may see fit in respect of the arrest, custody or release on bail of any person convicted, acquitted or discharged as the result of an order of the High Court on the appeal or of the trial Court.

(4) For the purposes of the hearing before the Court of Appeal, the Judge who heard the appeal shall cause to be furnished to the Court of

Appeal and to the parties to the appeal, copies of the grounds of his judgment in such appeal.

(5) The powers conferred upon the Public Prosecutor by this section shall be exercisable by the Public Prosecutor only.

Costs

292. (1) In all proceedings under this and the following Chapter, an appellate Court shall have power to award such costs or expenses as the Court thinks fit to be paid by or to the parties thereto.

(2) Costs awarded to be paid by the Public Prosecutor shall be provided out of the general revenue of Brunei Darussalam and be payable by the Permanent Secretary to the Ministry of Finance and the Public Prosecutor shall not be personally liable therefor.

(3) Costs awarded to be paid to the Public Prosecutor shall be paid by the party ordered to pay the costs to the Permanent Secretary of the Ministry of Finance.

Copies of proceedings

293. (1) If any person affected by a judgment or order passed or made by a criminal Court desires to have a copy of any order or deposition or other part of the record, he shall on applying for such copy, be furnished therewith by the Court:

Provided that he pay for the order, deposition or record such reasonable sum as the Court may direct unless the Court for some special reason thinks fit to furnish it free of cost. Such copy shall not be chargeable with stamp duty.

(2) Notwithstanding anything in subsection (1), an accused person committed for trial shall be entitled to receive on request free of charge copy of the depositions of the witnesses recorded by the Magistrate.

*Chapter XXIX**Reference and revision***Reservation of points of law**

294. (1) Any Court may, if it thinks fit, at the conclusion of the proceedings or at any time within 7 days from the time of the judgment, acquittal, sentence or order passed or made therein, reserve for the consideration of the High Court any questions of law arising in such proceedings, setting out shortly the facts on which the law is to be applied and the questions of law to be determined thereon.

(2) Every question of law so reserved shall be submitted to such Court in the shape of a special case in the form in the Second Schedule.

(3) Every such special case shall be drawn up by the Magistrate before which the proceedings are held and shall —

(a) set out shortly the facts which are considered by the Magistrate to be proved;

(b) state the question or questions of law which has or have been reserved for the opinion of the Court;

(c) be sent by the Magistrate to the Registrar; and

(d) be set down for argument in such manner as the High Court directs.

Determination and power thereon

295. (1) The High Court shall hear and determine the question or questions of law arising on such special case and shall thereupon affirm, amend or reverse the determination in respect of which the special case has been stated or remit the matter to the Magistrate with the opinion of the Court thereon or may make such order in relation to the matter as to the Court seems fit.

(2) No Magistrate who states and delivers a special case in pursuance of this Code shall be liable to any costs in respect thereto.

Power to call for records of Court of Magistrate

296. A Judge may call for and examine the record of any proceeding before any Court of a Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of the Court of a Magistrate.

Powers to order further inquiry

297. On examining any record under section 296 or otherwise, the revising Judge may direct the Magistrate to make, and the Magistrate shall make, further inquiry into any complaint which has been dismissed under section 135, or into the case of any accused person who has been discharged.

Powers on revision

298. (1) A revising Judge may, in any case, the record of proceedings of which has been called for by himself or which otherwise comes to his knowledge, in his discretion, exercise any of the powers conferred by sections 279, 283, 284, 285, 286, 287 and 292, or may make such other as he may deem fit.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard, either personally or in writing, in his own defence.

Permission for parties to appear

299. No party has any right to be heard before a Judge when exercising his powers of revision:

Provided that the Judge may, if he thinks fit, when exercising such powers, hear any party and that nothing in this section shall be deemed to affect section 298(2).

Orders on revision

300. When a case is revised under this Chapter by a Judge, he shall certify his decision or order to the Court by which the finding, sentence or order revised was recorded or passed stating where such finding, sentence or order has been varied, and the grounds for such variation; and the Court to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified and, if necessary, the record shall be amended in accordance therewith.

301. (No section).

PART VIII

SPECIAL PROCEEDINGS

Chapter XXX

Inquests

Meaning of “cause of death”

302. In this Chapter, “cause of death” include not only the apparent cause of death as ascertainable by inspection or *post mortem* examination of the body of the deceased, but also all matters necessary to enable an opinion to be formed how the deceased came by his death and whether his death resulted in any way from, or was accelerated by, any unlawful act or omission on the part of any other person.

Duty of officer in charge of station

303. (1) If an officer in charge of a police station receives information that —

(a) a person has committed suicide;

(b) a person has been killed by another, or by an animal, or by machinery, or by an accident;

(c) a person has died under circumstances in which some other person may have committed an offence; or

(d) a person has died or has disappeared in circumstances which raise reasonable presumption that he has died, and the cause of such death or presumed death is not known,

he shall —

(i) immediately give information thereof to a Magistrate and himself immediately proceed or shall direct some other police officer immediately to proceed to the place where the body of such deceased person is, or, if the body has disappeared, to the place where the deceased person was last seen alive; and

(ii) there make an investigation and draw up a report of the apparent cause of death, describing, if the body is available, such wounds, fractures, bruises and other marks as may be found thereon, and stating in what manner or by what weapon or instrument (if any) the same appear to have been inflicted, and, whether the body is available or not, giving an account of such objects and circumstances as in his opinion may relate to the cause of death or the person (if any) who caused the death:

Provided that if no police officer is available to make the investigation required by this subsection, a Magistrate may direct a fit and proper person (in this section referred to as an authorised officer) to carry out such investigation and to draw up the report and forward it to the officer in charge of the police station:

Provided further that if the Magistrate is satisfied that no useful purpose would be served by any person proceeding to the place where the body is or, if the body has disappeared, to the place where the body was last seen alive, he may by order in writing under his hand dispense with such requirement.

(2) Any police or authorised officer making an investigation under this section may exercise all the powers granted to a police officer under the provisions of Chapter XIII.

(3) A report of such investigation shall be made and signed by the officer in charge of the police station and forwarded by him to the Magistrate:

Provided that if as a result of the investigation the officer drafts a charge under section 123 in respect of the death of such person, he shall forward the report to the Public Prosecutor and shall inform the Magistrate in writing of the commencement of such proceedings.

Duty of officer to arrange for *post mortem* examination in certain cases

304. (1) Every person making an investigation under section 303 shall, if there appears to him any reason to suspect that —

(a) the deceased came by his death in a sudden or unnatural manner or by violence; or

(b) his death resulted in any way from or was accelerated by any unlawful act or omission on the part of any other person,

at once inform the nearest medical officer, and shall take or send the body to the nearest Government hospital or other convenient place for the holding of a *post mortem* examination of the body by a medical officer:

Provided that if that person is satisfied as to the cause of death and that the deceased came by his death by accident, or that in all the circumstances of the case including the state of the body and the difficulties of communication, he is of the opinion that no useful purpose would be served by a further examination, he may order the body to be buried forthwith.

(2) The person making the investigation shall not remove the body if it appears to him that it should be viewed by a Magistrate in the place where it was found.

(3) Where it is not practicable to obtain the services of a medical officer, a hospital assistant may perform the duties required by this section.

Post mortem examination of body

305. (1) Upon receiving the information referred to in section 304, a medical officer or hospital assistant shall, as soon as practicable, make *post mortem* examination of the body of the deceased.

(2) The medical officer or hospital assistant, if it is necessary in order to ascertain the cause of death, shall extend the examination to the dissection of the body and an analysis of any portion thereof, and may cause any portion thereof to be transmitted to the Director-General of Medical Services.

[GN 273/2002]

Report of medical officer

306. The medical officer or hospital assistant making any such examination shall draw up a report of the appearance of the body and of the conclusion which he draws therefrom, and shall certify as to the cause of death and shall date and sign the report and transmit it to the Magistrate or officer in charge of a police station who shall attach it to the report forwarded under section 303.

Duty of Magistrate on receipt of report

307. (1) If the Magistrate shall be satisfied as to the cause of death and that the death did not result in any way from or was not accelerated by any

unlawful act or omission without holding an inquest under this Chapter, he shall —

(a) report to the Public Prosecutor the cause of death as ascertained to his satisfaction, with his reasons for being so satisfied; and

(b) at the same time transmit to the Public Prosecutor all reports and documents in his possession connected with the matter.

(2) A Magistrate may in his discretion hold an inquest if there is no body available in the circumstances mentioned in section 303(1).

(3) A Magistrate shall not hold any inquest under this Chapter if he has reason to believe that criminal proceedings against any person for having caused the death of the deceased have been or are about to be commenced.

(4) In all other cases, the Magistrate shall proceed as soon as may be to hold an inquest under this Chapter.

Death of person in custody of police or in psychiatric facility [S 25/2014]

308. Notwithstanding the provisions of section 307, when any person dies while in the custody of the police or in a psychiatric facility or prison, the officer who had the custody of such person or was in charge of the psychiatric facility or prison, as the case may be, shall forthwith give intimation of the death to the nearest Magistrate, and the Magistrate or some other Magistrate shall, in the case of death in the custody of the police, and in other cases may, if he thinks expedient, hold an inquest into the cause of death and for such purpose may designate any person to make the investigation and report referred to in section 303 and that person shall for the purposes of the investigation be deemed to be a police officer.

[S 25/2014]

Powers of Magistrate

309. (1) A Magistrate holding an inquest under this Chapter shall have all the powers which he would have in holding an inquiry into an offence.

(2) A Magistrate holding an inquest under this Chapter if he considers it expedient that the body of the deceased person should be examined by a medical officer or hospital assistant in order to discover the

cause of death may, whether a *post mortem* examination has been made under section 305 or not, issue his order to a medical officer or hospital assistant to make a *post mortem* examination of the body, and may for such purpose order the body to be exhumed.

(3) The Magistrate holding the inquest may, if he thinks fit, summon to assist him a jury consisting of not less than three and not more than five persons of whom at least half shall, if possible, be of the same race as the deceased.

Magistrate may view body

310. The Magistrate holding an inquest shall ordinarily view the body of the deceased and may for that purpose cause such body to be exhumed:

Provided that a Magistrate may in his discretion dispense with viewing the body if, for a reason which he shall record, he considers it to be unnecessary.

Inquiries to be made by Magistrate

311. A Magistrate holding an inquest shall inquire when, where, how and after what manner the deceased came by his death and also whether any person is criminally concerned in the cause of such death.

Evidence and finding to be recorded

312. (1) The Magistrate holding an inquest under this Chapter shall record the evidence and his finding thereon, and shall forthwith transmit to the Public Prosecutor the original of such evidence and finding duly authenticated by his signature, or a copy of such evidence and finding certified under his hand as correct.

(2) The place in which any inquest under this Chapter is held shall be a place open to the public. But a Magistrate conducting an inquest may, on special grounds of public policy or expediency, in his discretion, exclude the public or any person or persons in particular at any stage of the inquest from the place in which the inquest is being held.

Powers of Public Prosecutor and High Court as to inquests

313. (1) Notwithstanding anything in section 307, the Public Prosecutor may at any time direct a Magistrate to hold an inquest under this Chapter into the cause of, and the circumstances connected with, any death

such as is referred to in sections 303 and 308, and the Magistrate to whom such direction is given shall thereupon proceed to hold an inquest and shall record his finding as to the cause of death and also as to any of the circumstances connected therewith with regard to which the Public Prosecutor may have directed him to make inquiry.

(2) When the proceedings at any inquest under this Chapter have been closed and it appears to the Public Prosecutor that further investigation is necessary, the Public Prosecutor may direct the Magistrate to reopen the inquest and to make further investigation, and thereupon the Magistrate shall have full power to reopen the inquest and make further investigation and thereafter to proceed in the same manner as if the proceedings at the inquest had not been closed:

Provided that this subsection shall not apply to any inquest at which a finding of murder or culpable homicide not amounting to murder has been returned against any person.

(3) When giving any direction under this section, the Public Prosecutor may also direct whether the body shall or shall not be exhumed.

(4) All directions given under this section shall be complied with by the Magistrate to whom they are addressed without unnecessary delay.

(5) If it is made to appear to the Public Prosecutor that it is expedient that an inquest commenced by one Magistrate should be continued by another, he may direct both Magistrates accordingly and the Magistrates shall comply with the direction.

Admissibility of medical report in certain cases

314. (1) The medical officer or hospital assistant who made the *post mortem* examination of the body of the deceased shall when possible be called as a witness but in his absence for reasonable cause, the written report of the medical officer or hospital assistant shall be admissible in evidence.

(2) The written report shall be subject to such deduction from its weight as the Court deems proper to make by reason of the report not having been made upon oath and the accused person not having any opportunity of cross-examination.

Procedure where jury has been summoned

314A. (1) If a jury has been summoned under section 309(3), the Magistrate shall not be required to arrive at or record a finding but shall direct the jury as to their verdict and shall record the verdict of such jury or, if they fail to agree, of the majority thereof which shall be deemed to be the finding and sections 312 and 313 shall in such case be construed with the modifications necessary to give effect to this section.

(2) The jury or a majority thereof, as the case may be, shall sign the verdict recorded under subsection (1).

*Chapter XXXI**Persons of unsound mind***Procedure where accused is of unsound mind**

315. (1) When a Court holding an inquiry or a trial has reason to suspect that the accused person is of unsound mind and consequently incapable of making his defence, it shall in the first instance inquire into the fact of such unsoundness, and if not satisfied that such person is capable of making his defence, shall postpone the inquiry or trial and shall remand him to a hospital for a period not exceeding one month.

(2) The medical officer of the hospital shall keep the person under observation during the period of his remand and before the expiry of the period, shall certify under his hand to the Court his opinion as to the state of mind of the person, and if he is unable within the period to form any definite conclusion, shall so certify to the Court and shall ask for a further remand which may extend to 2 months.

Certificate of medical officer

316. (1) If the medical officer shall certify that the accused person is of sound mind and capable of making his defence, the Court shall proceed with the inquiry or trial.

(2) If the medical officer shall certify that the person is of unsound mind and incapable of making his defence, the Court shall, if satisfied of the fact, find accordingly, and thereupon the inquiry or trial, as the case may be, shall be postponed.

(3) The certificate of the medical officer shall be receivable as evidence under this section, but the Court may require the personal attendance of the medical officer.

(4) If the accused person is certified to be of unsound mind and incapable of making his defence, it shall not be necessary for him to be present in Court during proceedings under this Chapter.

Release of person of unsound mind pending investigation or trial

317. (1) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Court, if the offence charged is bailable, may in its discretion release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Court or such officer as the Court appoints in that behalf or —

(a) in the case of a Court of a Magistrate, remand him to a prison or hospital or other suitable place of safe custody and refer the case to a Judge who may —

- (i) release him on security being given as provided in this subsection;
- (ii) make further enquiry or direct that further enquiry be made or order him to be tried; or
- (iii) order him to be confined in a prison or hospital or other suitable place of safe custody and report the case to the Permanent Secretary to the Office of the Prime Minister*;

(b) in the case of the High Court, order him to be confined in a prison or hospital or other suitable place of safe custody and report the case to the Permanent Secretary to the Office of the Prime Minister* but without prejudice to the provisions of section 323.

(2) If the offence charged is non-bailable, the Court —

* Transferred from the Minister of Law to the Permanent Secretary, Office of the Prime Minister, with effect from 26th July 1983 —
[S 37/1999]

(a) in the case of a Court of a Magistrate, shall remand the accused person to a prison or hospital or other suitable place of safe custody and refer the case to a Judge who may —

- (i) release him on security being given as provided in subsection (1);
- (ii) make further enquiry or direct that further enquiry be made or order him to be tried; or
- (iii) order him to be confined in a prison or hospital or other suitable place of safe custody and report the case to the Permanent Secretary to the Office of the Prime Minister*;

(b) in the case of the High Court —

- (i) release him on security being given as provided in subsection (1); or
- (ii) order him to be confined in a prison or hospital or other suitable place of safe custody and report the case to the Permanent Secretary to the Office of the Prime Minister*.

(3) Where any case is reported to the Permanent Secretary to the Office of the Prime Minister* under the provisions of subsection (1) or (2), the Permanent Secretary to the Office of the Prime Minister* shall order the accused person to be confined in a psychiatric facility, prison or other suitable place of safe custody during the pleasure of His Majesty the Sultan and Yang Di-Pertuan.

[S 25/2014]

Inquiry or trial

318. When the accused has been released under section 317, the Court may at any time require him to appear or be brought before it and may again proceed under section 315.

* Transferred from the Minister of Law to the Permanent Secretary, Office of the Prime Minister, with effect from 26th July 1983 —
[S 37/1999]

Defence of mental disorder at preliminary inquiry

[S 25/2014]

319. When the accused person appears to be of sound mind at the time of a preliminary inquiry, the Magistrate, notwithstanding that it is alleged that at the time when the act was committed, in respect of which the accused person is charged, he was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, shall proceed with the case and, if the accused person ought, in the opinion of the Magistrate to be committed for trial before the High Court, the Magistrate shall so commit him.

Defence of insanity on trial

[S 25/2014]

320. Where —

(a) any act or omission is charged against any person as an offence; and

(b) it is given in evidence on the trial of such person for that offence that he was insane so as not to be responsible for his action at the time when the act was done or omission made,

then if it appears to the Court before which such person is tried that he did the act or made the omission charged but was insane as aforesaid at the time when he did the act or made the omission, the Court shall make a special finding to the effect that the accused was guilty of the act or omission charged but was insane as aforesaid when he did the act or made the omission.

Order for detention

321. (1) When a special finding under section 320 is made by any Court of a Magistrate, it shall report the case for the order of a Judge and shall meanwhile order the person in respect of whom it has made the finding, to be kept in custody in any prison or hospital or in such place and in such manner as the Court shall direct.

(2) If the Judge is satisfied with such special finding, he shall order that such person be confined in a psychiatric facility, prison or other suitable place of safe custody pending the order of the Permanent Secretary to the Office of the Prime Minister* under subsection (5).

[S 25/2014]

* Transferred from the Minister of Law to the Permanent Secretary, Office of the Prime Minister, with effect from 26th July 1983 —
[S 37/1999]

(3) If, after such inquiry as he considers necessary, the Judge is not satisfied with the special findings, he may make further inquiry or direct that further inquiry be made or order a new trial on the same or on an amended charge with such direction to the Court of a Magistrate as he shall think fit.

(4) When a special finding under section 320 is made by the High Court, it shall report the case to the Permanent Secretary to the Office of the Prime Minister* and order the person in respect of whom it has made such finding to be confined in a psychiatric facility, prison or suitable place of safe custody pending the order of the Permanent Secretary to the Office of the Prime Minister* under subsection (5).

[S 25/2014]

(5) Where any case has been reported to the Permanent Secretary to the Office of the Prime Minister* under subsection (2) or (4), the Permanent Secretary to the Office of the Prime Minister* shall order the person in respect of whom a special finding has been made to be confined in a psychiatric facility, prison or other suitable place of safe custody during the pleasure of His Majesty the Sultan and Yang Di-Pertuan.

[S 25/2014]

Visiting of prisoners of unsound mind

322. When any person is confined under the provisions of section 247, 317 or 321, two medical officers shall visit him in order to ascertain his state of mind, once at least in every 12 months, and they shall thereupon make a report to the Permanent Secretary to the Office of the Prime Minister* on the state of mind of that person.

Procedure when prisoner of unsound mind reported able to make defence

323. If the person is confined under the provision of section 317 and —

(a) the medical officers certify that in their opinion the person is capable of making his defence; and

(b) the Public Prosecutor certifies that in his opinion it is in the public interest that the trial of the person shall proceed,

* Transferred from the Minister of Law to the Permanent Secretary, Office of the Prime Minister, with effect from 26th July 1983 —
[S 37/1999]

he shall be taken before the Court at such time as the Court appoints, and if the Court is satisfied that such person is capable of making his defence, shall proceed with the trial.

Procedure where person of unsound mind appears to be fit for discharge

324. (1) If it is made to appear to His Majesty the Sultan and Yang Di-Pertuan by a medical report under section 322 or otherwise that a person detained or confined under the provisions of section 247, 317 or 321, in this section referred to as the patient, may have recovered his sanity and that his discharge may be warranted then, if His Majesty the Sultan and Yang Di-Pertuan is of the opinion that the discharge of the patient either unconditionally or under the provisions of sections 325 and 325A is warranted, he shall proceed to order his discharge:

Provided that if the patient is confined under the provisions of section 317, this section shall apply only if the Public Prosecutor shall have informed His Majesty the Sultan and Yang Di-Pertuan that he has declined to certify to the effect mentioned in section 323(b):

Provided further that if the prisoner is confined under the provisions of section 247, His Majesty the Sultan and Yang Di-Pertuan may, *in lieu* of discharging the prisoner, order that he be transferred to a prison to serve the remainder of any sentence of imprisonment remaining unexpired and that it shall be a condition of any discharge under this subsection that the balance of any sentence of imprisonment shall have been remitted or shall be remitted from a date not later than the date as from which the discharge is to take effect.

(2) For the purposes of assisting him in forming an opinion under subsection (1), His Majesty the Sultan and Yang Di-Pertuan may in his discretion appoint a Commission consisting of a Judge or a Magistrate and such number of suitable persons or other suitable persons, as he shall deem fit, to inquire formally into the question whether the discharge of the patient is warranted.

(3) A Commission appointed under subsection (2) shall sit in camera:

Provided that the patient or his representative and the Attorney General or his representative shall have the right without leave to appear and be heard by the Commission.

Delivery of person of unsound mind to care of relative

325. (1) Whenever any relative or friend of any person confined under the provisions of section 247, 317 or 321 desires that he be delivered over to his care and custody, the Permanent Secretary to the Office of the Prime Minister*, upon the application of the relative or friend and on his giving security to the satisfaction of the Permanent Secretary to the Office of the Prime Minister*, that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may, in his discretion, order the person to be delivered to the relative or friend.

(2) Whenever the person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Permanent Secretary to the Office of the Prime Minister* directs.

(3) The provisions of section 322 or 324 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section, and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

Conditional discharge of person who has been of unsound mind

325A. (1) Whenever the Permanent Secretary to the Office of the Prime Minister* orders the discharge of a person confined under the provisions of section 247, 317, 321 or under the provisions of this section, it shall be lawful for him to make the discharge conditional upon the compliance by the person with such conditions relating to the further medical observation, care, control or supervision of that person as he may consider desirable in the interest of that person or in the public interest and the contravention of any such condition by that person shall constitute an offence punishable with a fine of \$8,000.

(2) Upon conviction of that person of an offence under subsection (1), the Magistrate may, if he has any reason to believe that there has been a relapse in the mental condition of that person, *in lieu* of or in addition to any penalty under subsection (1), order that person to be confined in prison, hospital or in such place as the Magistrate shall think fit.

* Transferred from the Minister of Law to the Permanent Secretary, Office of the Prime Minister, with effect from 26th July 1983 —
[S 37/1999]

(3) When any person is confined under the provisions of subsection (2), he shall be visited by two medical officers who shall make a report to the Permanent Secretary to the Office of the Prime Minister* on the state of mind of that person.

(4) Upon the receipt of a report under subsection (3), the Permanent Secretary to the Office of the Prime Minister* may, if the medical officers so recommend, revoke the order by which that person was discharged whereupon that person shall be liable to be dealt with in like manner as if he had never been discharged or shall order that person be discharged.

Chapter XXXII

Proceedings in case of certain offences affecting administration of justice

Procedure in certain cases mentioned in section 132

326. When any civil or criminal Court is of opinion that there is ground for inquiring into any offence referred to in section 132(1)(b), (c), (d) or (f) and committed before it or brought under its notice in the course of a judicial

proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to a Court having jurisdiction and may send the accused in custody, or take sufficient security for his appearance, before such Court, and may bind over any person to appear and give evidence on such inquiry or trial.

Power of Courts in certain offences committed before themselves

327. The High Court or a Court of a Magistrate may charge a person for any offence referred to in section 132(1)(b), (c), (d) or (e) and committed before it or brought under its notice in the course of a judicial proceeding, and may commit for trial to a Court having jurisdiction, or admit to bail and itself try such person upon its own charge.

* Transferred from the Minister of Law to the Permanent Secretary, Office of the Prime Minister, with effect from 26th July 1983 —
[S 37/1999]

Summary procedure for offences committed in Court

328. Where any such offence as is described in section 175, 178, 179, 180 or 228 of the Penal Code (Chapter 22) is committed in the view or presence of any Court of a Magistrate whether civil or criminal, the Court may cause the offender to be detained in custody, and at any time before the rising of the Court on the same day the Court may, if it thinks fit, take cognisance of the offence and sentence the offender to imprisonment for 14 days or to a fine of \$400, and in default of payment to imprisonment for one month.

Record of facts constituting offence

329. (1) In every such case, the Court shall record the facts constituting the offence, with the statement (if any) made by the offender as well as the finding and sentence.

(2) If the offence is an offence punishable under section 228 of the Penal Code (Chapter 22), the record must show the nature and stage of the judicial proceedings in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult

Alternative procedure

330. If the Court, in any case, considers that a person accused of any of the offences referred to in section 328 and committed in its view or presence may be better dealt with by ordinary process of law, the Court, after recording the facts constituting the offence and the statement of the accused as provided under section 329, may —

(a) direct the accused to be prosecuted; and

(b) require security to be given for the appearance of such accused person before a Magistrate or, if sufficient security is not given, forward such person, under custody, to a Magistrate.

Power to remit punishment

331. When any Court has, under section 328, adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of the Court or on apology being made to its satisfaction.

Refusal to give evidence

332. If any witness before a Court of a Magistrate —

(a) refuses to answer such questions as are put to him or to produce any document in his possession or power which the Court requires him to produce; and

(b) does not offer any reasonable excuse for such refusal,

the Court may for reasons to be recorded in writing, sentence him to imprisonment for 14 days, unless in the meantime such person consents to be examined and to answer or to produce the document. In the event of his persisting in this refusal, he may be dealt with according to the provisions of section 328 or 330, notwithstanding any sentence he may have undergone under this section.

Appeal

333. (1) Any person sentenced by any lower Court under the provisions of this Chapter may appeal to the Court to which an appeal ordinarily lies.

(2) The provisions of Chapter XXVIII shall, so far as they are applicable, apply to appeals under this section.

(3) The provisions of Chapter XXIX shall also apply to all proceedings by a Magistrate under this Chapter.

334. *(No section).*

*Chapter XXXIII**Maintenance of wives and children*

335. — 340A. *(No sections).*

*Chapter XXXIV**Directions of nature of habeas corpus***Power of Court to make certain orders**

341. The High Court may, whenever it thinks fit, direct that —

(a) any person be set at liberty who —

(i) is detained in any prison within Brunei Darussalam or a warrant of extradition; or

(ii) is alleged to be illegally or improperly detained in public or private custody within Brunei Darussalam;

(b) any defendant in custody under a writ of attachment be brought before the Court to be dealt with according to law.

Form of application

342. Every application to bring up before the Court a person detained on a warrant of extradition or alleged to be illegally or improperly detained in custody shall be supported by oral evidence or affidavit stating where and by whom the person is detained and, so far as they are known, the facts relating to such detention, with the object of satisfying the Court that there is probable ground for supposing that the person is detained against his will and without just cause.

Warrant

343. (1) In any case in which the Court orders a person in custody to be brought before it, a warrant in writing shall be prepared and signed by the Judge or Registrar and sealed with the seal of the Court.

(2) Such warrant shall, unless otherwise ordered, be delivered to the applicant who shall cause it to be served personally upon the person to whom it is directed or otherwise as the Court shall direct.

Attendance of prisoner in criminal case

344. (1) Whenever the presence of any person detained in a prison situate within Brunei Darussalam is required in any criminal Court, the Court may issue a warrant addressed to the officer in charge of the prison requiring the production of such person before the Court in proper custody at a time and place to be named in the warrant.

(2) The officer in charge of the prison shall cause the person named in the warrant to be brought as directed and shall provide for his safe custody during his absence from prison.

(3) Every such Court may, by indorsement on the warrant, require the person named in the warrant to be brought up at any time to which the matter wherein such person is required, is adjourned.

(4) Every warrant shall be sealed with the seal of the Court and signed by the Judge, Registrar or Magistrate, as the case may be.

Appeal

345. Any person aggrieved by any decision or direction of the Court under this Chapter may appeal to the Court to which an appeal ordinarily lies.

PART IX

SUPPLEMENTARY PROVISIONS

*Chapter XXXV**Bail***Bail may be discretionary or obligatory**

346. Bail shall be discretionary for the purposes of this Chapter when —

(a) it is declared by any written law to be discretionary in respect of any offence;

(b) the offence is declared by the First Schedule to be non-bailable; or

(c) the offence alleged against the person arrested or detained is punishable by imprisonment for a term of 2 years or more, whether or not it is also punishable by fine.

Bail shall be obligatory in any case in which it is not discretionary.

Duty and discretion to admit bail

347. (1) When any person other than a person accused of an offence punishable with death, imprisonment for life or imprisonment for 15 years or more is arrested or detained without warrant by a police officer or upon a warrant under which there is no endorsement under section 44 that a security may be taken for his appearance or appears or is brought before a Magistrate or Court, and is prepared at any time while in the custody of such officer or at any state of the proceedings before such Court to give bail, such person —

(a) shall, if the case is one in which bail is obligatory, be entitled subject to the provisions of this Chapter to be admitted to bail by a Magistrate or Court or any police officer not below the rank of Inspector; and

(b) may, if the case is one in which bail is discretionary, be admitted to bail in the discretion of such Magistrate or Court or any police officer not below the rank of Inspector:

Provided that it shall be lawful for any such officer in exercising this discretion to have regard to any instructions in connection therewith which may be issued by the Public Prosecutor for the guidance of police officers:

Provided further that such officer or Court may instead of taking bail from such person, release him on his executing a bond without sureties for his appearance as provided under subsections (2) and (3).

(2) Notwithstanding anything contained in subsection (1), the High Court may in any case direct that any person be admitted to bail irrespective of the offence of which he is accused.

(3) Any Court may at any subsequent stage of any proceedings under this Code —

(a) cause any person who has been released under this section to be arrested and may commit him to custody; or

(b) direct that any bail required by any police officer or any Court of a Magistrate be reduced or increased:

Provided that the Court of Appeal may exercise the power hereby conferred as if the words “of a Magistrate” in paragraph (b) had been deleted.

(4) Where any police officer exercises the power of granting bail under this section he shall immediately report the complaint and details of the bail allowed to a Magistrate.

Amount of bond

348. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case as being sufficient to secure the attendance of the person arrested but shall not be excessive.

Bond to be executed

349. Before any person is released on bail, or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by that person, and when he is released on bail a bond shall also be executed by one or more sufficient sureties, conditioned that that person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

Person to be released

350. (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released and when he is in prison the Court admitting him to bail shall issue an order of release to the officer in charge of the prison, and such officer, on receipt of the order, shall release him.

(2) Nothing in this section or in section 346 or 347 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

When warrant of arrest may be issued against person bailed

351. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court admitting him to bail may issue a warrant of arrest directing that the person released on

bail be brought before it, and may order him to find sufficient sureties, and on his failing so to do may commit him to prison.

Sureties may apply to have bond discharged. Procedure subsequent thereto

352. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged, either wholly or so far as relates to the applicants, and shall call upon that person to find other sufficient sureties, and if he fails to do so may commit him to custody.

(4) A surety may at any time arrest the person for whose attendance and appearance he is a surety and forthwith bring him before a Magistrate, who shall thereupon discharge such surety's bond and shall call upon that person to find other sufficient surety, and if he fails to do so shall commit him to custody.

Appeal

353. Any person aggrieved by any order or refusal of any lower Court made under this Chapter may appeal to the Court to which an appeal ordinarily lies.

Chapter XXXVI

Bonds

Deposit instead of bond

354. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may permit or require him to deposit a sum of money to such amount as the Court or officer may fix, *in lieu* of the penalty in the bond.

Procedure on forfeiture of bond

355. (1) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken or, when the bond is for appearance before a Court, whenever it is proved to the satisfaction of such Court that the bond has been forfeited, the Court shall record the grounds of such proof and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the bond by issuing a warrant for the attachment and sale of the property belonging to the person.

(3) If the penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment for a term which may extend to 6 months.

(4) The Court may, in its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

Appeal

356. Any person aggrieved by any order of any lower Court made under this Chapter may appeal to the Court to which an appeal ordinarily lies.

*Chapter XXXVII**Disposal of property subject of offences***Order for custody and disposal of property in certain cases**

357. (1) When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any criminal Court during any inquiry or trial, the Court may —

(a) make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial; and

(b) if the property is subject to speedy or natural decay, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

(2) When an inquiry or a trial in any criminal Court is concluded, the Court may make such order as it thinks fit for the disposal by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof, or otherwise of any property or document produced before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(3) When the High Court makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by a Magistrate.

(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of subsection (2) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal.

Explanation — In this section, “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by the conversion or exchange, whether immediately or otherwise.

Direction *in lieu* of order

358. *In lieu* of itself making an order under section 357, the Court may direct the property to be delivered to a Magistrate, who shall, in such cases, deal with it as if it had been seized by the police and the seizure had been reported to him in the manner mentioned in this Chapter.

Payment to innocent person of money found on accused

359. When any person is convicted of any offence which includes or amounts to theft or receiving stolen property and it is proved that another person has bought the stolen property from him without knowing or having reason to believe that the property was stolen and that any money has, on his arrest, been taken out of the possession of the convicted person, the Court may, on the application of the purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of

such money a sum not exceeding the price paid by the purchaser be delivered to him.

Stay of order

360. The High Court may direct any order under section 357 or 359 made by a Court of a Magistrate to be stayed pending consideration by the High Court and may modify, alter or annul such order.

Destruction of libellous and other matter

361. (1) On a conviction under section 292, 293, 501 or 502 of the Penal Code (Chapter 22), the Court may order the destruction of all the copies of the thing in respect of which the conviction was had and which are in the custody of the Court or remain in the possession of the person convicted.

(2) The Court may, in the same manner, on a conviction under section 272, 273, 274 or 275 of the Penal Code (Chapter 22), order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

Restoration of possession of immovable property

362. (1) Whenever a person is convicted of an offence attended by criminal force and it appears to the Court that by such force any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order the property to be restored to the possession of the person who has been dispossessed.

(2) No such order shall prejudice any right or interest to or in the immovable property which any person may be able to establish in a civil suit.

Procedure by police on seizure of property

363. (1) The seizure or finding by any police officer of property taken under section 24 or alleged or suspected to have been stolen or found under circumstances which create suspicion of the commission of any offence shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of the property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it, and shall in such case issue a public notification specifying the articles of which such property consists and requiring any person who may have a claim thereto to appear before him and establish his claim within 6 months from the date of the notification.

(3) The notification shall, if the value of the property exceeds \$500, be published in the *Gazette*.

Procedure where no claim established

364. (1) If no person within such period establishes his claim to the property and if the person in whose possession the property was found is unable to show that it was legally acquired by him, the property shall be at the disposal of the Government and may be sold under the order of a Magistrate.

(2) In the case of an order made under this section, an appeal shall lie to the Court to which an appeal ordinarily lies.

Procedure where owner unknown

365. If the person entitled to the possession of the property is unknown or absent and the property is subject to speedy and natural decay, or the Magistrate to whom its seizure or finding is reported is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold, and the provisions of sections 363 and 364 shall, as nearly as may be practicable, apply to the net proceeds of the sale.

Order suspended pending appeal

365A. No order made under this Chapter shall come into force until after the expiration of the time prescribed for instituting an appeal or, if an appeal has been instituted, until the dismissal of the appeal, in the proceedings in respect of which such order was made unless the property is subject to speedy or natural decay in which case a Judge or Magistrate may, after recording such evidence as he thinks necessary, order its disposal immediately.

*Chapter XXXVIII**Transfer of criminal cases***Power to transfer cases**

366. (1) Whenever it is made to appear to the High Court that —

(a) a fair and impartial inquiry or trial cannot otherwise be had;

(b) some question of law of unusual difficulty is likely to arise;

(c) a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the offence;

(d) an order under this section will tend to the general convenience of the parties or witnesses; or

(e) such an order is expedient for the ends of justice, or is required by any provision of this Code,

the High Court may order that any offence be inquired into or tried by any specified Court of a Magistrate competent to inquire into or try such offence, or that any particular criminal case be transferred to and tried before the High Court, or that a person committed for trial in one place be tried in another place.

(2) The High Court may exercise any of its powers under this section either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

Application for transfer

367. (1) Every application for the exercise of the power conferred by section 366 may be made personally or in writing and when required shall be supported by affidavit.

(2) When an accused person makes an application under this section, the High Court may, if it thinks fit, direct him to execute a bond, with or without sureties, on condition that he will, if convicted, pay the expenses of the prosecution.

*Chapter XXXIX**Irregularities in proceedings*

368. *(No section).*

Procedure when confession irregularly taken

369. If any Court before which a confession or other statement of an accused person recorded under section 119 or 220 is tendered or has been received in evidence finds that any of the provisions of such section have not been complied with by the Magistrate recording the statement, it shall take evidence that the person duly made the statement recorded and, if it is satisfied of the same, the statement shall be admitted if the error has not injured the accused as to his defence on the merits.

Omission to frame charge

370. (1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed unless, in the opinion of the Court of Appeal or revision, a failure of justice has been occasioned thereby.

(2) If the appellate or revising Court thinks that a failure of justice has been occasioned by the omission to frame a charge, it shall order that a charge be framed and that a new trial be held.

Irregularities not to vitiate proceedings

371. (1) Subject to the provisions of sections 369 and 370, no finding, sentence or order passed or made by a Court of competent jurisdiction shall be reversed or altered on account of—

(a) any error, omission or irregularity in the complaint, summons, warrant, charge, judgment or other proceedings before or during trial, or in any inquiry or other proceedings under this Code;

(b) the want of any sanction required by section 132;

(c) the omission to inform an accused person of his rights under section 221;

(d) the want of qualification of any assessor;

- (e) the improper admission or rejection of any evidence; or
- (f) any misdirection in any charge to assessors,

unless such error, omission, improper admission or rejection of evidence, irregularity, want or misdirection has occasioned a failure of justice.

(2) In determining whether any error, omission or irregularity in any proceedings under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

Power of Chief Justice to dispense with provisions of Code

372. Where owing to the illiteracy or lack of understanding of any person against whom any proceedings under this Code are being taken, or for other valid reason, it is not in the opinion of the Chief Justice reasonably necessary or practicable to carry out any provision of this Code, the Chief Justice may —

(a) authorise any Court or Magistrate to dispense with such provision; and

(b) direct either generally or in any particular case or class of case that any Court or Magistrate shall, notwithstanding any of the provisions of this Code, proceed in such manner as the Chief Justice shall direct.

Unlawful distress; irregularity no trespass

373. No distress made under this Code shall be deemed unlawful, nor shall any person making the distress be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto, but all persons aggrieved by such irregularity may recover full satisfaction for the special damage caused thereby in any Court of competent jurisdiction.

*Chapter XL**Public Prosecutor***Public Prosecutor and Deputies**

374. (1) The Attorney General shall be the Public Prosecutor and shall have the general direction and control of criminal prosecutions and proceedings under this Code or under any other written law.

(2) His Majesty the Sultan and Yang Di-Pertuan may appoint fit and proper persons to be Deputy Public Prosecutors who shall be under the general control and direction of the Public Prosecutor and may exercise any or all of the powers under this Code as may be delegated to him by the Public Prosecutor.

(3) The Public Prosecutor may, by notification published in the *Gazette*, delegate all or any of the powers vested in him by this Code to any Deputy Public Prosecutor and the exercise of these powers by such Deputy Public Prosecutor shall then operate as if they had been exercised by the Public Prosecutor, provided that the Public Prosecutor may in like manner revoke any delegation made by him under this section.

Conduct of prosecutions

375. (1) Every criminal prosecution and every inquiry shall be conducted —

(a) by the Public Prosecutor or a Deputy Public Prosecutor, or by some person expressly authorised in writing by the Public Prosecutor or His Majesty the Sultan and Yang Di-Pertuan;

(b) by a police officer; or

(c) by an officer of a Government department or of any public utility company in matters which concern his department or company.

(2) In cases where no such officer is available, the prosecution shall be conducted as the Public Prosecutor or the Court shall direct.

(3) In non-seizable cases, any private person may appear in person to prosecute for an offence against his own person or property.

(4) In any case in which a private person is appearing in person under subsection (3), the Public Prosecutor may at any stage of the proceedings by notice in writing or by oral intimation to the Court, given by a person or officer authorised to conduct the case under the provisions of subsection (1) or (2), intervene and assume the conduct of such proceedings; and as from the date of any such intervention, shall be deemed to be a party to the proceedings *in lieu* of such private person.

(5) The provisions of subsection (4) shall apply to any appeal in a criminal prosecution to which the Public Prosecutor is not a party and, subject to the provisions of section 299, shall apply to proceedings by way of revision under Chapter XXIX.

(6) In any case not falling within subsection (3), the proceedings shall be deemed to be conducted by the Public Prosecutor and he shall for all purposes be deemed to be party thereto.

Public Prosecutor may call for police report of record of preliminary inquiry

376. (1) The Public Prosecutor may —

(a) at any time call for a copy of the report of any police investigation or for a copy of the record of any preliminary inquiry that has been held under Chapter XVII; or

(b) may direct generally that in any specified offence or offences such report or record shall be sent to him,

and the officer or Magistrate shall send such report or record accordingly.

(2) Notwithstanding that the Public Prosecutor has not called for such report or record, the officer making such report or the Magistrate holding such inquiry, if he is in doubt whether a charge can properly be made, or what charge ought to be made against the accused, or what evidence or further evidence ought to be taken, may send a copy of the report or record to the Public Prosecutor.

(3) Pending the instructions of the Public Prosecutor, the inquiry, trial or further consideration of the case shall be adjourned, unless the Public Prosecutor shall otherwise direct.

Power of Public Prosecutor to enter *nolle prosequi*

377. (1) In any criminal case and at any stage thereof before judgment, the Public Prosecutor may, either personally or in writing, inform the Court that he intends that the proceedings shall not continue, and thereupon the accused shall be at once discharged in respect of such charges as may be specified, and if he has been committed to prison shall be released or, if on bail, his bond and that of his sureties, if any, shall be discharged.

(2) Such discharge shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

When Public Prosecutor may direct Magistrate to take further evidence

378. (1) If the Public Prosecutor is of opinion that a criminal offence is disclosed and that further proceedings should be taken against the accused but that the evidence already obtained or taken is in any particular or respect defective and is not sufficient to afford a foundation for a full and proper trial, he may by an order in writing signed by himself require the police to make further investigation or require the Magistrate to hold an inquiry or, if an inquiry has been held, to take such further evidence as may be specified or indicated in the order either by way of examining any witnesses who have already given their testimony, or otherwise to continue the inquiry.

(2) Upon the order of the Public Prosecutor being received by the Magistrate he shall cause the accused person to appear before him and shall hold or shall resume and proceed with the inquiry in pursuance of such order.

(3) If an inquiry or supplemental inquiry is directed to be held the accused person, if at large on bail, shall be called upon by written notice to appear before a Court of a Magistrate, and if in prison shall by an order of the Magistrate be brought before the Court on a day appointed therefor.

(4) All the provisions in respect of the original inquiry shall be applicable, so far as may be, to the supplemental inquiry.

(5) The Magistrate shall at the termination of the inquiry or supplemental inquiry forthwith transmit a copy of the record to the Public Prosecutor.

(6) A supplemental inquiry may be continued by a Magistrate other than the Magistrate who conducted the original inquiry.

(7) The Public Prosecutor may, *in lieu* of or in addition to requiring the Magistrate to take further evidence under subsection (1), give notice to the accused that the prosecution intends to call further evidence at the trial and indicating the nature thereof:

Provided that failure to give such notice or that the notice does not indicate with sufficient clarity the nature of the evidence to be called shall not render the evidence inadmissible but shall entitle the accused to such adjournment, if any, as the Court shall consider may in the interests of justice be required.

Public Prosecutor may alter charge and give instructions

379. In addition to the powers conferred on him by sections 375, 377 and 378, the Public Prosecutor upon receiving a copy of the report of a police investigation or the record of an inquiry may —

(a) frame, alter or re-draw the charge or charges against the accused or frame an additional charge or charges against the accused having regard to the provisions of this Code as to the form of charges; and

(b) give such instructions with regard to the inquiry as he may consider desirable and the Magistrate shall, subject to this Code, carry into effect the instructions and shall conduct the inquiry accordingly.

Chapter XLI

General

Affidavits, before whom sworn

380. (1) Any affidavit if otherwise admissible may be used in a criminal Court if it is sworn or affirmed —

(a) in Brunei Darussalam, before any Judge, Registrar, Deputy Registrar, Magistrate or other person lawfully authorised to administer oaths;

(b) elsewhere in the Commonwealth, before any Judge, Court, Notary Public or person lawfully authorised to administer oaths;

(c) in any other place, before any Consul or Vice-Consul of Brunei Darussalam.

(2) The Court shall take judicial notice of the seal or signature (as the case may be) of any Judge, Court, Notary Public, Consul, Vice-Consul or other person appended or subscribed to any affidavit.

When witness not required to attend

380A. (1) Any document purporting to be a report under the hand of any of the persons mentioned in subsection (2) upon any person, matter or thing examined or analysed by him may be given in evidence in any enquiry, trial or other proceedings under the Supreme Court Act (Chapter 5), the Subordinate Courts Act (Chapter 6), or the Code, unless such person shall be required to attend as witness —

(a) by the Court; or

(b) by an accused upon giving notice in writing to the prosecution not less than 7 clear days before the commencement of the trial:

Provided always that in any case in which the prosecution intends to give in evidence any such report, a copy thereof shall be delivered to the accused not less than 14 clear days before the commencement of the trial, unless the Court otherwise allows.

(2) The following are persons to whom the provision of subsection (1) applies —

(a) Government medical officers;

(b) any person employed for the time being wholly or partly on analytical work in any department of the Government;

(c) any chemist or any person employed for the time being on analytical work by the Government of the Federation of Malaysia or Singapore;

(d) *(deleted by S 6/2016)*;

(e) any inspector of weights and measures duly appointed as such under the provisions of any written law;

(f) any person or class of persons to whom the Permanent Secretary to the Office of the Prime Minister, notification published in *Gazette*, declares that the provisions of this section shall apply.

[S 6/2016]

(3) Persons referred to in subsection (2) shall by this Code be bound to state the truth in reports made under their hands.

Power of Court to summon and examine persons

381. Any Court may at any stage of any inquiry, trial or other proceedings under this Code summon any person as a witness, or examine any person in attendance though not summoned as a witness, or recall and re-examine any person already examined, and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

Order for payment of costs of prosecution and compensation

382. (1) When a person is convicted of any crime or offence, the Court may, in its discretion, make either or both of the following orders against him in addition to any other punishment —

(a) an order for the payment by him of the costs of his prosecution or such part thereof as the Court directs;

(b) an order for the payment by him of a sum to be fixed by the Court by way of compensation to any person, or the representatives of any person, injured in respect of his person, character or property by the crime or offence for which the sentence is passed.

(2) The Court shall specify the person to whom any sum in respect of costs or compensation as mentioned in subsection (1), is to be paid, and payment thereof may be enforced in the same manner as if the amount thereof were a fine, or in such other manner as the law for the time being directs.

(3) The Court may direct that an order for payment of costs, or an order for payment of compensation, shall have priority, and, if no direction be given, an order for payment of costs shall have priority over an order for payment of compensation.

(4) An order for payment under this section shall not prejudice any right to a civil remedy for the recovery of any property or for the recovery of damages but the Court shall take into account the amount of compensation paid under the order.

(5) Every order made under this section by a Magistrate shall be appealable to the Court to which an appeal ordinarily lies.

(6) The powers conferred by this section may be exercised on appeal, reference or revision.

Payment of expenses of prosecutors and witnesses

383. In every criminal case, the Court may in its discretion order payment by Government to the prosecutor and to the witnesses both for the prosecution and for the defence, or to such of them as it thinks fit, of the expenses incurred by them severally in and about attending the Court, and also compensation for their trouble and loss of time, subject to such rules as are prescribed.

Rules as to rates etc. [S 9/2006]

384. His Majesty the Sultan and Yang Di-Pertuan may make rules for the following matters —

[S 6/2016]

(a) the rates or scales of payment of the expenses and compensation to be ordered;

(b) the form of the certificates mentioned in section 385 and the details to be inserted therein;

(c) the treatment, training and detention of persons sentenced to reformatory training.

Certificate of Magistrate

385. (1) The Magistrate who commits a case for trial shall certify under his hand in the prescribed form the amount of expenses and compensation allowable to each prosecutor and witness in respect of his attendance before him.

(2) The amount of any other expenses and compensation to the prosecutors and witnesses to whom the High Court orders payment shall be ascertained by the Registrar.

[S 6/2016]

Reward for unusual exertion

386. Whenever it appears to any Court that a private person has shown unusual courage, diligence or exertion in the apprehension of a person accused of having committed, attempted to commit or abetted an offence punishable with death or rigorous imprisonment, such Court may order payment to him by Government of any sum not exceeding \$500.

Compensation for family of person killed in arresting

387. If any person is killed in endeavouring to arrest or to keep in lawful custody a person accused as mentioned in section 386, the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may order payment by Government to the wife, husband, parent or child of the deceased of such sum or sums as appear reasonable in compensation for the loss sustained.

[S 6/2016]

Recovery of money payable under order

388. Any money (other than a fine) payable by virtue of any order made under this Code shall be recoverable as if it were a fine.

Superior police officer may exercise powers of subordinate officers

389. Any police officer to whom an officer in charge of a police station is subordinate may exercise the same powers as may be exercised by the officer in charge of the police station and any police officer to whom an officer in charge of a Police District is subordinate may exercise the same powers as may be exercised by the officer in charge of the Police District.

Power of police to seize property suspected of being stolen

390. Any member of the Royal Brunei Police Force may seize any property which is alleged or may be suspected to have been stolen, or which is found under circumstances which create suspicion that an offence has been committed, and such member, if subordinate to the officer in charge of the nearest police station, shall forthwith report the seizure to such officer.

Person released on bail to give address for service

391. When any person is released on bail, or on his own bond, he shall give to the Court or officer taking such bail or bond an address at which service upon him of all notices and process may be made; and in any case where such person cannot be found, or for other reasons such service on him cannot be effected, any notice or process left for such person at such address shall be deemed to have been duly served upon him.

Power to compel restoration of abducted persons

392. Upon complaint made to a Magistrate on oath of the abduction or unlawful detention of a woman or of a female child under the age of 14 years for any unlawful purpose, he may make an order for the immediate restoration of the woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Compensation for giving in charge groundlessly

393. (1) Whenever any person causes a police officer to arrest another person if it appears to the Judge or Magistrate who takes cognisance of the case that there was no sufficient ground for causing such arrest, the Judge or Magistrate may award such compensation, not exceeding \$500, to be paid by the person so causing the arrest of each person so arrested for his loss of time and any expenses incurred by him in the matter as the Judge or Magistrate shall think fit.

(2) All compensation awarded under this section may be recovered as if it were a fine.

(3) Such compensation shall be no bar to an action for false imprisonment.

Magistrate not to act where interested

394. No Magistrate shall, except with the permission of the High Court, try or commit for trial any case in which he is a party or personally interested.

Explanation — A Magistrate shall not be deemed to be a party or personally interested within the meaning of this section in any case by reason only that he is concerned therein in a public capacity, or by reason only that

he has viewed the place in which any transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

Public servants not to bid at sales under this Code

395. A public servant, having any duty to perform in connection with the sale of any property under this Code, shall not purchase or bid for the property.

When receivers etc. charged evidence of other cases allowed

396. Where proceedings are taken against any person for having received goods knowing them to be stolen or for having in his possession stolen property, evidence may be given at any stage of the proceedings that there was found in the possession of such person other property stolen within the preceding period of 12 months, and such evidence may be taken into consideration for the purpose of proving that such person knew the property to be stolen which forms the subject of the proceedings taken against him.

When evidence of previous conviction may be given

397. Where proceedings are taken against any person for having received goods knowing them to be stolen or for having in his possession stolen property and evidence has been given that the stolen property has been found in his possession, then if such person has within 5 years immediately preceding been convicted of any offence involving fraud or dishonesty, evidence of such previous conviction may be given at any stage of the proceedings and may be taken into consideration for the purpose of proving that the accused knew the property which was proved to be in his possession to have been stolen.

Forms

398. The forms in the Second Schedule, with such variation as the circumstances of each case may require, may be used for the respective purposes therein mentioned.

Application of fines

399. Any Court imposing any fines under the authority of any law for the time being in force may award any portion thereof not exceeding half to an informer.

Power to make rules and frame forms

400. The Chief Justice may —

(a) make rules for the preparation and transmission of returns and statements to be prepared and submitted by Courts of Magistrates;

(b) frame forms for every proceeding, in those Courts for which he thinks a form should be provided;

(c) amend or alter the forms in the Second Schedule.

PART X

JURISDICTION OF COURT OF APPEAL

Chapter XLII

(Repealed by S 63/2002)

401. — 404. *(Repealed by S 63/2002)*

*Chapter XLIII**Reference***Interpretation of Chapter XLIII**

405. In this Chapter, unless the context otherwise requires, “reference” means a reference of a point of law to the Court of Appeal under this Chapter.

Reference to Court of Appeal

406. (1) If a person (in this Chapter referred to as the respondent) has been acquitted of any charge in a trial before the High Court in the exercise of its original criminal jurisdiction, the Public Prosecutor may, if he desires the opinion of the Court of Appeal on a point of law which has arisen in the case, refer the point to the Court of Appeal which shall, in accordance with this Chapter, consider the point and give its opinion on it.

(2) A reference shall —

(a) be in writing signed by the Public Prosecutor;

(b) specify the point of law referred and, where appropriate, such facts of the case as are necessary for the proper consideration of the point of law;

(c) summarise the arguments intended to be put to the Court of Appeal;

(d) specify the authorities intended to be cited;

(e) be entitled “Reference under the Criminal Procedure Code (Chapter 7)” together with the year and number of the reference; and

(f) be filed with the Registrar within 21 days, or within such further time as the Court of Appeal may allow, after the date on which the respondent was acquitted.

(3) No mention shall be made in the reference of the proper name of any person or place which is likely to lead to the identification of the respondent.

Notice of reference to be served on respondent

407. (1) The Registrar shall cause to be served on the respondent notice of the reference which shall also —

(a) inform the respondent that the reference will not affect the trial in relation to which it is made or any acquittal in that trial;

(b) invite the respondent, within such period as may be specified in the notice (being not less than 28 days from the date of service of the notice), to inform the Registrar if he wishes to present any argument to the Court of Appeal and, if so, whether he wishes to present such argument in person or by advocate on his behalf.

(2) The Court of Appeal shall not hear argument by the Public Prosecutor until the period specified in the notice has expired, unless the

respondent agrees or has indicated that he does not wish to present any argument to the Court of Appeal.

Withdrawal or amendment of reference

408. (1) The Public Prosecutor may withdraw or amend the reference at any time before the Court of Appeal has begun the hearing. After that, the Public Prosecutor may withdraw or amend the reference by leave of the Court of Appeal.

(2) The Public Prosecutor shall cause notice of such withdrawal or amendment to be served on the respondent.

Hearing

409. For the purposes of its consideration of a point referred to it under this Chapter, the Court of Appeal shall hear argument —

(a) by the Public Prosecutor;

(b) if the respondent desires to present any argument, by an advocate on his behalf or by the respondent himself; and

(c) if the Court of Appeal so directs, by an advocate appointed as *amicus curiae* by the Registrar.

Costs

410. Where, on a point being referred to the Court of Appeal under this Chapter, the respondent appears by an advocate for the purpose of presenting any argument to the Court of Appeal, he shall be entitled to his costs of such sums as are reasonably sufficient to compensate him for any expenses properly incurred by him for the purpose of being represented on the reference; and any amount recoverable under this section shall be ascertained as soon as practicable by the Registrar.

Reference not to affect trial

411. A reference shall not affect the trial in relation to which the reference is made or any acquittal in that trial.

Reservation by Judge

412. (1) A Judge of the High Court may reserve for the consideration of the Court of Appeal any question of law which may arise on the trial of any charge.

(2) In exercising his power under subsection (1), the Judge may act either of his own motion or on the application of the Public Prosecutor or the defence.

(3) A Judge may, if he reserves a question of law under subsection (1) and the accused person has been convicted —

(a) postpone judgment until the question has been considered and decided; and

(b) commit the person convicted to prison or admit him to bail, with or without one or more sufficient sureties, and in such sum as he may think fit, on condition that he is to appear at such time or times as the Judge may direct and receive judgment.

(4) Upon consideration of a question reserved under subsection (1), the Court of Appeal may —

(a) affirm or quash the conviction or order a new trial; and

(b) make such other orders as may be necessary to give effect to its decision:

Provided that the Court of Appeal may, notwithstanding that it is of the opinion that the question so reserved might be decided in favour of the convicted person, affirm the conviction if it considers that no miscarriage of justice has actually occurred.

Conviction or not guilty by reason of insanity or disability

413. (1) Where a person has been convicted by any court or has been found not guilty by reason of insanity, or has been found to be under disability, His Majesty the Sultan and Yang Di-Pertuan may, at any time either —

(a) refer to the Court of Appeal the whole case, which shall then be treated for all purposes as an appeal to the Court of Appeal by the person; or

(b) refer to the Court of Appeal for its opinion any point arising in the case, and the Court of Appeal shall consider the point so referred and furnish His Majesty the Sultan and Yang Di-Pertuan with its opinion thereon.

(2) A reference by His Majesty the Sultan and Yang Di-Pertuan under this section may be made by him either on an application by the person referred to in subsection (1) or without any such application.

Chapter XLIV

Appeals by persons convicted

[S 63/2002]

General right of appeal against conviction

414. A person convicted of any offence after trial in the High Court may appeal to the Court of Appeal against his conviction.

Appeal against conviction allowed

415. (1) Except as provided by this Code, the Court of Appeal shall allow an appeal against conviction if it thinks that —

(a) the conviction should be set aside on the ground that it is unsafe or unsatisfactory;

(b) the conviction should be set aside on the ground of a wrong decision on any question of law; or

(c) there was a material irregularity in the course of the trial,

and in any other case shall dismiss the appeal.

(2) The Court of Appeal may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no miscarriage of justice has actually occurred.

(3) The Court of Appeal shall, if it allows the appeal, quash the conviction.

(4) An order of the Court of Appeal quashing a conviction shall, except when under section 420 the appellant is ordered to be retried, operate as a direction to the trial Court to enter, instead of the record of conviction, a judgment and verdict of acquittal.

Alternative offence

416. (1) This section applies on an appeal against conviction where the appellant has been convicted of an offence and the Judge could have found him guilty of some other offence, and on the finding of the Judge, it appeals to the Court of Appeal that the Judge must have been satisfied of facts which proved the appellant guilty of the other offence.

(2) The Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the verdict found by the Judge, a verdict of guilty of the other offence, and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law for the other offence.

Where appeal allowed

417. (1) This section applies where on an appeal against conviction after trial in the High Court on two or more charges, the Court of Appeal allows the appeal in respect of one or some of the charges only.

(2) The Court of Appeal may, in respect of any charge on which the appellant remains convicted, pass such sentence in substitution for any sentence passed thereon at the trial as it thinks proper and is authorised by law for offence of which he remains convicted on that charge (whether the sentence so substituted is more or less severe).

Special finding

418. (1) This section applies on an appeal against conviction by a person in whose case the Judge has made a special finding.

(2) If the Court of Appeal considers that a wrong conclusion has been arrived at by the Judge, it may, instead of allowing the appeal, order such conclusion to be recorded as appears to it to be in law required, and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law.

Finding of insanity or unfitness to plead

419. (1) Where, on an appeal against conviction, the Court of Appeal is of opinion that —

(a) the proper verdict would have been one of not guilty by reason of insanity; or

(b) the case is not one where there should have been a verdict of acquittal, but that there should have been a finding that the accused person was under disability,

the Court of Appeal shall make an order that the appellant be admitted to a prison or hospital as the Court of Appeal may direct.

(2) On making an order under this section, the Court of Appeal may give such directions as it thinks fit for his detention pending his admission to a prison or hospital.

Retrial

420. (1) Where the Court of Appeal allows an appeal against conviction and it appears to the Court of Appeal that the interests of justice so require, it may order the appellant to be retried.

(2) A person shall not under this section be ordered to be retried for any offence other than —

(a) the offence of which he was convicted at the original trial and in respect of which his appeal is allowed as mentioned in subsection (1);

(b) an offence of which he could have been convicted at the original trial on a charge for the first mentioned offence;

(c) an offence charged in an alternative count in respect of which the Judge did not give a verdict in consequence of convicting him of the first mentioned offence; and

(d) any other offence which may have been disclosed by evidence adduced at the original trial.

Supplementary provisions as to retrial

421. (1) A person who is to be retried for an offence in pursuance of an order under section 420 shall be tried on a fresh charge preferred by the Public Prosecutor before the High Court.

(2) The Court of Appeal may, on ordering a retrial make such orders as appear to it to be necessary or expedient —

(a) for the custody or admission to bail of the person ordered to be retried pending his retrial; or

(b) for the retention pending retrial of any property or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction.

(3) If the person ordered to be retried was, immediately before the determination of his appeal, liable to be detained in pursuance of an order made under Chapter XXXI —

(a) that order shall continue in force pending the retrial as if the appeal had not been allowed; and

(b) any order made by the Court of Appeal under this section for his custody or admission to bail shall have effect subject to that order.

Appeal against sentence

422. (1) A person convicted of any offence after trial in the High Court may appeal to the Court of Appeal against any sentence (not being a sentence fixed by law) passed on him for the offence.

(2) This section shall also provide rights of appeal against sentence when a person is dealt with by the High Court (otherwise than on appeal from a Magistrate) for an offence of which he was not convicted by the High Court.

(3) An appeal against sentence lies under this section if an offender is committed for sentence by a Magistrate under this Code or any other written law.

Supplementary provisions as to appeal against sentence

423. (1) Where the High Court has passed on an appellant two or more sentences in the same proceedings, an appeal against any one of those sentences shall be treated as an appeal in respect of both or all of them.

(2) On an appeal against sentence, the Court of Appeal, if it considers that the appellant should be sentenced differently for an offence for which he was dealt with by the lower Court, may —

(a) quash any sentence or order which is the subject of the appeal; and

(b) in place of it, pass such sentence or make such order as it thinks appropriate for the case (whether more or less severe) and as the lower Court had power to pass or make when dealing with him for the offence.

Appeal against finding of insanity

424. A person in whose case there is returned a finding of not guilty by reason of insanity may appeal to the Court of Appeal against the finding.

Appeal under section 424

425. (1) Subject to the provisions of this section, the Court of Appeal shall allow an appeal under section 424 if it is of opinion that —

(a) the verdict should be set aside on the ground that it is unsafe or unsatisfactory;

(b) the order of the court giving effect to the verdict should be set aside on the ground of a wrong decision of any question of law; or

(c) there was a material irregularity in the course of the trial,

and in any other case shall dismiss the appeal.

(2) Notwithstanding subsection (1), the Court of Appeal may dismiss an appeal under section 424 if it is of opinion that, notwithstanding the point raised in the appeal might be decided in favour of the appellant, no miscarriage of justice has actually occurred.

(3) Where apart from this subsection —

(a) an appeal under section 424 would be allowed; and

(b) none of the grounds for allowing it relates to the question of the insanity of the appellant,

the Court of Appeal may dismiss the appeal if it is of opinion that, but for the insanity of the appellant, the proper verdict would have been that he was guilty of an offence other than the offence charged.

(4) Where an appeal under section 424 is allowed, the following provisions apply —

(a) if the ground or one of the grounds for allowing the appeal is that the finding as to the insanity of the appellant ought not to stand and the Court of Appeal is of opinion that the proper verdict would have been that he was guilty of an offence (whether the offence charged or any other offence of which the Judge could have found him guilty), the Court of Appeal shall —

- (i) substitute for the verdict of not guilty by reason of insanity, a verdict of guilty of that offence; and
- (ii) have the same powers of punishing or otherwise dealing with the appellant, and other powers, as the trial Court would have had if the Judge had come to the substituted verdict; and

(b) in any other case, the Court of Appeal shall substitute for the verdict of not guilty by reason of insanity, a verdict of acquittal.

Order on disposal of appeal under section 424

426. (1) Where, on an appeal under section 424, the Court of Appeal is of opinion that the case is not one where there should have been a verdict of acquittal but that there should have been a finding that the accused person was under disability, the Court of Appeal shall make an order that the appellant be admitted to a prison or hospital as the Court of Appeal may direct.

(2) Where in accordance with section 425(4)(b) the Court of Appeal substitutes a verdict of acquittal and it is of opinion that —

(a) the appellant is suffering from mental disorder of a nature or degree which warrants his detention in a hospital (with or without medical treatment); and

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(b) he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons,

the Court of Appeal shall make an order that the appellant be admitted to such prison or hospital as may be specified.

(3) On making an order under this section, the Court of Appeal may give such directions as it thinks fit for his detention pending his admission to a prison or hospital.

Right of appeal if person found incapable of making defence

427. Where there has been a determination under Chapter XXXI of the question of a person's fitness to make his defence by a Judge of the High Court, the person may appeal to the Court of Appeal against the finding.

Disposal of appeal under section 427

428. (1) The Court of Appeal shall allow an appeal under section 427 if it is of opinion that —

(a) the finding should be set aside on the ground that it is unsafe or unsatisfactory;

(b) the order giving effect to the finding should be set aside on the ground of a wrong decision on any question of law; or

(c) there was a material irregularity in the course of the determination of the question of fitness to be tried,

and in any other case (except one to which subsection (3) applies) shall dismiss the appeal.

(2) Notwithstanding subsection (1), the Court of Appeal may dismiss the appeal if it is of opinion that, notwithstanding that the point raised in the appeal might be decided in favour of the appellant, no miscarriage of justice has actually occurred.

(3) An appeal under section 427 may, where the question of fitness to be tried was determined later than on the accused being charged, be allowed by the Court of Appeal (notwithstanding that the finding was properly come to) if the Court of Appeal is of opinion that the case is one in which the accused person should have been acquitted before the question of fitness to be tried was considered; and, if an appeal is allowed under this subsection, the Court of Appeal shall, in addition to quashing the finding,

direct a verdict of acquittal to be recorded (but not a verdict of not guilty by reason of insanity).

(4) Subject to subsection (3), where an appeal under section 427 is allowed, the appellant may be tried for the offence with which he was charged, and the Court of Appeal may make such orders as appear to it to be necessary or expedient pending any such trial for his custody or admission to bail.

Appeal not to be allowed on certain grounds

429. Except where, in the opinion of the Court of Appeal, a miscarriage of justice has actually occurred, no appeal shall be allowed because of —

(a) any defect which, if pointed out during the progress of the trial, might have been amended by the trial Court; or

(b) any informality in the swearing of a witness.

Procedure for appeal

430. (1) A person who wishes to appeal to the Court of Appeal shall give notice of appeal in such manner as may be provided by rules and orders made under section 441.

(2) Notice of appeal shall be given within 28 days —

(a) from the date of the conviction, verdict or finding appealed against;

(b) in the case of appeal against sentence, from the date on which sentence was passed; or

(c) in the case of an order made or treated as made on conviction, from the date of the making of the order.

(3) If sentence was passed more than 7 days after the date of conviction, verdict or finding, notice of appeal against the conviction, verdict or finding may be given within 28 days from the date on which sentence was passed.

(4) The time for giving notice under this section may be extended, either before or after it expires, by the Court of Appeal.

(5) In the case of a conviction involving a sentence of death or corporal punishment —

(a) the sentence shall not be executed until after the expiration of the time within which notice of appeal may be given; and

(b) if notice is so given, the appeal shall be heard and determined with as much expedition as is practicable, and the sentence shall not be executed until after the determination of the appeal.

Bail

431. The Court of Appeal may, if it thinks fit on the application of an appellant, admit him to bail pending the determination of his appeal.

Groundless appeals

432. (1) If it appears to the Registrar that a notice of an appeal does not show any substantial ground of appeal, he may refer the appeal to the Court of Appeal for summary determination.

(2) If a case is referred to it under subsection (1), the Court of Appeal may, if it considers that the appeal is frivolous or vexatious and can be determined without any full hearing, dismiss the appeal summarily, without calling on anyone to attend the hearing or to appear for the prosecution thereon.

Preparation of case

433. (1) The Registrar shall —

(a) take all necessary steps for obtaining a hearing of any appeal of which notice is given to him and which is not dismissed summarily under section 432; and

(b) obtain and lay before the Court of Appeal in proper form all documents, exhibits and other things which appear necessary for the proper determination of the appeal.

(2) Rules and orders made under section 441 may enable an appellant to obtain from the Registrar any documents or things, including copies or reproductions of documents, required for his appeal.

Appellant may be present

434. (1) Except as provided by this section, an appellant shall be entitled to be present, if he wishes it, on the hearing of his appeal, although he may be in custody.

(2) A person in custody shall not be entitled to be present —

(a) on any proceedings preliminary or incidental to an appeal; or

(b) where he is in custody in consequence of a verdict of not guilty by reason of insanity or of a finding of disability,

unless the Court of Appeal gives him leave to be present.

(3) The power of the Court of Appeal to pass sentence on a person may be exercised although he is for any reason not present.

Evidence

435. (1) For the purposes of this Chapter, the Court of Appeal may —

(a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to it to be necessary for the determination of the case;

(b) order any witness who would have been a compellable witness in the proceedings from which the appeal lies to attend for examination and be examined before the Court of Appeal, whether or not he was called in those proceedings; and

(c) subject to subsection (3), receive the evidence, if tendered, of any witness.

(2) Without prejudice to subsection (1), where evidence is tendered to the Court of Appeal thereunder it shall, unless it is satisfied that the evidence, if received, would not afford any ground for allowing the appeal, exercise its powers of receiving it if —

(a) it appears to it that the evidence is likely to be credible and would have been admissible in the proceedings from which the appeal lies on an issue which is the subject of the appeal; and

(b) it is satisfied that it was not adduced in those proceedings but that there is a reasonable explanation for the failure to adduce it.

(3) Subsection (1)(c) applies to any witness (including the appellant) who is competent but not compellable, and applies also to the appellant's husband or wife where the appellant makes an application for that purpose and the evidence of the husband or wife could not have been given in the proceedings from which the appeal lies except on such an application.

(4) For the purposes of this Chapter, the Court of Appeal may order the examination of any witness whose attendance might be required under subsection (1)(b) to be conducted, in manner provided by rules and orders made under section 441, before any Judge or other person appointed by the Court of Appeal for the purpose, and allow the admission of any depositions so taken as evidence before the Court of Appeal.

Effect of appeal on sentence

436. (1) The time during which an appellant is in custody pending the determination of his appeal shall, subject to any direction which the Court of Appeal may give to the contrary, be reckoned as part of the term of any sentence to which he is for the time being subject.

(2) Where the Court of Appeal gives a contrary direction under subsection (1), it shall state its reasons for doing so.

(3) Where an appellant is admitted to bail under section 431, the time during which he is at large after being admitted to bail shall be disregarded in computing the term of any sentence to which he is for the time being subject.

(4) The term of any sentence passed by the Court of Appeal shall, unless the Court of Appeal otherwise directs, begin to run from the time when it would have begun to run if passed in the proceedings from which the appeal lies.

Restitution

437. (1) The operation of an order for the restitution of property to a person made on a conviction by the High Court shall (unless the trial Court directs to the contrary in any case in which, in its opinion, the title to the property is not in dispute) be suspended —

(a) in any case, until the expiration of 28 days from the date of conviction; and

(b) where notice of appeal is given within 28 days from the date of conviction, until the determination of the appeal.

(2) In cases where the operation of such an order is suspended until the determination of the appeal, the order shall not take effect as to the property in question if the conviction is quashed on appeal.

(3) Provision may be made by rules and orders made under section 441 for securing the safe custody of any property pending the suspension of the operation of any such order.

(4) The Court of Appeal may by order annul or vary any order made by the trial Court for the restitution of property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

Costs

438. (1) This section applies to any appeal —

(a) under section 414 against conviction;

(b) under section 412 against a verdict of not guilty by reason of insanity;

(c) under section 426 against a finding that the appellant is under disability.

(2) Where an appeal to which this section applies is allowed, the Court of Appeal may, subject to subsection (3), order the payment out of the public revenue of the costs of the appellant.

(3) No order shall be made under this section where —

(a) in the case of an appeal referred to in subsection (1)(a), the appellant is ordered under section 420 to be retried;

(b) in the case of an appeal referred to in subsection (1)(b), the provisions of section 425(4)(a) apply; or

(c) in the case of an appeal referred to in subsection (1)(c) the provisions of section 428(4) apply.

(4) The costs payable under this section shall be such sums as appear to the Court of Appeal reasonably sufficient to compensate the appellant for any expenses properly incurred by him in the appeal, including any proceedings preliminary or incidental thereto or in the trial Court or before a Magistrate.

(5) The amount of costs ordered to be paid under this section shall, except where the amount is fixed by the Court of Appeal, be ascertained by the Registrar.

Chapter XLIVA

[S 63/2002]

Appeals by Public Prosecutor

Appeal by Public Prosecutor against acquittal *[S 63/2002]*

438A. Notwithstanding any other provisions of this Code or of any other written law, the Public Prosecutor may appeal to the Court of Appeal against any acquittal of any person by the High Court in the exercise of its original criminal jurisdiction.

Arrest of respondent *[S 63/2002]*

438B. When there is an appeal by the Public Prosecutor under section 438A, the Court of Appeal may issue a warrant directing that the accused be arrested and brought before it, and may commit him to prison pending the determination of the appeal or admit him to bail.

Respondent not present *[S 63/2002]*

438C. Where, at the hearing of the appeal, the respondent is not present and the Court of Appeal is not satisfied that the notice of appeal was duly served upon him, the Court of Appeal shall not make any order in the matter of the appeal adverse to or to the prejudice of the respondent, but shall adjourn the hearing of the appeal to a future day for his appearance, and shall issue the requisite notice to him to service.

Grounds for allowing appeal [S 63/2002]

438D. (1) Except as provided by this Code, the Court of Appeal shall allow an appeal by the Public Prosecutor under section 438A if it thinks that —

(a) the acquittal should be set aside on the ground that it is unsafe or unsatisfactory;

(b) the acquittal should be set aside on the ground of a wrong decision on any question of law; or

(c) there was a material irregularity in the course of the trial,

and in any other case shall dismiss the appeal.

(2) Notwithstanding subsection (1), the Court of Appeal may dismiss the appeal if it considers that, notwithstanding that the point raised in the appeal might be decided in favour of the Public Prosecutor, no miscarriage of justice has actually occurred.

(3) The Court of Appeal shall, if it allows the appeal, quash the acquittal.

(4) An order of the Court of Appeal quashing an acquittal shall, except when under section 438H the respondent is ordered to be retired, operate as a direction to the trial Court to enter, instead of the record of acquittal, a judgment and verdict of conviction.

Where appeal allowed [S 63/2002]

438E. (1) This section applies where on an appeal by the Public Prosecutor against an acquittal after trial on two or more charges, the Court of Appeal allows the appeal in respect of one or some of the charges only.

(2) The Court of Appeal may in respect of any charge on which the respondent remains convicted pass such sentence, in substitution for any sentence passed thereon at the trial, as it thinks proper and which is authorised by law for the offence of which he remains convicted on that charge (whether the sentence so substituted is more or less severe).

Special finding [S 63/2002]

438F. (1) This section applies on an appeal by the Public Prosecutor against an acquittal of a person in whose case the Judge has made a special finding.

(2) If the Court of Appeal considers that a wrong conclusion had been arrived at by the Judge, it may, instead of allowing the appeal, order such conclusion to be recorded as appears to it to be in law required and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law.

Finding of insanity or unfitness to plead [S 63/2002]

438G. (1) Where, on an appeal against an acquittal by the Public Prosecutor, the Court of Appeal is of the opinion that —

(a) the proper verdict would have been one of not guilty by reason of insanity; or

(b) the case is not one where there should have been a verdict of acquittal but that there should have been a finding that the respondent was under disability,

the Court of Appeal shall make an order that the respondent be admitted to a prison or hospital as the Court of Appeal may direct.

(2) On making an order under this section, the Court of Appeal may give such directions as it thinks fit for the detention of the respondent pending his admission to a prison or hospital.

Retrial [S 63/2002]

438H. (1) Where the Court of Appeal allows an appeal by the Public Prosecutor against an acquittal and it appears to the Court of Appeal that the interests of justice so require, it may order the respondent to be retried.

(2) The respondent shall not under this section be ordered to be retried for any offence other than —

(a) the offence in respect of which he was acquitted and in respect of which the appeal is allowed as mentioned in subsection (1);

(b) an offence of which he could have been convicted at the original trial on a charge for the first mentioned offence;

(c) an offence charged in an alternative count in respect of which the Judge did not give a verdict; and

(d) any other offence which may have been disclosed by evidence adduced at the original trial.

Supplementary provisions as to retrial [S 63/2002]

438I. (1) A person who is to be retried for an offence in pursuance of an order under section 438H shall be tried on a fresh charge preferred by the Public Prosecutor.

[S 32/2005]

(2) The Court of Appeal may, on ordering a retrial, make such orders as appear to it to be necessary or expedient for —

(a) the detention in custody or admission to bail of the person ordered to be retried, pending his retrial; or

(b) the retention pending the retrial of any property or money howsoever paid by virtue of the original acquittal or of any order made on that acquittal.

(3) If the person ordered to be retried was, immediately before the determination of the appeal by the Public Prosecutor, liable to be detained in pursuance of a finding made under Chapter XXXI —

(a) that finding shall continue in force pending the retrial as if the appeal of the Public Prosecutor had not been allowed; and

(b) any order made by the Court of Appeal under this section for his detention in custody or admission to bail shall have effect subject to that finding.

Appeal by Public Prosecutor against sentence [S 63/2002]

438J. Notwithstanding any other provision of this Code or of any other written law, the Public Prosecutor may appeal to the Court of Appeal against any sentence passed on any person by the High Court (not being a sentence fixed by law) in the exercise of its original criminal jurisdiction.

Supplementary provisions as to appeal against sentence [S 63/2002]

438K. (1) Where the High Court has passed on an accused two or more sentences in the same proceeding, an appeal by the Public Prosecutor against any one of those sentences shall be treated as an appeal in respect of both or all of them.

(2) On an appeal against sentence by the Public Prosecutor, the Court of Appeal, if it considers that the respondent should be sentenced differently for an offence for which he was dealt with, may —

(a) quash any sentence or order which is the subject of the appeal; and

(b) in place of it pass such sentence or make such order as it thinks appropriate for the case (whether such sentence or order is more or less severe) and as the lower Court had power to pass or make when dealing with him for the offence.

Right of appeal by Public Prosecutor if person found incapable of making defence [S 63/2002]

438L. Where there has been a finding by a Judge of the High Court under Chapter XXXI of the question of a person's fitness to make his defence, the Public Prosecutor may appeal to the Court of Appeal against that finding.

Disposal of appeal under section 438K [S 63/2002]

438M. (1) The Court of Appeal shall allow an appeal by the Public Prosecutor under section 438L if it thinks that —

(a) the finding should be set aside on the ground that it is unsafe or unsatisfactory;

(b) the order giving effect to the finding should be set aside on the ground of a wrong decision on any question of law; or

(c) there was a material irregularity in the course of the finding of the question of fitness to be tried,

and in any other case (except one to which subsection (3) applies) shall dismiss the appeal.

(2) Notwithstanding subsection (1), the Court of Appeal may dismiss the appeal if it considers that, notwithstanding that the point raised in the appeal might be decided in favour of the Public Prosecutor, no miscarriage of justice has actually occurred.

(3) An appeal by the Public Prosecutor under section 438L may, where the question of fitness to be tried was determined later than on the respondent being charged, be allowed by the Court of Appeal (notwithstanding that the finding was properly come to) if the Court of Appeal is of the opinion that the case is one in which the respondent should have not been acquitted before the question of fitness to be tried was considered; and, if an appeal is allowed under this subsection, the Court of Appeal shall, in addition to quashing the finding, direct that a new trial be ordered.

(4) Subject to subsection (3), where appeal under section 438L is allowed, the respondent may be tried for the offence with which he was charged, and the Court of Appeal may make such order as appear to it to be necessary or expedient pending any such trial for his detention in custody or admission to bail.

Appeal of Public Prosecutor not to be allowed on certain grounds
[S 63/2002]

438N. Except where, in the opinion of the Court of Appeal, a miscarriage of justice has actually occurred, no appeal by the Public Prosecutor shall be allowed under this Chapter because of—

(a) any defect which, if pointed out during the progress of the trial, might have been amended by the trial Court; or

(b) any informality in the swearing of a witness.

Procedure for appeal by Public Prosecutor [S 63/2002]

438O. (1) The Public Prosecutor, in any appeal under this Chapter, shall give notice of appeal in such manner as may be provided by rules and orders made under section 441.

(2) Notice of appeal shall be given within 28 days from the date of the acquittal or finding appealed against or, in the case of an appeal against sentence, from the date on which the sentence was passed or, in the

case of an order made or treated as made on conviction, from the date of the making of the order.

(3) If sentence was passed more than 7 days after the date of the acquittal or finding, notice of appeal against the acquittal or finding may be given within 28 days from the date on which the sentence was passed.

(4) The time for giving notice under this section may be extended, either before or after it expires, by the Court of Appeal.

Groundless appeals by Public Prosecutor [S 63/2002]

438P. (1) If it appears to the Registrar that a notice of appeal by the Public Prosecutor under this Chapter does not show any substantial ground of appeal, he may refer the appeal to the Court of Appeal for summary determination.

(2) If a case is referred to it under subsection (1), the Court of Appeal may, if it considers that the appeal is frivolous or vexatious and can be determined without a full hearing, dismiss the appeal summarily without calling on any person to attend the hearing.

Preparation of case [S 63/2002]

438Q. (1) The Registrar shall —

(a) take all necessary steps for obtaining a hearing of any appeal by the Public Prosecutor of which notice has been given to him and which is not dismissed summarily under section 438O; and

(b) obtain and lay before the Court of Appeal in proper form all documents, exhibits and other things which appear necessary for the proper determination of the appeal.

(2) Rules and orders made under section 441 may enable the Public Prosecutor to obtain from the Registrar any documents or things, including copies or reproductions of documents, required for his appeal.

Evidence [S 63/2002]

438R. (1) For the purposes of this Chapter, the Court of Appeal may —

(a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to it to be necessary for the determination of the appeal by the Public Prosecutor;

(b) order any witness who would have been a compellable witness in the proceedings from which the appeal lies to attend for examination and be examined before the Court of Appeal, whether or not he was called in those proceedings; and

(c) subject to subsection (3), receive the evidence, if tendered, of any witness.

(2) Without prejudice to subsection (1), where the evidence is tendered to the Court of Appeal, it shall, unless it is satisfied that the evidence, if received would not afford any ground for allowing the appeal, exercise its powers of receiving it if —

(a) it appears to it that the evidence is likely to be credible and would have been admissible in the proceedings from which the appeal lies on an issue which is the subject of the appeal; and

(b) it is satisfied that it was not adduced in those proceedings but that there is a reasonable explanation for the failure to adduce it.

(3) Subsection (1)(c) applies to any witness who is competent but not compellable, and applies also to the respondent's husband or wife where the Public Prosecutor makes an application for that purpose and the evidence of the husband or wife could not have been given in the proceedings from which the appeal lies except on such an application.

(4) For the purposes of this Chapter, the Court of Appeal may order the examination of any witness whose attendance might be required under subsection (1)(b) to be conducted, in manner provided by rules and orders made under section 441, before any Judge or other person appointed by the Court of Appeal for that purpose, and allow the admission of any depositions so taken as evidence before the Court of Appeal.

Effect of appeal on sentence [S 63/2002]

438S. (1) The time during which a respondent is detained in custody pending the determination of an appeal by the Public Prosecutor shall,

subject to any direction which the Court of Appeal may give to the contrary, be reckoned as part of the term of any sentence of imprisonment which the Court of Appeal may impose.

(2) Where the Court of Appeal gives a contrary direction under subsection (1), it shall state its reasons for doing so.

(3) The term of any sentence passed by the Court of Appeal shall, unless the Court of Appeal otherwise directs, begin to run from the time when it would have begun to run if passed in the proceedings from which the appeal lies.

Restitution [S 63/2002]

438T. (1) The operation of an order for the restitution of property to any person made on an acquittal by the High Court shall (unless the trial Court directs to the contrary in any case in which, in its opinion, the title to the property is not in dispute) be suspended —

(a) in any case, until the expiration of 28 days from the date of the acquittal; and

(b) where notice of appeal is given by the Public Prosecutor within 28 days from the date of the acquittal, until the determination of the appeal.

(2) In cases where the operation of such an order is suspended until the determination of the appeal, the order shall not take effect as to the property in question if the acquittal is quashed on appeal.

(3) Provision may be made by rules and orders made under section 441 for securing the safe custody of any property, pending the suspension of the operation of any such order.

(4) The Court of Appeal may by order annul or vary any order made by the trial Court for the restitution of property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

Chapter LXV

General

Powers of single Judge

439. (1) The powers of the Court of Appeal under this Part which are specified in subsection (2) may be exercised by a single Judge of the High Court or of the Court of Appeal in the same manner as they may be exercised by the Court of Appeal and subject to the same provision.

(2) The powers are the following —

(a) to extend the time within which notice of appeal may be given;

(b) to allow an appellant to be present at any proceedings;

(c) to order a witness to attend for examination;

(d) to admit an appellant to bail;

(e) to make orders under sections 421(2) and 438I(2) and to discharge or vary such orders;

[S 63/2002]

(f) to give directions under sections 436(1) and 438S(1);

[S 63/2002]

(g) to make order under section 438 for the payment of costs;

(h) to order a respondent to be committed to prison or admitted to bail under section 438B.

[S 63/2002; S 32/2005]

(3) If the single Judge refuses an application by an appellant or applicant to exercise in his favour any of the powers above specified, the appellant or applicant shall be entitled to have the application determined by the Court of Appeal.

Practice and procedure

440. Subject to this Code and to any other written law, the practice and procedure to be followed in the Court of Appeal shall be that which is from

time to time in force in England for similar matters, so far as this may be possible.

Rules and orders

441. (1) The Chief Justice may make rules and orders governing the practice and procedure to be followed under this Part.

(2) Such rules and orders may provide for —

(a) regulating and prescribing forms to be used in the Court of Appeal;

(b) the times within which documents must be filed or notice given;

(c) the duties of the officers of the Court of Appeal;

(d) the manner in which cases and arguments are to be presented;

(e) generally for the better carrying out of the provisions of this Code in relation to criminal matters in the Court of Appeal.

FIRST SCHEDULE

(sections 8(1)(b), 136(1) and 346(b))

TABULAR STATEMENT OF OFFENCES UNDER THE PENAL CODE*Explanatory Note* —

1. The entries in the Second and Seventh columns of this Schedule, headed respectively “Offence” and “Maximum Punishment under the Penal Code”, are not intended as definitions of the offences and punishment described in the several corresponding sections of the Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.
2. The entries in the Third column of this Schedule are not intended in any way to restrict the powers of arrest without warrant which may be lawfully exercised by Police Officers.
3. The Eighth column must be read in conjunction with sections 8 and 9 of the Code. All cases under the Penal Code may be tried by the High Court and when a Court of a Magistrate is mentioned it implies not that the High Court has no jurisdiction but that the Court of a Magistrate has concurrent jurisdiction with the High Court to try the case. Where the maximum punishment prescribed may be awarded by the Court of a Magistrate the case should ordinarily be tried by that Court, but where the maximum punishment is greater than that which the Court of a Magistrate may award it is a matter of discretion which Court should try the case. (See section 189 of the Code).
4. In the Seventh column the word “imprisonment,” except where otherwise stated, means imprisonment of either description.

CHAPTER V — ABETMENT

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|---|---|---|---|
| 109 | Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the offence is compoundable or not | The same punishment as for the offence abetted | The Court by which the offence abetted is triable |
| 110 | Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the offence is compoundable or not | The same punishment as for the offence abetted | The Court by which the offence abetted is triable |
| 111 | Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the offence is compoundable or not | The same punishment as for the offence intended to be abetted | The Court by which the offence abetted is triable |
| 113 | Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the offence is compoundable or not | The same punishment as for the offence committed | The Court by which the offence abetted is triable |
| 114 | Abetment of any offence, if abettor is present when offence is committed | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the offence is compoundable or not | The same punishment as for the offence committed | The Court by which the offence abetted is triable |

CHAPTER V — ABETMENT — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|---|--|---|---|---|---|
| 115 | Abetment of any offence, punishable with death or with imprisonment for 15 years, if the offence be not committed in consequence of the abetment | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | Not bailable | According as the offence abetted is compoundable or not | Imprisonment for 7 years and fine | The Court by which the offence abetted is triable |
| 115 | If an act which causes harm is done in consequence of the abetment | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | Not bailable | According as the offence abetted is compoundable or not | Imprisonment for 14 years and fine | The Court by which the offence abetted is triable |
| 116 | Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the offence abetted is compoundable or not | Imprisonment extending to a quarter part of the longest term, and of any description provided for the offence, fine or both | The Court by which the offence abetted is triable |
| 116 | If the abettor or the person abetted be a public servant whose duty it is to prevent the offence | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the offence abetted is compoundable or not | Imprisonment extending to half of the longest term and of any description provided for the offence, fine or both | The Court by which the offence abetted is triable |
| 117 | Abetting the commission of offence by public, or by more than ten persons | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the offence abetted is compoundable or not | Imprisonment for 3 years, fine or both | The Court by which the offence abetted is triable |

CHAPTER V — ABETMENT — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|---|---|---|---|
| 118 | Concealing a design to commit an offence punishable with death or imprisonment for 15 years if the offence be committed | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | Not bailable | According as the abetted is compoundable or not | Imprisonment for 7 years and fine | The Court by which the offence abetted is triable |
| 118 | If the offence be not committed | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | Not bailable | According as the abetted is compoundable or not | Imprisonment for 3 years and fine | The Court by which the offence abetted is triable |
| 119 | A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the abetted is compoundable or not | Imprisonment extending to half of the longest term and of any description provided for the offence, fine or both | The Court by which the offence abetted is triable |
| 119 | If the offence be punishable with death or imprisonment for 15 years | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | Not bailable | According as the abetted is compoundable or not | Imprisonment for 10 years | The Court by which the offence abetted is triable |
| 119 | If the offence be not committed | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the abetted is compoundable or not | Imprisonment extending to a quarter part of the longest term, and of any description provided for the offence, fine or both | The Court by which the offence abetted is triable |

CHAPTER V — ABETMENT — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|---|--|---|---|---|---|
| 120 | Concealing a design to commit an offence punishable with imprisonment, if the offence be committed | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the abetted is compoundable or not | Imprisonment extending to a quarter part of the longest term and of any description provided for the offence, fine or both | The Court by which the offence abetted is triable |
| 120 | If the offence be not committed | May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence abetted | According as the offence abetted is bailable or not | According as the abetted is compoundable or not | Imprisonment extending to one-eighth part of the longest term and of the description provided for the offence, fine or both | The Court by which the offence abetted is triable |

CHAPTER VA — CRIMINAL CONSPIRACY

| | | | | | | | |
|------|---|---|---|---|------------------|--|---|
| 120B | Criminal conspiracy to commit an offence punishable with death or imprisonment for 2 years or upwards | May arrest without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant, but not otherwise | According as a warrant or summons may issue for the offence which is the object of the conspiracy | According as the offence which is the object of the conspiracy is bailable or not | Not compoundable | The same punishment as for the abetment of the offence | High Court where the offence which is the object of the conspiracy is triable exclusively by such Court. In all other cases High Court or Court of a Magistrate |
| | Criminal conspiracy in any other case | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 10 years and fine | High Court where the offence which is the object of the conspiracy is triable exclusively by such Court. In all other cases High Court or Court of a Magistrate |

CHAPTER VI — OFFENCES AGAINST THE STATE

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 121 | Waging war against His Majesty the Sultan and Yang Di-Pertuan | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Death or imprisonment for life | High Court |
| 121A | Conspiracy to commit offences punishable by section 121 | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for life | High Court |
| 122 | Collecting, men, arms, or ammunition or otherwise preparing to wage war against His Majesty the Sultan and Yang Di-Pertuan | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and fine | High Court |
| 123 | Concealing the existence of a design to wage war | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |

CHAPTER VII — OFFENCES RELATING TO ARMY, NAVY, AIR FORCE AND POLICE

| | | | | | | | |
|-----|--|----------------------------|---------|--------------|------------------|---|------------|
| 131 | Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and fine | High Court |
| 132 | Abetment of mutiny, if mutiny is committed in consequence thereof | May arrest without warrant | Warrant | Not bailable | Not compoundable | Death or imprisonment for 15 years and fine | High Court |

CHAPTER VII — OFFENCES RELATING TO ARMY, NAVY, AIR FORCE AND POLICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 133 | Abetment of an assault by an officer, soldier or sailor on his superior officer, when in execution of his office | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 134 | Abetment of such assault, if the assault is committed | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 135 | Abetment of the desertion of an officer, soldier or sailor | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 136 | Harbouring such an officer, soldier or sailor who has deserted | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 137 | Deserter concealed on board merchant vessel, through negligence of master or person in thereof | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Fine of \$4,000 | Court of a Magistrate |
| 138 | Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 6 months, fine or both | Court of a Magistrate |

CHAPTER VII — OFFENCES RELATING TO THE ARMY, NAVY, AIR FORCE AND POLICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|--|-------------------------------|
| 140 | Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 months, fine of \$4,000 or both | Court of a Magistrate |

CHAPTER VIII — OFFENCES AGAINST THE PUBLIC TRANQUILLITY

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|---|--|---|---|
| 143 | Being member of an unlawful assembly | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one year and fine | Court of a Magistrate |
| 144 | Joining an unlawful assembly armed with any deadly weapon | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 145 | Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 147 | Rioting | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 148 | Rioting, armed with any deadly weapon | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 10 years and fine | Court of a Magistrate |
| 149 | If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence | According as arrest may be made without warrant for the offence or not | According as a warrant or summons may issue for the offence abetted | According as the offence is bailable or not | Not compoundable | The same as for the offence | The Court by which the offence is triable |

CHAPTER VIII — OFFENCES AGAINST THE PUBLIC TRANQUILLITY — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|---|----------------------------------|---|---|
| 150 | Hiring, engaging or employing persons to take part in an unlawful assembly | May arrest without warrant | According to the offence committed by the person hired, engaged or employed | According as the offence is bailable or not | Not compoundable | The same as for a member of such assembly, and for any offence committed by any member of such assembly | The Court by which the offence is triable |
| 151 | Knowingly joining or continuing in any assembly of 5 or more persons after it has been commanded to disperse | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine or both | Court of a Magistrate |
| 152 | Assaulting or obstructing public servant when suppressing riot etc | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 153 | Wantonly giving provocation with intent to cause riot if rioting be committed | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 153 | If not committed | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one year, fine or both | Court of a Magistrate |
| 153A | Promoting enmity between classes | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 154 | Owner or occupier of land not giving information of riot etc | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Fine of \$4,000 | Court of a Magistrate |

| CHAPTER VIII — OFFENCES AGAINST THE PUBLIC TRANQUILLITY — (continued) | | | | | | | |
|---|---|---|---|------------------------------------|--|---|-------------------------------|
| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
| 155 | Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Fine | Court of a Magistrate |
| 156 | Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Fine | Court of a Magistrate |
| 157 | Harbouring persons hired for an unlawful assembly | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine or both | Court of a Magistrate |
| 158(1) | Being hired to take part in an unlawful assembly or riot | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine or both | Court of a Magistrate |
| 158(2) | Or to go armed | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 160 | Committing affray | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |

CHAPTER IX — OFFENCES BY OR RELATING TO PUBLIC SERVANTS

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|----------------------------|
| 161 | Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |
| 162 | Taking a gratification in order by corrupt or illegal means to influence a public servant | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |
| 163 | Taking a gratification for the exercise of personal influence a public servant | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |
| 164 | Abetment by a public servant of the offences defined in the last 2 preceding clauses with reference to himself | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |
| 165 | Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |

CHAPTER IX — OFFENCES BY OR RELATING TO PUBLIC SERVANTS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|--|-------------------------------|
| 166 | Public servant disobeying a direction of the law with intent to cause injury to any person | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 167 | Public servant framing an incorrect document with intent to cause injury | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |
| 168 | Public servant unlawfully engaging in trade | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 169 | Public servant unlawfully buying or bidding for property | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 7 years and fine, and confiscation of property if purchased | Court of a Magistrate |
| 170 | Personating a public servant | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |
| 171 | Wearing garb or carrying token used by public servant with fraudulent intent | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |

CHAPTER X — CONTEMPTS OF LAWFUL AUTHORITY OF PUBLIC SERVANTS

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 172 | Absconding to avoid service of summons or other proceeding from a public servant | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one year and fine | Court of a Magistrate |
| 172 | If summons or notice require attendance in person etc in a Court of Justice | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 173 | Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one year and fine | Court of a Magistrate |
| 173 | If summons or notice requires attendance in person etc in a Court of Justice | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 174 | Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one year and fine | Court of a Magistrate |

CHAPTER X — CONTEMPTS OF LAWFUL AUTHORITY OF PUBLIC SERVANTS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|---|-------------------------------|
| 174 | If the order requires personal attendance etc in a Court of Justice | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 175 | Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one month, fine of \$2,000 or both | Court of a Magistrate |
| 175 | If the document is required to be produced in or delivered to a Court of Justice | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine of \$4,000 or both | Court of a Magistrate |
| 176 | Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one month, fine of \$2,000 or both | Court of a Magistrate |
| 176 | If the notice or information required respects the commission of an offence etc | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine of \$4,000 or both | Court of a Magistrate |
| 177 | Knowingly furnishing false information to a public servant | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine of \$4,000 or both | Court of a Magistrate |

CHAPTER X — CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|---|
| 177 | If the information required respects the commission of an offence etc | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 178 | Refusing oath when duly required to take oath by a public servant | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine of \$4,000 or both | Court in which the offence is committed |
| 179 | Being legally bound to state truth, and refusing to answer questions | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine of \$4,000 or both | Court in which the offence is committed |
| 180 | Refusing to sign a statement made to a public servant when legally required to do so | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 months, fine of \$2,000 or both | Court in which the offence is committed |
| 181 | Knowingly stating to a public servant on oath as true that which is false | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 182 | Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine of \$4,000 or both | Court of a Magistrate |
| 183 | Resistance to the taking of property by the lawful authority of a public servant | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine of \$4,000 or both | Court of a Magistrate |

CHAPTER X — CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|---|-------------------------------|
| 184 | Obstructing sale of property offered for sale by authority of a public servant | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one month, fine of \$2,000 or both | Court of a Magistrate |
| 185 | Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorised sale, or bidding without intending to perform the obligations incurred thereby | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one month, fine of \$800 or both | Court of a Magistrate |
| 186 | Obstructing public servant in discharge of his public functions | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 months, fine of \$2,000 or both | Court of a Magistrate |
| 187 | Omission to assist public servant when bound by law to give such assistance | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one month, fine of \$800 or both | Court of a Magistrate |
| 187 | Willfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences etc | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine of \$4,000 or both | Court of a Magistrate |

CHAPTER X — CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 188 | Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one month, fine of \$800 or both | Court of a Magistrate |
| 188 | If such disobedience causes danger to human life, health or safety etc | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine of \$4,000 or both | Court of a Magistrate |
| 189 | Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do any official act | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 190 | Threatening any person to induce him to refrain from making a legal application for protection from injury | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |

| CHAPTER XI — FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE | | | | | | | |
|---|---|--|--|---|----------------------------------|--|---|
| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
| 193 | Giving or fabricating false evidence in a judicial proceeding | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 193 | Giving or fabricating false evidence in any other case | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 194 | Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 15 years and fine | High Court |
| 194 | If innocent person be thereby convicted and executed | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Death or as above | High Court |
| 195 | Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for 7 years upwards | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | The same as for the offence | The Court by which the offence is triable |
| 196 | Using in a judicial proceeding evidence known to be false or fabricated | Shall not arrest without warrant | Warrant | According as the offence of giving such evidence is bailable or not | Not compoundable | The same as for giving or fabricating false evidence | High Court |

CHAPTER XI — FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|---|-------------------------------|
| 197 | Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | The same as for giving false evidence | Court of a Magistrate |
| 198 | Using as a true certificate one known to be false in a material point | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | The same as for giving false evidence | Court of a Magistrate |
| 199 | False statement made in any declaration which is by law receivable as evidence | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | The same as for giving false evidence | Court of a Magistrate |
| 200 | Using as true any such declaration known to be false | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | The same as for giving false evidence | Court of a Magistrate |
| 201 | Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender, if a capital offence | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 201 | If punishable with imprisonment for 10 years | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and fine | High Court |

CHAPTER XI — FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|---|-------------------------------------|
| 201 | If punishable with less than 10 years imprisonment | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for a quarter of the longest term, and of the description provided for the offence, fine or both | High Court or Court of a Magistrate |
| 202 | Intentional omission to give information of an offence by a person legally bound to inform | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 6 months, fine or both | Court of a Magistrate |
| 203 | Giving false information respecting an offence committed | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 204 | Secreting or destroying any document to prevent its production as evidence | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 205 | False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 206 | Fraudulent removal or concealment etc of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |

CHAPTER XI — FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|---|-------------------------------|
| 207 | Claiming, property without right or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 208 | Fraudulently suffering a decree to pass for a sum not due, or suffering a decree to be executed after it has been satisfied | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 209 | False claim in a Court of Justice | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years and fine | Court of a Magistrate |
| 210 | Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 211 | False charge of offence made with intent to injure | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 211 | If offences charged be punishable with death or imprisonment for 7 years and upwards | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |

CHAPTER XI — FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|---|-------------------------------|
| 212 | Harbouring an offender, if the offence be capital | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | High Court |
| 212 | If punishable with imprisonment for 10 years | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 212 | If punishable with imprisonment for one year and not for 10 years | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for a quarter of the longest term, and of the description provided for the offence, fine or both | Court of a Magistrate |
| 213 | Taking gift etc to screen an offender from punishment, if the offence be capital | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 213 | If punishable with imprisonment for 10 years | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 213 | If punishable with imprisonment for less than 10 years | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for a quarter of the longest term, and of the description provided for the offence, fine or both | Court of a Magistrate |
| 214 | Offering gift or restoration of property in consideration of screening offender, if the offence be capital | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 214 | If punishable with imprisonment for 10 years | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |

CHAPTER XI — FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|---|----------------------------|
| 214 | If with imprisonment for less than 10 years | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for a quarter of the longest term, and of the description provided for the offence, fine or both | Court of a Magistrate |
| 215 | Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 216 | Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 216 | If punishable with imprisonment for 10 years | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, with or without fine | Court of a Magistrate |
| 216 | If with imprisonment one year and not for 10 years | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for a quarter of the longest term, and of the description provided for the offence, fine or both | Court of a Magistrate |
| 216A | Harbouring gang-robbers | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |

CHAPTER XI — FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|----------------------------|
| 216B | Harbouring suspected bad characters | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and fine and cancellation of any licence for sale of intoxicating liquors etc | Court of a Magistrate |
| 217 | Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 218 | Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 219 | Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years, fine or both | High Court |
| 220 | Commitment for trial or confinement by any person having authority who knows that he is acting contrary to law | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years, fine or both | High Court |

CHAPTER XI — FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|---|-------------------------------|
| 221 | Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years, with or without fine | High Court |
| 221 | If punishable with imprisonment for 10 years | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, with or without fine | Court of a Magistrate |
| 221 | If punishable with imprisonment for less than 10 years | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, with or without fine | Court of a Magistrate |
| 222 | Intentional omission to apprehend on the part of a public servant bound by law to apprehend a person under sentence of a Court of Justice, if under sentence of death | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years, with or without fine | High Court |
| 222 | If under sentence of imprisonment for 10 years or upwards | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years, with or without fine | High Court |
| 222 | If under sentence of imprisonment for less than 10 years, or lawfully committed to custody | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |

CHAPTER XI — FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|----------------------------|
| 223 | Escape from confinement negligently suffered by a public servant | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 224 | Resistance or obstruction by a person to his lawful apprehension or escaping from custody | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 225 | Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 225 | If charged with an offence punishable with imprisonment for 10 years | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 225 | If charged with a capital offence | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 225 | If the person is sentenced to imprisonment for 10 years or upwards | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 225 | If under sentence of death | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and fine | High Court |
| 225A | Intentional omission to apprehend, or suffering of escape, on part of public servant | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |

CHAPTER XI — FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|---|
| 225A | Negligent omission to do same | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 225B | Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 6 months, fine or both | Court of a Magistrate |
| 226 | Unlawful return from deportation | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 227 | Violation of condition of remission of punishment | Shall not arrest without warrant | Summons | Not bailable | Not compoundable | Punishment of original sentence; or, if part of the punishment has been undergone, the residue | The Court by which the original offence was triable |
| 228 | Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 228A | Contempt of Court not otherwise provided for | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 229 | Personation of an assessor | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 229A | Offences for which no special punishment is provided | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Fine of \$5,000 | Court of a Magistrate |

| CHAPTER XII — OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS | | | | | | | |
|---|--|---|---|------------------------------------|--|--|-------------------------------|
| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
| 232 | Counterfeiting or per- forming any part of the process of counterfeiting coin | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and fine | High Court |
| 234 | Making, buying or selling instrument for the purpose of counter- feiting coin | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 235 | Possession of instrument or material for the purpose of using the same for counterfeiting coin | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 236 | Abetting in Brunei Darussalam the counter- feiting out of Brunei Darussalam of coin | May arrest without warrant | Warrant | Not bailable | Not compoundable | The punishment provided for abetting the counterfeiting of such coin within Brunei Darussalam | High Court |
| 238 | Import or export of coun- terfeiting coin, knowing the same to be counter- feit | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 240 | Delivery of coin processed with know- ledge that it is counter- feit | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |

CHAPTER XII — OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|----------------------------|
| 241 | Delivery of coins as genuine, which, when first possessed, the deliverer did not know to be counterfeit | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 2 years and fine of ten times the value of the coin | Court of a Magistrate |
| 243 | Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 247 | Fraudulently or dishonestly diminishing weight or altering the composition of coin | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 249 | Altering appearance of coin with intent that it shall pass as coin of a different description | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 251 | Delivery of coin possessed with the knowledge that it is altered | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 253 | Possession of coin by person who knew it to be altered when he became possessed thereof | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |

CHAPTER XII — OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|----------------------------|
| 254 | Delivery to another of coin as genuine which, when first possessed the deliverer did not know to be altered | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years and fine of ten times the value of the coin | Court of a Magistrate |
| 255 | Counterfeiting a Government stamp | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 256 | Having possession of an instrument or material for the purpose of counterfeiting a stamp | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 257 | Making, buying or selling instrument for the purpose of counterfeiting a Government stamp | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 258 | Sale of counterfeit Government stamp | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 259 | Having possession of a counterfeit Government stamp | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 260 | Using as genuine a Government stamp, known to be counterfeit | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |

CHAPTER XII — OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|----------------------------|
| 261 | Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 262 | Using a Government stamp known to have been used before | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 263 | Erasure of mark denoting that stamp has been used | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 263A | Making, using etc fictitious stamp | May arrest without warrant | Warrant | Bailable | Not compoundable | Fine of \$5,000 and confiscation of material | Court of a Magistrate |
| 263B | Selling articles bearing designs resembling currency | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 6 months, fine of \$4,000 or both | Court of a Magistrate |

CHAPTER XIII — OFFENCES RELATING TO WEIGHTS AND MEASURES

| | | | | | | | |
|-----|---|----------------------------------|---------|----------|------------------|--|-----------------------|
| 264 | Fraudulent use of false instrument for weighing | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 265 | Fraudulent use of false weight or measure | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 266 | Being in possession of false weights or measures for fraudulent use | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |

CHAPTER XIII — OFFENCES RELATING TO WEIGHTS AND MEASURES — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 267 | Making or selling false weights or measures for fraudulent use | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |

CHAPTER XIV — OFFENCES AFFECTING PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

| | | | | | | | |
|-----|---|----------------------------------|---------|----------|------------------|------------------------------------|-----------------------|
| 269 | Negligently doing any act known to be likely to spread infection of any disease dangerous to life | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 270 | Malignantly doing any act known to be likely to spread infection of any disease dangerous to life | May arrest without warrant | Summons | Bailable | Ditto | Imprisonment for 7 years and fine | Court of a Magistrate |
| 271 | Knowingly disobeying any quarantine rule | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one year and fine | Court of a Magistrate |
| 272 | Adulterating food or drink intended for sale, so as to make the same noxious | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years and fine | Court of a Magistrate |
| 273 | Selling any food or drink as food and drink, knowing the same to be noxious | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years and fine | Court of a Magistrate |

CHAPTER XIV — OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE,
DECENCY AND MORALS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|---|-------------------------------|
| 274 | Adulterating any drug or medical preparation intended for sale so as to lessen its efficiency, or to change its operation, or to make it noxious | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years and fine | Court of a Magistrate |
| 275 | Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years and fine | Court of a Magistrate |
| 276 | Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years, fine of \$4,000 or both | Court of a Magistrate |
| 276A | Not being a medical practitioner, using forceps in the delivery of a child | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 2 years, fine of \$8,000 or both | Court of a Magistrate |
| 277 | Fouling the water of a public spring or reservoir | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one year and fine | Court of a Magistrate |
| 277A(1) | Offences caused by fire | May arrest without warrant | Summons | Bailable | Not compoundable | Fine of \$100,000 | Court of a Magistrate |
| 277A(2) | Offences caused by fire | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years, fine or both | Court of a Magistrate |

CHAPTER XIV — OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE,
DECENCY AND MORALS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|---|-------------------------------|
| 278 | Making atmosphere noxious to health | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Fine of \$100,000 | Court of a Magistrate |
| 279 | Driving or riding on a public way so rashly or negligently as to endanger human life etc | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 280 | Navigating any vessel so rashly or negligently as to endanger human life etc | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years and fine of \$10,000 | Court of a Magistrate |
| 281 | Exhibition of a false light, mark or buoy | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years, fine or both | High Court |
| 282 | Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 283 | Causing danger, obstruction or injury in any public way or line of navigation | May arrest without warrant | Summons | Bailable | Not compoundable | Fine | Court of a Magistrate |
| 284 | Dealing with any poisonous substance so as to endanger human life etc | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |

CHAPTER XIV — OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE,
DECENCY AND MORALS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|---|-------------------------------|
| 285 | Dealing with fire or any combustible matter so as to endanger human life etc | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 6 months, fine or both | Court of a Magistrate |
| 286 | So dealing with any explosive substance | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 287 | So dealing with any explosive machinery | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 288 | A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 289 | A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 290 | Committing a public nuisance | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Fine | Court of a Magistrate |
| 291 | Continuance of nuisance after injunction to discontinue | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |

CHAPTER XIV — OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE,
DECENCY AND MORALS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|--|-------------------------------|
| 292 | Sale etc of obscene books | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years and fine not less than \$500 and not more than \$5,000 | Court of a Magistrate |
| 292 | In case of second or subsequent conviction | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine not less than \$1,000 and not more than \$30,000 | Court of a Magistrate |
| 293 | Having in possession obscene books etc for sale or exhibition | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and fine not less than \$1,000 not more than \$10,000 | Court of a Magistrate |
| 293 | In case of second or subsequent conviction | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine not less than \$3,000 and not more than \$50,000 | Court of a Magistrate |
| 293A | Possession of indecent photograph of child | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years, fine or both | Court of Magistrate |
| 293B | Taking, distribution, showing, advertisement, access of indecent photograph of child | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years, fine or both | High Court |
| 294 | Obscene songs | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 3 years and fine not less than \$500 and not more than \$5,000 | Court of a Magistrate |
| 294 | In case of second or subsequent conviction | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and fine not less than \$1,000 and not more than \$30,000 | Court of a Magistrate |

CHAPTER XIV — OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE,
DECENCY AND MORALS — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|--|-------------------------------|
| 294A | Prostitution | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for one year and fine not less than \$500 and not more than \$5,000 | Court of a Magistrate |
| 294A | In the case of second or subsequent conviction | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 3 years and fine not less than \$1,000 and not more than \$10,000 | Court of a Magistrate |
| 294B | Paying for sexual service | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for one year and fine not less than \$1,000 and not more than \$5,000 | Court of a Magistrate |
| 294B | In the case of second or subsequent conviction | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 3 years and fine not less than \$2,000 and not more than \$10,000 | Court of a Magistrate |

CHAPTER XV — OFFENCES RELATING TO RELIGION

| | | | | | | | |
|-----|---|----------------------------|---------|----------|--------------|-----------------------------------|-----------------------|
| 295 | Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class or persons | May arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 296 | Causing a disturbance to an assembly engaged in religious worship | May arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |

CHAPTER XV — OFFENCES RELATING TO RELIGION — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|---|-------------------------------|
| 297 | Trespassing in place of worship or sepulchre, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse | May arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for one year and fine | Court of a Magistrate |
| 297A | Interference with grave or human remains | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years, fine or both | High Court |
| 298 | Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight of any person, with intention to wound his religious feelings | Shall not arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for one year, fine or both | Court of a Magistrate |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY

Offences affecting life

| 302 | Murder | May arrest without warrant | Warrant | Not bailable | Not compoundable | Death | High Court |
|-----|---|----------------------------|---------|--------------|------------------|-----------------------|------------|
| 304 | Culpable homicide not amounting to murder, if act by which the death is caused is done with the intention of causing death, etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for life | High Court |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)

Offences affecting life

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 304 | If act is done with knowledge that it is likely to cause death, but without any intention to cause death etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years, fine or both | High Court |
| 304A(1) | Causing death by rash or negligent driving of motor vehicles or rash or negligent use of firearms or explosive | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | Court of a Magistrate |
| 304A(2) | Causing death by rash or negligent act | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 305 | Abetment of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated | May arrest without warrant | Warrant | Bailable | Not compoundable | Death or imprisonment for life | High Court |
| 306 | Abetting the commission of suicide | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 307 | Attempting to murder | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 20 years and fine | High Court |
| 307 | If such act cause hurt to any person | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for life | High Court |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)

Offences affecting life

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|----------------------------|
| 307 | Attempt to murder by convict undergoing sentence of 15 years' imprisonment, if hurt is caused | May arrest without warrant | Warrant | Bailable | Not compoundable | Death or as above | High Court |
| 308 | Attempt to commit culpable homicide (Where hurt not caused to any person) | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 308 | If such act cause hurt to any person | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 309 | Attempt to commit suicide | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for one year, fine or both | Court of a Magistrate |

Causing of miscarriage; injuries to unborn children; exposure of infants; and concealment of births

| | | | | | | | |
|-----|--|----------------------------|---------|--------------|------------------|--|-----------------------|
| 312 | Causing miscarriage (Where woman not quick with child) | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 312 | If woman be quick with child | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 313 | Causing miscarriage without woman's consent | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 314 | Death caused by an act done with intent to cause miscarriage | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)

Causing of miscarriage; injuries to unborn children; exposure of infants; and concealment of births

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|---|-------------------------------|
| 314 | If act done without woman's consent | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and fine | High Court |
| 315 | Act done with intent to prevent a child being born alive, or to cause it to die after its birth | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years, fine or both | High Court |
| 316 | Causing death of a quick unborn child by an act amounting to culpable homicide | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 317 | Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it | May arrest without warrant Act, No 2/57 | Warrant | Bailable | Not compoundable | Imprisonment for 7 years, fine or both | High Court |
| 318 | Concealment of birth by secret disposal of dead | May arrest without warrant Act, No 2/57 | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |

Hurt

| | | | | | | | |
|-----|--|----------------------------------|---------|----------|------------------|---------------------------------------|-----------------------|
| 323 | Voluntarily causing hurt | Shall not arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 324 | Voluntarily causing hurt by dangerous weapons or means | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 7 years and whipping | Court of a Magistrate |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)
Hurt

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|---|-------------------------------|
| 325 | Voluntarily causing grievous hurt | May arrest without warrant | Summons | Bailable | Compoundable when permission is given | Imprisonment for 10 years and whipping | High Court |
| 326 | Voluntarily causing grievous hurt by dangerous weapons or means | May arrest without warrant | Summons | Not bailable | Not compoundable | Imprisonment for 15 years and whipping | High Court |
| 327 | Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |
| 328 | Administering stupefying drug with intent to cause hurt etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |
| 329 | Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and whipping | High Court |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)
Hurt

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|---|-------------------------------|
| 330 | Voluntarily causing hurt to extort confession or information or to compel restoration of property etc | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and whipping | High Court |
| 331 | Voluntarily causing grievous hurt to extort confession or information or compel restoration of property etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |
| 332 | Voluntarily causing hurt to deter public servant from his duty | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and whipping | Court of a Magistrate |
| 333 | Voluntarily causing grievous hurt to deter public servant from his duty | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |
| 334 | Voluntarily causing hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation | Shall not arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for 6 months and fine | Court of a Magistrate |
| 335 | Causing grievous hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation | May arrest without warrant | Summons | Bailable | Compoundable when permission is given | Imprisonment for 5 years and fine | Court of a Magistrate |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)
Hurt

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|--|--|--|--|------------------------------|---------------------------------------|---|----------------------------|
| 336 | Doing any act which endangers human life or the personal safety of others | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for one year, fine of \$1,000 or both | Court of a Magistrate |
| 337 | Causing hurt by an act which endangers human life etc | May arrest without warrant | Summons | Bailable | Compoundable when permission is given | Imprisonment for 2 years and fine | Court of a Magistrate |
| 338 | Causing grievous hurt by an act which endangers human life etc | May arrest without warrant | Summons | Bailable | Compoundable when permission is given | Imprisonment for 5 years and fine | Court of a Magistrate |
| <i>Wrongful restraint and wrongful confinement</i> | | | | | | | |
| 341 | Wrongfully restraining any person | May arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for one year and fine | Court of a Magistrate |
| 342 | Wrongfully confining any person | May arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 343 | Wrongfully confining for 3 or more days | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 344 | Wrongfully confining for 10 or more days | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 7 years and whipping with not less than 3 strokes | Court of a Magistrate |
| 345 | Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation | Shall not arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years, in addition to imprisonment under any other section | Court of a Magistrate |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)
Wrongful restraint and wrongful confinement

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|---|----------------------------|
| 346 | Wrongful confinement in secret | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 5 years, in addition to imprisonment under any other section | Court of a Magistrate |
| 347 | Wrongful confinement for the purpose of extorting property or constraining to an illegal act etc | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 10 years and whipping with not less than 3 strokes | Court of a Magistrate |
| 348 | Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property etc | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 7 years and whipping with not less than 3 strokes | Court of a Magistrate |

Criminal force and assault

| | | | | | | | |
|-----|--|----------------------------------|---------|----------|------------------|---------------------------------------|-----------------------|
| 352 | Assault or use of criminal force otherwise than on grave provocation | Shall not arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for one year and fine | Court of a Magistrate |
| 353 | Assault or use of criminal force to deter a public servant from discharge of his duty | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 354 | Assault or use of criminal force to a person with intent to outrage the modesty of that person | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and whipping | Court of a Magistrate |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)
Criminal force and assault

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|---|----------------------------|
| 354A | Aggravated modesty | May arrest without warrant | Warrant | Non-bailable | Not compoundable | Imprisonment for 7 years and whipping | Court of a Magistrate |
| 354B | Outraging modesty by person in position of trust or authority | May arrest without warrant | Warrant | Non-bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |
| 355 | Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation | Shall not arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for 5 years and whipping | Court of a Magistrate |
| 356 | Assault or criminal force in attempt to commit theft of property worn or carried by a person | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and whipping | Court of a Magistrate |
| 357 | Assault or use of criminal force in attempt wrongfully to confine a person | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and whipping | Court of a Magistrate |
| 358 | Assault or use of criminal force on grave and sudden provocation | Shall not arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for 6 months and fine of \$2,000 | Court of a Magistrate |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)
Kidnapping, abduction, slavery and forced labour

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|--|-------------------------------|
| 363 | Kidnapping | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 364 | Kidnapping or abducting in order to murder | May arrest without warrant | Warrant | Not bailable | Not compoundable | Death | High Court |
| 365 | Kidnapping or abducting with intent secretly and wrongfully to confine a person | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 366 | Kidnapping or abducting a woman to compel her marriage or to cause her defilement etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 366A | Procurement of minor girl | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 366B | Importation of girl from foreign country | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 367 | Kidnapping or abducting in order to subject a person to grievous hurt, slavery etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 368 | Concealing or keeping in confinement a kidnapped person | May arrest without warrant | Warrant | Not bailable | Not compoundable | Punishment for kidnapping or abduction | High Court |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)
Kidnapping, abduction, slavery and forced labour

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 369 | Kidnapping or abducting a child with intent to take property from the person of such child | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 370 | Buying or disposing of any person as a slave | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 371 | Habitual dealing in slaves | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 372 | Selling or letting to hire a minor for purposes of prostitution etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 373 | Buying or obtaining possession of a minor for the same purposes | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 373A | Importing women by fraud with intent etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 374 | Unlawful compulsory labour | May arrest without warrant | Warrant | Bailable | Compoundable | Imprisonment for 3 years and fine | High Court |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)
Rape, unnatural offences and incest

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|----------------------------|
| 376 | Rape | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 377 | Unnatural offences | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 377A | Incest | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | Court of a Magistrate |
| 377B | Engaging in sexual activity in the presence of person under 16 | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years, fine or both | Court of a Magistrate |
| 377C | Causing a person under 16 to watch sexual act | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years, fine or both | Court of a Magistrate |
| 377D(1) | Obtaining consideration for sexual services with person under 18 | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and whipping | Court of a Magistrate |
| 377D(2) | Communicating with another to obtain consideration for sexual services with person under 18 | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 377E | Commercial sex with person under 18 outside Brunei Darussalam | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and whipping | Court of a Magistrate |

CHAPTER XVI — OFFENCES AFFECTING THE HUMAN BODY — (continued)
Rape, unnatural offences and incest

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 377F | Tour outside Brunei Darussalam for commercial sex with person under 18 | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years, fine or both | High Court |
| 377G | Sexual grooming of person under 16 | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 377H | Voyeurism | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 377I | Printing, publication of voyeuristic recordings | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years, fine or both | Court of a Magistrate |

CHAPTER XVII — OFFENCES AGAINST PROPERTY

Theft

| | | | | | | | |
|------|---|----------------------------|---------|--------------|------------------|--|-----------------------|
| 379 | Theft | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 3 years, fine or both | Any magistrate |
| 380 | Theft in a building, tent or vessel | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | Any magistrate |
| 380A | Theft in protected place or place of worship | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |
| 381 | Theft by clerk or servant of property in possession of master or employer | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)
Theft

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 382 | Theft, preparation having been made for causing death or hurt, or restraint or fear of death or of hurt or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and whipping | High Court |

Extortion

| | | | | | | | |
|-----|---|----------------------------|---------|--------------|------------------|--|-----------------------|
| 384 | Extortion | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and whipping | Court of a Magistrate |
| 385 | Putting or attempting to put in fear or injury, in order to commit extortion | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | Court of a Magistrate |
| 386 | Extortion by putting a person in fear of death or grievous hurt | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and whipping | High Court |
| 387 | Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and whipping | High Court |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)

Extortion

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|---|-------------------------------|
| 388 | Extortion by threat of accusation of an offence punishable with death, or imprisonment for 10 years | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |
| 388 | If the offence threatened be an unnatural offence | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years | High Court |
| 389 | Putting a person in fear of accusation of offence punishable with death, or with imprisonment for 10 years, in order to commit extortion | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |
| 389 | If the offence be an unnatural offence | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years | High Court |

Robbery and gang-robbery

| | | | | | | | |
|-----|---|----------------------------|---------|--------------|------------------|--|------------|
| 392 | Robbery | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 392 | If committed between sunset and sunrise | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 393 | Attempt to commit robbery | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)
Robbery and gang-robbery

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|---|----------------------------|
| 394 | Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 395 | Gang-robbery | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 12 strokes | High Court |
| 396 | Gang-robbery with murder | May arrest without warrant | Warrant | Not bailable | Not compoundable | Death | High Court |
| 397 | Robbery or gang-robbery or attempted robbery with attempt to cause death or grievous hurt | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for not less than 7 years and whipping with not less than 12 strokes | High Court |
| 398 | Robbery or gang-robbery or attempted robbery or gang-robbery when armed with deadly weapon | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for not less than 7 years and whipping with not less than 12 strokes | High Court |
| 399 | Making preparation to commit gang-robbery | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping with not less than 12 strokes | High Court |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)
Robbery and gang-robbery

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|---|----------------------------|
| 400 | Belonging to a gang of persons associated for the purpose of habitually committing gang-robbery | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and whipping with not less than 6 strokes | High Court |
| 401 | Belonging to a wandering gang of persons associated for the purpose of habitually committing theft | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and whipping with not less than 6 strokes | High Court |
| 402 | Being one of two or more persons assembled for the purpose of committing gang-robbery | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and whipping with not less than 6 strokes | High Court |

Criminal misappropriation of property

| | | | | | | | |
|-----|---|----------------------------|---------|----------|------------------|--|-----------------------|
| 403 | Dishonest misappropriation of movable property, or converting it to one's own use | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |
| 404 | Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death and that it has not since been in the possession of any person legally entitled to it | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and fine | High Court |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)

Criminal misappropriation of property

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 404 | If by clerk or person employed by deceased | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |

Criminal breach of trust

| | | | | | | | |
|-----|--|----------------------------|---------|--------------|------------------|------------------------------------|-----------------------|
| 406 | Criminal breach of trust | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 407 | Criminal breach of trust by a carrier, wharfinger etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 408 | Criminal breach of trust by a clerk or servant | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 409 | Criminal breach of trust by a public servant or by a banker, merchant or agent etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |

Receiving of stolen property

| | | | | | | | |
|-----|--|----------------------------|---------|--------------|------------------|---|-----------------------|
| 410 | Suspected stolen property | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 months and fine of \$1,600, or if previous conviction under Chapter XVII, imprisonment for one year and fine | Court of a Magistrate |
| 411 | Dishonestly receiving stolen property, knowing it to be stolen | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)
Receiving of stolen property

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|---|-------------------------------|
| 412 | Dishonestly receiving stolen property knowing that it was obtained by gang-robbery | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and fine | High Court |
| 413 | Habitually dealing in stolen property | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 414 | Assisting in concealment or disposal of stolen property, knowing it to be stolen | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |

Cheating

| | | | | | | | |
|-----|---|----------------------------------|---------|----------|------------------|-----------------------------------|-----------------------|
| 417 | Cheating | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 418 | Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |
| 419 | Cheating by personation | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |
| 420 | Cheating and thereby dishonestly inducing delivery of property or the making, alteration of a valuable security | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | Court of a Magistrate |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)
Fraudulent deeds and dispositions of property

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|--|--|----------------------------|
| 421 | Fraudulent removal or concealment of property etc to prevent distribution among creditors | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years, fine or both | Court of a Magistrate |
| 422 | Fraudulently preventing from being made available for his creditors a debt or demand due to the offender | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years, fine or both | Court of a Magistrate |
| 423 | Fraudulent execution of deed of transfer containing a false statement of consideration | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years, fine or both | Court of a Magistrate |
| 424 | Fraudulent removal or concealment of property of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he entitled | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years, fine or both | Court of a Magistrate |
| <i>Mischief</i> | | | | | | | |
| 426 | Mischief | Shall not arrest without warrant | Summons | Bailable | Compoundable when the only loss or damage caused is loss or damage to a private person | Imprisonment for 2 years, fine or both | Court of a Magistrate |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)

Mischief

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|--|--|----------------------------|
| 427 | Mischief, and thereby causing damage to the amount of \$500 or upwards | Shall not arrest without warrant | Warrant | Bailable | Compoundable when the only loss or damage caused is loss or damage to a private person | Imprisonment for 5 years and whipping with not less than 2 strokes | Court of a Magistrate |
| 427A | Mischief, and thereby causing damage in protected place or place of worship | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and whipping with not less than 4 strokes | Court of a Magistrate |
| 428 | Mischief by killing, poisoning, maiming, or rendering useless an animal | May not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and whipping with not less than 2 strokes | Court of a Magistrate |
| 430 | Mischief by causing diminution of supply of water for agricultural purposes etc | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and whipping with not less than 4 strokes | Court of a Magistrate |
| 431 | Mischief by injury to public road, bridge, navigable river or channel and rendering it impassable or less safe for travelling or conveying property | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and whipping with not less than 4 strokes | Court of a Magistrate |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)

Mischief

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|---|-------------------------------|
| 432 | Mischief by causing inundation or obstruction to public drainage, attended with damage. | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and whipping with not less than 4 strokes | Court of a Magistrate |
| 433 | Mischief by destroying or moving or rendering less useful a light-house or seamark, or by exhibiting false lights | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and whipping with not less than 4 strokes | High Court |
| 434 | Mischief by destroying or moving etc a landmark fixed by public authority | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and whipping with not less than 4 strokes | Court of a Magistrate |
| 435 | Mischief by fire or explosive substance with intent to cause damage | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 15 years and whipping with not less than 6 strokes | High Court |
| 436 | Mischief by fire or explosive substance with intent to destroy a house etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for life | High Court |
| 437 | Mischief with intent to destroy or make unsafe a decked vessel or vessel of 20 tons burden | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and whipping with not less than 6 strokes | High Court |
| 438 | The mischief described in the last section when committed by fire or explosive substance | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for life | High Court |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)

Mischief

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the warrant first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|--|------------------------------------|--|---|-------------------------------|
| 439 | Running vessel ashore with intent to commit theft etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping with not less than 6 strokes | High Court |
| 440 | Mischief committed after preparation made for causing death, or hurt etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping with not less than 6 strokes | Court of a Magistrate |

Criminal trespass

| | | | | | | | |
|------|---|----------------------------|---------|--------------|------------------|---|-----------------------|
| 447 | Criminal trespass | May arrest without warrant | Summons | Bailable | Compoundable | Imprisonment for one year and fine | Court of a Magistrate |
| 448 | House-trespass | May arrest without warrant | Warrant | Bailable | Compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 448A | Punishment for house-trespass in protected place or place of worship | May arrest without warrant | Warrant | Warrant | Not compoundable | Imprisonment of not less than 2 years and not more than 7 years and whipping with not less than 2 strokes | Court of a Magistrate |
| 449 | House-trespass in order to the commission of an offence punishable with death | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for life and fine | High Court |
| 450 | House-trespass in order to the commission of an offence punishable with imprisonment for 15 years | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)
Criminal trespass

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|---|-------------------------------|
| 451 | House-trespass in order to the commission of an offence punishable with imprisonment | May arrest warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 451 | If the offence is theft | May arrest warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 452 | House-trespass, having made preparation for causing hurt, assault etc | May arrest warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |
| 453 | Lurking house-trespass, or house-breaking | May arrest warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and whipping | Court of a Magistrate |
| 453A | Punishment for lurking house-trespass or house- breaking in protected place or place of worship | May arrest warrant | Warrant | Not bailable | Not compoundable | Imprisonment of not less than 3 years and not more than 10 years and whipping with not less than 3 strokes | High Court |
| 454 | Lurking house-trespass, or house-breaking in order to the commission of an offence punishable with imprisonment | May arrest warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and whipping | Court of a Magistrate |
| 454 | If the offence is theft | May arrest warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)
Criminal trespass

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|----------------------------|
| 455 | Lurking house-trespass or house-breaking after preparation made for causing hurt assault etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and whipping | High Court |
| 456 | Lurking house-trespass or house-breaking by night | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and whipping | Court of a Magistrate |
| 456A | Punishment for lurking house-trespass or house-breaking by night in protected place or place of worship | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment of not less than 3 years and not more than 10 years and whipping with not less than 3 strokes | High Court |
| 457 | Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and whipping | Court of a Magistrate |
| 457 | If the offence is theft | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and whipping | High Court |
| 458 | Lurking house-trespass or house-breaking by night, after preparation for causing hurt etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 6 strokes | High Court |

CHAPTER XVII — OFFENCES AGAINST PROPERTY — (continued)
Criminal trespass

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|---|----------------------------|
| 459 | Grievous hurt caused whilst committing lurking house-trespass or house-breaking | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 30 years and whipping with not less than 6 strokes | High Court |
| 460 | Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for life | High Court |
| 461 | Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and whipping | Court of a Magistrate |
| 462 | Being entrusted with any closed receptacle containing or supposed to contain any property and fraudulently opening the same | May arrest without warrant | Warrant | Ditto | Not compoundable | Imprisonment for 5 years and whipping | Court of a Magistrate |

CHAPTER XVIII — OFFENCES RELATING TO DOCUMENTS, FALSE DOCUMENTS AND CURRENCY NOTES AND BANK NOTES

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|--|------------------------------|----------------------------------|--|----------------------------|
| 465 | Forgery | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 466 | Forgery of a record of a Court of Justice or of a Register of Births etc kept by a public servant | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 467 | Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money etc | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 468 | Forgery for the purpose of cheating | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 469 | Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for the purpose | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 471 | Using as genuine a forged document which is known to be forged | May arrest without warrant | Warrant | Not bailable | Not compoundable | Punishment for forgery | Court of a Magistrate |

CHAPTER XVIII — OFFENCES RELATING TO DOCUMENTS, FALSE DOCUMENTS AND CURRENCY NOTES AND
BANK NOTES — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|--|---|---|------------------------------------|--|---|-------------------------------|
| 472 | Making or counterfeiting a seal, plate etc with intent to commit a forgery punishable under section 467, or possessing with like intent any such seal, plate etc knowing the same to be counterfeit | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 473 | Making or counterfeiting a seal, plate etc with intent to commit a forgery punishable otherwise than under section 467, or possessing with like intent any such seal, plate etc knowing the same to be counterfeit | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 474 | Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |

**CHAPTER XVIII — OFFENCES RELATING TO DOCUMENTS, FALSE DOCUMENTS AND CURRENCY NOTES AND
BANK NOTES — (continued)**

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|---|-------------------------------|
| 474 | If the document is one of the description men- tioned in section 467 | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 15 years and fine | High Court |
| 475 | Counterfeiting a device or mark used for authenti- cating documents described in section 467 or possessing counterfeit marked material | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 476 | Counterfeiting a device or mark used for authenti- cating documents other than those described in section 467 or possessing counterfeit marked material | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 477 | Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting a will etc | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 477A | Falsification of accounts | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 489A | Counterfeiting currency notes or bank notes | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 15 years and fine | High Court |
| 489B | Using as genuine forged or counterfeit currency notes or bank notes | May arrest without warrant | Summons | Bailable | Not compoundable | Imprisonment for 15 years and fine | High Court |

CHAPTER XVIII — OFFENCES RELATING TO DOCUMENTS, FALSE DOCUMENTS AND CURRENCY NOTES AND BANK NOTES — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|--|----------------------------|
| 489C | Possession of forged or counterfeit currency notes or bank notes | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 489D | Making or possessing instruments or materials for forging or counterfeiting currency notes or bank notes | May arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |

CHAPTER XX — OFFENCES RELATING TO MARRIAGE

| | | | | | | | |
|-----|--|----------------------------------|---------|--------------|------------------|------------------------------------|------------|
| 493 | Cohabitation caused by a man deceitfully inducing a belief of lawful marriage | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |
| 494 | Marrying again during the lifetime of a husband or wife | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 495 | Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 10 years and fine | High Court |

CHAPTER XX — OFFENCES RELATING TO MARRIAGE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------------|---|---|---|------------------------------------|--|---|-------------------------------|
| 496 | Marriage ceremony fraudulently gone through without lawful marriage | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 7 years and fine | High Court |
| 498 | Enticing or taking away or detaining with a criminal intent a married woman | Shall not arrest without warrant | Warrant | Not bailable | Compoundable | Imprisonment for 2 years, fine or both | Court of a Magistrate |

CHAPTER XXI — DEFAMATION

| | | | | | | | |
|-----|---|----------------------------------|---------|----------|--------------|-----------------------------------|-----------------------|
| 500 | Defamation | Shall not arrest without warrant | Warrant | Bailable | Compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 501 | Printing or engraving matter knowing it to be defamatory | Shall not arrest without warrant | Warrant | Bailable | Compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |
| 502 | Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter | Shall not arrest without warrant | Warrant | Bailable | Compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |

CHAPTER XXII — CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

| | | | | | | | |
|-----|--|----------------------------------|---------|--------------|------------------|-----------------------------------|-----------------------|
| 504 | Insult intended to provoke a breach of the peace | Shall not arrest without warrant | Warrant | Bailable | Compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 505 | False statement, rumour etc circulated with intent to cause mutiny or offence against the public peace | Shall not arrest without warrant | Warrant | Not bailable | Not compoundable | Imprisonment for 5 years and fine | Court of a Magistrate |

CHAPTER XXII — CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE — (continued)

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|--|--|--|------------------------------|----------------------------------|---|----------------------------|
| 506 | Criminal intimidation | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 506 | If threat be to cause death or grievous hurt | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 7 years, fine or both | High Court |
| 507 | Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, in addition to the punishment under section 506 | Court of a Magistrate |
| 508 | Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years, fine or both | Court of a Magistrate |
| 509 | Uttering any word or making any gesture intended to insult the modesty of a woman etc | Shall not arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 3 years and fine | Court of a Magistrate |
| 510 | Appearing in a public place etc in a state of intoxication, an causing annoyance to any person | May arrest without warrant | Warrant | Bailable | Not compoundable | Imprisonment for 6 months and fine | Court of a Magistrate |

CHAPTER XXIII — ATTEMPTS TO COMMIT OFFENCES

| 1 Penal Code Section | 2 Offence | 3 Whether the police may ordinarily arrest without warrant or not | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5 Whether bailable or not | 6 Whether compoundable or not | 7 Maximum punishment under the Penal Code | 8 By what Court triable |
|-------------------------|---|--|---|--|---|---|--|
| 511 | Attempting to commit offences punishable with imprisonment, fine or whipping or with a combination of such punishments and in such attempt doing any act toward the commission of the offence | According as the offence is one in respect of which the Police may arrest without warrant or not | According as the offence is one in respect of which a summons or warrant shall ordinarily issue | According as the offence contemplated by the offender is bailable or not | Compoundable when offence attempted is compoundable | Imprisonment not exceeding one half the term provided for the offence and fine and whipping | The Court by which the offence itself is triable |

OFFENCES AGAINST OTHER LAWS

| | | | | | |
|---|----------------------------------|---------|--------------|------------------|-----------------|
| If punishable with death or imprisonment for 3 years or upwards | May arrest without warrant | Warrant | Not bailable | Not compoundable | } see section 9 |
| If punishable with imprisonment for less than 3 years or with fine only | Shall not arrest without warrant | Summons | Bailable | Not compoundable | |

SECOND SCHEDULE

(sections 173, 294(2), 398 and 400)

FORMS

I — Summons to an accused person

(section 39)

To _____ of _____

Whereas your attendance is necessary to answer to a charge of _____
you are hereby required to appear on the _____ day of _____
at _____ before the _____ Court at _____.

Dated this _____ day of _____, 20____.

(Seal)

(Signature and title of office)

II — Warrant of arrest

(section 43)

To the Commissioner of Police and all other police officers

Whereas _____ of _____ stands charged with the offence of _____
you are directed to arrest the said _____ and to produce
him at _____ on the _____ day of _____, 20____,
before the _____ Court at _____.

Dated this _____ day of _____, 20____.

(Seal)

(Signature and title of office)

(section 44)

This Warrant may be indorsed as follows —

If the said _____ shall give bail himself in the sum of _____ dollars,
with one surety in the sum of _____ dollars, [or 2 sureties each in the
sum of _____ dollars] to attend before the Court on the _____ day

of _____ and to continue so to attend until directed by me, he may be released.

Dated this _____ day of _____, 20 ____.

(Signature and title of office)

III — Bond and bail-bond after arrest under a warrant

(section 54)

I _____, of _____ being brought before the _____ Court at _____ under a warrant issued to compel my appearance to answer to a charge of _____ do hereby bind myself to attend in the Court at _____ on the _____ day of _____ next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of _____ dollars [which I hereby deposit].

Dated this _____ day of _____, 20 ____.

(Signature)

I [or We] do hereby declare myself [or ourselves] surety [or sureties] for the abovenamed _____ of _____, that he shall attend before the _____ Court at _____, on the _____ day of _____ next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I [or we] hereby bind myself [or ourselves, jointly and severally] to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of _____ dollars [which I [or we] hereby deposit].

Dated this _____ day of _____, 20 ____.

(Signature)

IV — Proclamation requiring the appearance of a person accused

(section 49)

Whereas complaint has been made before me that _____ of _____ has committed [*or is suspected to have committed*] the offence of _____ punishable under section _____ of the Penal Code (Chapter 22), and it has been returned to a warrant of arrest thereupon issued that the said _____ cannot be found; and whereas it has been shown to my satisfaction that the said _____ has absconded [*or is concealing himself to avoid the service of the said warrant, as the case may be*]:

Proclamation is hereby made that the said _____ of _____ is required to appear before the _____ Court at _____ to answer the said complaint within _____ days from this date.

Dated this _____ day of _____, 20 _____.

(*Signature and title of office*)

(*Seal*)

V — Proclamation requiring the attendance of a witness

(section 49)

Whereas complaint has been made before me that _____ of _____ has committed [*or is suspected to have committed*] the offence of _____ and a warrant has been issued to compel the attendance of _____ of _____ before the _____ Court at _____ to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said _____ cannot be served, and it has been shown to my satisfaction that he has absconded [*or is concealing himself to avoid the service of the said warrant*]:

Proclamation is hereby made that the said _____ is required to appear before the _____ Court at _____ on the _____ day of _____, 20 _____ next, at _____ o'clock, to be examined touching the offence complained of.

Dated this _____ day of _____, 20 _____.

(*Signature and title of office*)

(*Seal*)

VI — Order of attachment to compel the attendance of a witness

(section 50)

To the Police Officer in charge of the Police District of

Whereas a warrant has been duly issued to compel the attendance of _____ of _____ to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to the satisfaction of the Court that he has absconded [*or is concealing himself to avoid the service of the said warrant*]; and thereupon a Proclamation was duly issued and published requiring the said _____ to appear and give evidence at the time and place mentioned therein, and he had failed to appear.

This is to authorise and require you to attach by seizure the movable property belonging to the said _____ to the value of _____ dollars which you may find within Brunei Darussalam and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an indorsement certifying the manner of its execution.

Dated this _____ day of _____, 20 _____.

(Signature and title of office)

(Seal)

VII — Warrant in the first instance to bring up a witness

(section 52)

To _____ [name and description of the Police Officer or other person or persons who is or are to execute the warrant].

Whereas complaint has been made before me that _____ of _____ has [*or is suspected to have*] committed the offence of _____ and it appears likely that _____ of _____ can give evidence concerning the said complaint; and whereas the Court has good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so:

This is to authorise and require you to arrest the said _____ of _____ and on the _____ day of _____, 20 _____, to bring him before the _____ Court at _____ to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this _____ day
of _____, 20____.

(Signature and title of office)

(Seal)

VIII — Warrant to Search after Information of a Particular Offence

(section 59)

To _____ [*name and description of the Police Officer or other person or persons who is or are to execute the warrant*].

Whereas information has been laid [*or complaint has been made*] before me of the commission [*or suspected commission*] of the offence of

_____ and it has been made to appear to me that the production of the articles specified in the schedule below is essential to the inquiry now being made [*or about to be made*] into the said offence [*or suspected offence*]:

This is to authorise and require you within the space of _____ days from the date hereof to search for the said articles specified in the schedule below in the _____ [*describe the house or place, or part thereof, to which the search is to be confined*], and, if found, to produce the same forthwith before the _____ Court; returning this warrant, with an indorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day
of _____, 20____.

(Signature and title of office)

(Seal)

IX — Warrant to search suspected place of deposit

(section 61)

To _____ [name and description of the Police Officer or other person or persons who is or are to execute the warrant].

Whereas information has been laid before me, and on due inquiry thereupon I have been led to believe that the [describe the house or other place] is used as a place for the deposit [or sale] of stolen property [or if for either of the other purposes expressed in the section, state the purpose in the words of the section]:

This is to authorise and require you within the space of _____ days from the date hereof to enter the said house [or other place] with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house [or other place, or if the search is to be confined to a part, specify the part clearly] and to seize and take possession of any property [or document, or stamps, or seals, or coins, or trade marks, as the case may be] — [Add (when the case requires it) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or trade marks, or counterfeit stamps, or false seals, or counterfeit coin, as the case may be] and forthwith to bring before this Court such of the said things as may be taken possession of; returning this warrant, with an indorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 20 _____.

(Signature and title of office)

(Seal)

X — Bond to Keep the Peace

(section 72)

Whereas I, _____ inhabitant of _____ have been called upon to enter into a bond to keep the peace for the term of _____ I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the

Sultan and Yang Di-Pertuan the sum of _____ dollars
[which I hereby deposit].

Dated this _____ day of _____, 20____.

(Signature)

XI — Bond for good behaviour

(sections 73 and 74)

Whereas I _____ inhabitant of _____, have been called upon to enter into bond to be of good behaviour to His Majesty the Sultan and Yang Di-Pertuan and to all his subjects for the term of _____ I hereby bind myself to be of good behaviour to His Majesty the Sultan and Yang Di-Pertuan and to all his subjects during the aid term; and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of _____ dollars [which I hereby deposit].

(Signature)

Where a Bond with Sureties is to be executed, add — We do hereby declare ourselves sureties for the abovenamed _____ that he will be of good behaviour to His Majesty the Sultan and Yang Di-Pertuan and to all his subjects during the said term; and, in case of his making default therein, we hereby bind ourselves, jointly and severally, to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of _____ dollars [which we hereby deposit].

Dated this _____ day of _____, 20____.

(Signature)

XII — Order to show cause

(section 75)

Whereas information has been received by me that [*here set out the substance of the information received*].

It is hereby ordered that _____ do attend at the _____ Court
at _____ on the _____ day of _____, 20____,
at _____ o'clock to show cause why he should not be ordered to

execute a bond for his good behaviour in the sum of _____ dollars
to be in force for the term of _____ months with _____ sufficient
sureties being [*here state character and class of sureties required*].

Given under my hand and the seal of the Court, this _____ day
of _____, 20____.

(Signature and title of office)

XIII — Summons on information of a probable breach of the peace

(section 75)

To _____ of _____

Whereas it has been made to appear to me by credible information that [*state the substance of the information*], and that you are likely to commit a breach of the peace [*or by which act a breach of the peace will probably be occasioned*], you are hereby required to attend at the _____ Court at _____ on the _____ day of _____, 20____, at _____ o'clock in the forenoon, to show cause why you should not be required to enter into a bond for _____ dollars [*when sureties are required, add — and also to give security by the bond of one (or two, as the case may be) surety (or sureties) in the sum of _____ dollars (each, if more than one), that you will keep the peace for the term of _____*].

Given under my hand and the seal of the Court, this _____ day
of _____, 20____.

(Signature and title of office)

(Seal)

XIV — Warrant of commitment on failure to find security to keep the peace

(section 83)

To the Officer in charge of the Prison at _____

Whereas _____ of _____ appeared before me on the _____ day of _____ in obedience to a summons calling upon him to show cause why he should not enter into a bond for _____ dollar with one surety [*or a bond with two sureties each in _____ dollars*], that

he the said _____ would keep the peace for the period of _____.
 And whereas an order was then made requiring the said _____ to
 enter into and find such security [*state the security ordered when it differs
 from that mentioned in the summons*], and he has failed to comply with the
 said order:

This is to authorise and require you to receive the said _____ into
 your custody, together with this warrant, and to keep him safely in prison for
 the said period of _____ unless he shall, in the meantime, comply
 with the said order by himself and his surety [*or sureties*] entering into the
 said bond, in which case the same shall be received, and the said
 released; and to return this warrant with an indorsement certifying the
 manner of its execution.

Given under my hand and the seal of the Court, this _____ day
 of _____, 20 _____.

(Signature and title of office)

(Seal)

XV — Warrant of commitment on failure to find security for good behaviour

(section 83)

To the Officer in charge of the Prison at

Whereas it has been made to appear to me that _____ of
 has been and is lurking within the District of _____ having no
 ostensible means of subsistence [*or and that he is unable to give any
 satisfactory account of himself*]:

Whereas evidence of the general character of _____ of
 has been adduced before me and recorded, from which it appears that he is a
 habitual robber [*or house-breaker etc. as the case may be*].

And whereas an order has been recorded stating the same and requiring
 the said _____ to furnish security for his behaviour for the term of
 _____ by entering into a bond with one surety [*or two or
 more sureties, as the case may be*], himself for _____ dollars, and
 the said surety [*or each of the said sureties*] for _____ dollars, and
 the said _____ has failed to comply with the said order, and for

such default has been adjudged imprisonment for _____ unless the
said security be sooner furnished:

This is to authorise and require you to receive the said _____ into
your custody, together with this warrant, and to keep him safely in prison for
the said period of _____ unless he shall, in the meantime, comply
with the said order by himself and his surety [*or* sureties] entering into the
said bond, in which case the same shall be received, and the said
released; and to return this warrant with an indorsement certifying the
manner of its execution.

Given under my hand and the seal of the Court, this _____ day
of _____, 20 _____.

(Signature and title of office)

(Seal)

XIV — Warrant to discharge a person imprisoned on failure to give security

(section 79)

*To the Officer in charge of the Prison at _____ (or other officer in
whose custody the person is)*

Whereas _____ of _____ was committed to your custody
under warrant of this Court dated the _____ day of _____, 20 _____,
and has since duly given security under section _____ of the
Criminal Procedure Code,

or

and there have appeared to me sufficient grounds for the opinion that he can
be released without hazard to the community:

This is to authorise and require you forthwith to discharge the said from
your custody, unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this _____ day
of _____, 20 _____.

(Signature and title of office)

(Seal)

XVII — Order for the removal of nuisance

(section 93)

To of

Whereas it has been made to appear to me that you have caused an obstruction [*or nuisance*] to persons using the public roadway [*or other public place*] which etc. (*describe the road or public place*), by etc. (*state what it is that causes the obstruction or nuisance*) and that such obstruction [*or nuisance*] still exists:

or

Whereas it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of at and that the same is injurious to the public health [*or comfort*] by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place:

or

Whereas it has been made to appear to me that you are the owner [*or are in possession of, or have the control over*] a certain tank [*or well, or excavation*] being without a fence [*or insecurely fenced*]:

*or*Whereas etc., etc. (*as the case may be*):

I do hereby direct and require you within to [*state what is to be done*] or to appear at in the Court of on the day of , 20 next, and to show cause why this order should not be enforced:

or

I do hereby direct and require you within to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear etc.:

or

I do hereby direct and require you within to put up a sufficient fence [*state the kind of fence and the part to be fenced*] or to appear etc.

enjoined forthwith to *(state plainly what is required to be done as a temporary safeguard)* pending the final decision of the case.

Given under my hand and the seal of the Court, this _____ day
of _____, 20____.

(Signature and Title of Office)

(Seal)

**XX — Order of Magistrate prohibiting the repetition etc.
of a nuisance**

(section 101)

To _____ of _____

Whereas it has been made to appear to this Court that etc. [*state the proper recital, guided by Form No. XVII or Form No. XXI, as the case may be*]:

You are hereby ordered and enjoined not to repeat the said nuisance by again placing, or causing, or permitting to be placed etc. [*as the case may be*].

(Signature and title of office)

(Seal)

XXI — Order of Magistrate to prevent obstruction, riot etc.

(section 102)

To _____ of _____

Whereas it has been made to appear to this Court that you are in possession [*or have the management*] of _____ and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road:

or

Whereas it has been made to appear to this Court that you and a number of other person [*mention the class of persons*] are about to meet and proceed in a religious procession along the public street etc. [*as the case may be*] and that such

or

procession is likely to lead to a riot or an affray:

Whereas etc. etc. [*as the case may be*]:

You are hereby ordered not to place or permit to be placed any of the earth or stones dug from your land in any part of the said road.

or

The procession passing along the said street is hereby prohibited, and you are warned and enjoined not to take any part in such procession [*or, as the case recited may require*].

Given under my hand and the seal of the Court, this _____ day
of _____, 20 _____.

(*Signature and title of office*)

(*Seal*)

XXII — Order of Magistrate declaring party entitled to retain possession of land etc. in dispute

(section 103)

Whereas it appears to the undersigned Magistrate on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between [*describe the parties by name and residence, or residence only if the dispute be between bodies of villagers*] concerning certain situate at _____ the parties were called upon to give in to this Court a written statement of their respective claims as to the fact of actual possession of the said [*the subject of dispute*], and this Court being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said _____ is true:

It is hereby decided and declared that he is [or they are] in possession of the said _____ and entitled to retain such possession until ousted by due course of law, and any disturbance of his [or their] possession in the meantime is forbidden.

Given under my hand and the seal of the Court, this _____ day of _____, 20____.

(Signature and title of office)

(Seal)

XXIII — Warrant of attachment in the case of a dispute as to the possession of land etc.

(section 104)

To the Police Officer in charge at _____ [or, To the Collector of Land Revenue _____].

Whereas it having been made to appear to the undersigned Magistrate that a dispute likely to induce a breach of the peace existed between _____ of _____ and _____ of _____ concerning certain _____ situate at _____, the said parties were thereupon duly called upon to state to this Court in writing their respective claims as to the fact of actual possession of the said _____. And whereas, upon due inquiry into the said claims, this Court has decided that neither of the said parties was in possession of the said _____ [or this Court unable to satisfy itself as to which of the said parties was in possession as aforesaid]:

This is to authorise and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained; and to return his warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 20____.

(Signature and title of office)

(Seal)

**XXIV — Order of Magistrate prohibiting the doing of anything
on land or water**

(section 105)

A dispute having arisen concerning the right of use of
situate at _____ possession of which land [*or water*] is claimed
exclusively by _____ and it appearing to this Court, on due inquiry
into the same, that the said land [*or water*] has been open to the enjoyment of
such use by the public [*or if by any individual or a class of persons, describe
him or them*], and [*if the use can be enjoyed throughout the year — that the
said use has been enjoyed within 3 months of the institution of the said
inquiry, or if the use is enjoyable only at particular seasons, say during the
last of the seasons at which the same is capable of being enjoyed*]:

It is hereby ordered that the said _____ or any one in their
interest, shall not take [*or retain*] possession of the said land [*or water*] to the
exclusion of the enjoyment of the right of use aforesaid, until he [*or they*]
shall obtain the decree or order of a competent Court adjudging him [*or
them*] to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this _____ day
of _____, 20 _____.

(Signature and title of office)

(Seal)

XXIV(A) — Application for approval for the taking of body sample [S 4/2007]

(section 112A(2))

TO A MAGISTRATE IN THE MAGISTRATES COURT AT

I, [name and post of the applicant],
apply for an order of a Magistrate to the taking of a body sample, namely
....., from [name of the suspect] on
the following grounds —

- (i) the said person is suspected of having committed an offence
punishable with imprisonment contrary to section of
the; and

default herein, I bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of _____ dollars [which I hereby deposit].

Dated this _____ day of _____, 20____.

(Signature)

XXVI — Remand warrant

(sections 149 and 223)

In the Magistrate's Court at _____ Case No. _____ to
the _____ of Prisons: _____ / O.C.P.D.

Whereas _____ was this day brought before this Court suspected of/accused of/charged with having committed an offence under section _____ of _____ and it is necessary to remand the accused:

This is to authorise you and require you to receive the accused into your custody together with this Warrant and him safely to keep until the _____ day of _____, 20____, when you shall cause him to be brought before this Court at _____ o'clock in the fore/afternoon, unless you shall be otherwise ordered in the meantime.

Dated at _____ this _____ day of _____, 20____.

Magistrate

XXVII — Charges

(sections 152, 153 and 154)

(I) — Charges with One Head

On Penal Code (Chapter 22) section 121.

1. That you, on or about the _____ day of _____, 20____, at _____, waged war against His Majesty the Sultan and Yang Di-Pertuan and thereby committed an offence punishable under section 121 of the Penal Code (Chapter 22).

On section 161.

2. That you, being a public servant in the _____ Department directly accepted from [*state the name*], for another party [*state the name*] a gratification other than legal remuneration as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Penal Code (Chapter 22).

On section 166.

3. That you, on or about the _____ day of _____, 20____, at _____, did [*or omitted to do, as the case may be*] _____ such conduct being contrary to the provisions of the _____ Act, section _____ and known by you to be prejudicial to _____ and thereby committed an offence punishable under section 166 of the Penal Code (Chapter 22).

On section 193.

4. That you, on or about the _____ day of _____, 20____, at _____, in the course of the trial of _____ before _____, stated in evidence that _____ which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Penal Code (Chapter 22).

On section 304.

5. That you, on or about the _____ day of _____, 20____, at _____, committed culpable homicide not amounting to murder, by causing the death of _____ and thereby committed an offence punishable under section 304 of the Penal Code (Chapter 22).

On section 306.

6. That you, on or about the _____ day of _____, 20____, at _____, abetted the commission of suicide by *A, B*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Penal Code (Chapter 22).

On section 325.

7. That you, on or about the _____ day of _____, 20____, at _____, voluntarily caused grievous hurt to _____, and thereby committed an offence punishable under section 325 of the Penal Code (Chapter 22).

On section 392.

8. That you, on or about the _____ day of _____, 20____, at _____, robbed _____ and thereby committed an offence punishable under section 392 of the Penal Code (Chapter 22).

On section 395.

9. That you, on or about the _____ day of _____, 20____, at _____, committed gang-robbery, an offence punishable under section 395 of the Penal Code (Chapter 22).

(II) — Charges with two or More Heads

On section 241.

1. *First* — That you, on or about the _____ day of _____, 20____, at _____, knowing a coin to be counterfeit, delivered the same to another person, by name *A, B*, as genuine, and thereby committed an offence punishable under section 241 of the Penal Code (Chapter 22).

Secondly — That you, on or about the _____ day of _____, 20____, at _____, knowing a coin to be counterfeit attempted to induce another person, by name *A, B*, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Penal Code (Chapter 22).

On sections 302 and 304.

2. *First* — That you, on or about the _____ day of _____, 20____, at _____, committed murder by causing the death of _____, and thereby committed an offence punishable under section 202 of the Penal Code (Chapter 22).

Secondly — That you, on or about the _____ day of _____, 20____, at _____, committed culpable homicide not amounting to murder by causing the death of _____ and thereby committed an offence punishable under section 304 of the Penal Code (Chapter 22).

On sections 379 and 382.

3. *First* — That you, on or about the _____ day of _____, 20____, at _____, committed theft, and there by committed an offence punishable under section 379 of the Penal Code (Chapter 22).

Secondly — That you, on or about the _____ day of _____, 20____, at _____, committed theft, having made preparations for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Penal Code (Chapter 22).

Thirdly — That you, on or about the _____ day of _____, 20____, at _____, committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Penal Code (Chapter 22).

Fourthly — That you, on or about the _____ day of _____, 20____, at _____, committed theft, having made preparation for causing fear or hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Penal Code (Chapter 22).

Alternative charges on section 193.

4. That you, on or about the _____ day of _____, 20____, at _____, in the course of the inquiry into _____ before _____ stated in evidence that _____ and that you, on or about the _____ day of _____, 20____, at _____, in the course of the trial of _____, before _____, stated in evidence that _____ one of which statements you either knew or believed to be false, did not believe to be true, and thereby committed an offence punishable under section 193 of the Penal Code (Chapter 22).

(III) — Charges for Theft after a Previous Conviction

That you, on or about the _____ day of _____, 20____, at _____, committed theft, and thereby committed an offence punishable under section 379 of the Penal Code (Chapter 22).

And further that you, before the committing of the said offence, that is to say, on the _____ day of _____, 20____, had been convicted by the _____ Court at _____ of an offence punishable under Chapter XVII of the Penal Code (Chapter 22) with imprisonment for a term of 3 years, that is to say, the offence of house-breaking by night [*describe the offence in the words used in the section under which the accused was convicted*] which conviction is still in full force and effect, and that you are

thereby liable to enhanced punishment under section 75 of the Penal Code (Chapter 22).

XXVIII — Warrant of commitment on a sentence of imprisonment or fine

(sections 175 and 181)

To the Officer in charge of the Prison of

Whereas on the _____ day of _____, 20____, [name of prisoner] was convicted in the _____ Court, _____, of the offence of _____ under section _____ [or sections _____] of the Penal Code (Chapter 22) [or of the _____ Act], and was sentenced to _____.

This is to authorise and require you, the said Officer, to receive the said _____ into your custody, together with this warrant, and carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this _____ day of _____, 20____.

(Signature and Title of Office)

(Seal)

XXIX — Warrant of imprisonment on failure to recover amends by distress

(section 187)

To the Officer in charge of the Prison at

Whereas _____ of _____ has brought against _____ of _____ the complaint that _____, and the same has been dismissed as frivolous [or vexatious], and the order of dismissal awards payment by the said _____ of _____ of the sum of _____ dollars as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the movable property of the said _____ and an order has been made for his imprisonment for the period of _____ days, unless the aforesaid sum be sooner paid:

This is to authorise and require you, the said Officer, to receive the said _____ into your custody, together with this warrant, and to keep him safely in prison for the said period of _____ subject to the provisions of section 69 of the Penal Code (Chapter 22), unless the said sum be sooner paid; and on the receipt thereof forthwith to set him at liberty, returning this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 20____.

(Signature and title of office)

(Seal)

XXX — Summons to a witness

(sections 39 and 176)

In the _____ Court

v

To _____ of _____

Whereas your attendance is required in Court as it is understood that you are likely to be able to give material evidence in the above case:

You are hereby summoned to appear before the _____ Court on _____ the _____ day of _____, 20____, at _____ m., to testify what you know concerning the matter of the said case, and not to depart thence without leave of the Court; and you are hereby warned that if you shall, without just excuse, neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

And you are further required to bring with you and produce to the Court the following documents which are believed to be in your possession, viz. —

Given under my hand and the seal of the Court, this _____ day of _____, 20____.

Fees \$ _____

(Signature and title of office)

(Seal)

XXXI — Summons to assessors*(Repealed)***XXXII — Warrant of commitment under sentence of death**

(section 242)

To the Officer in charge of the Prison at

Whereas _____ on the _____ day of _____, 20____, was duly convicted in the _____ Court, _____, of the offence of murder under section 302 of the Penal Code (Chapter 22), and sentenced to suffer death.

This is to authorise and require you, the said Officer, to receive the said _____ into your custody, together with this warrant and to keep him safely in prison until you shall receive the further warrant or order.

Dated this _____ day of _____, 20____.

*(Signature and title of office)***XXXIII — Warrant of execution on a sentence of death**

(section 245)

In the High Court of the Supreme Court of Brunei Darussalam

To the Superintendent of Prisons:

Whereas in the High Court, holden at _____ on the _____ was found guilty of the murder of _____ and was sentenced to death [and whereas an appeal to the Court of Appeal was dismissed on the day of _____, 20____], and whereas His Majesty the Sultan and Yang Di-Pertuan has not seen fit to exercise the Prerogative of Mercy.

This is to authorise and require you, the Superintendent of Prisons, to carry the said sentence of death into execution by causing the said _____ to be hanged by the neck till he is dead, at such time as you, acting under the powers of your said appointment as Superintendent of Prisons, shall appoint, and to return this Warrant to the Court with an

indorsement certifying that the sentence has been carried into effect, together with a Certificate of Death under the hand of a Medical Officer.

Given under my hand and the seal of the Court, this _____ day
of _____, 20____.

(Chief Justice/Judge)

(Seal)

XXXIV — Warrant to levy a fine by distress and sale

(section 253)

To _____ of _____

Whereas _____ of _____ was on the _____ day of _____, 20____, convicted before me of the offence of _____ and sentenced to pay a fine of _____ dollars, and whereas the said _____ although required to pay the said fine, has not paid the same or any part thereof:

This is to authorise and require you to make distress by seizure of any property belonging to the said _____ which may be found within the District of _____ and, if within _____ next after such distress the said sum shall not be paid [*or* forthwith], to sell the property distrained, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an indorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day
of _____, 20____.

(Signature and title of office)

(Seal)

Form of Indorsement

Whereas it has been proved to me that the signature *T.S.*, to the within warrant is that of *T.S.*, a Magistrate _____, I do hereby authorise the execution in the District of _____ of the said warrant by _____.

(Magistrate)

XXXV — Bond to appear and receive judgment

(sections 263 and 264)

Whereas I inhabitant of have been called upon to enter into a bond to appear before the Court of at if and when called upon to receive the judgment of the said Court for the offence of whereof I have been convicted, and in the meantime to keep the peace and to be of good behaviour: I hereby bind myself to appear on the day of , 20 , in the said Court or whenever I shall be thereto required, and in the meantime to be of good behaviour and to keep the peace towards His Majesty the Sultan and Yang Di-Pertuan and to all his subjects; and in case I make default in any of the conditions herein I bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of dollars [which I hereby deposit].

Dated this day of , 20 .

(Signature)

Where a Bond with Sureties is to be executed, add — We do hereby declare ourselves sureties for the abovenamed that he will appear in the Court of at on the day of , 20 , or whenever he shall be thereto required, and that he will in the meantime be of good behaviour and keep the peace towards His Majesty the Sultan and Yang Di-Pertuan and towards all his subjects; and in case of his making default in any of the conditions herein, we bind ourselves, jointly and severally, to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of dollars [which we hereby deposit].

Dated this day of , 20 .

*(Signature)***XXXVI — Form of petition of appeal**

(section 272)

To Chief Justice and Justices of the High Court of the Supreme Court of Brunei Darussalam: [or as the case may require].

The petition of *A.B.*

Showeth as follows:

1. Your petitioner the abovenamed *A.B.* was charged with and convicted at the _____ Court held at _____ on the day of _____, 20____, and the following order was made thereon [*here state shortly the substance of the judgment or sentence*].
2. Your petitioner is dissatisfied with the said judgment on the grounds following: [*here state the particular grounds of appeal on which the appellant relies*].
3. Your petitioner prays that such judgment or sentence may be reversed or that such order may be thereon as justice may require.

(Appellant)

XXXVII — Form of special case

(section 294)

In the High Court of the Supreme Court of Brunei Darussalam

In the matter of a complaint in which *A.B.* was complainant and *G.H.* accused.

Case stated by the undersigned under the provisions of section 294 of the Criminal Procedure Code (Chapter 7).

At a Court held at _____ before the undersigned on the day of _____, 20____, one *G.H.* the abovenamed accused was charged as follows:

At the hearing of the said charge it was proved before me that [*here set out so much of evidence and admitted facts of the case as is necessary to raise the question or questions of law intended to be submitted*].

It was thereupon contended on the part of the accused [or complainant as the case may be]. [*Here state the legal objection taken*].

But [or And] I being of opinion that [*here state the ground on which the Court decided the case*] held that [*here state the decision and judgment of the Court*].

The question for the opinion of the High Court is whether the said determination was correct in point of law and what should be done in the premises.

Dated this _____ day of _____, 20____.

(Signature)

(Magistrate)

(Seal)

**XXXVIII — Warrant of commitment in certain cases of contempt
when a fine is imposed**

(section 328)

To the Officer in charge of the Prison at

Whereas at a Court holden before me on this _____ day of
20____, in the presence [*or* view] of the Court committed wilful contempt:

And whereas for such contempt the said _____ has been adjudged
by the Court to pay a fine of _____ dollars, or in default to suffer
simple imprisonment for the space of _____.

This is to authorise and require you to receive the said _____ into
your custody, together with this warrant, and to keep him safely in prison for
the said period of _____ unless the said fine be sooner paid; and,
on the receipt thereof, forthwith to set him at liberty, returning this warrant
with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day
of _____, 20____.

(Signature and title of office)

(Seal)

XXXIX — Warrant of commitment of witness refusing to answer

(section 332)

To the Officer in charge of the Prison at

Whereas _____ of _____ being summoned [*or* brought before
this Court] as a witness and this day required to give evidence on an inquiry
into an alleged offence, refused to answer a certain question [*or* certain

questions] put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for this contempt has been adjudged detention in custody for

This is to authorise and require the said _____ into custody, and to keep him safely in your custody for the space of _____ days, unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law; returning this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 20_____.

(Signature and title of office)

(Seal)

XL — Form of warrant

(section 341)

To the Officer in charge of the Prison at _____ or Officer in charge of the [name of asylum] or to [name of officer] in charge of _____

You are hereby required to produce _____ now a prisoner in the [name of prison] or now in custody at the [name of asylum] or now in your charge, before the _____ Court at _____ on the _____ day of _____, 20_____, at _____ of the same day, there to be dealt with according to law; and unless the said _____ shall then and there by the said Court be ordered to be discharged, cause him, after the said Court shall have dispensed with his further attendance, to be conveyed back to the said prison [or asylum or other custody].

Dated this _____ day of _____, 20_____.

(Signature and title of office)

(Seal)

XLI — Form of warrant

(section 341)

To the Officer in charge of the Prison at

You are hereby required to produce _____ now a prisoner in your custody under a warrant of attachment before the _____ Court on the _____ day of _____, 20____, at _____ to be dealt with according to law; and you shall then and there abide by such order as shall be made by the said Court. And unless the said _____ shall then and there by the said Court be ordered to be released you shall, after the said Court shall have dispensed with his further attendance, cause him to be conveyed back to the said prison [*or other place of custody*].

Dated this _____ day of _____, 20____.

*(Signature and title of office)**(Seal)***XLII — Warrant to bring up prisoner to give evidence**

(section 344)

To the Officer in charge of the Prison at

You are hereby required to produce _____ now a prisoner in your custody before this Court on the _____ day of _____, 20____, at _____ there to give evidence in a certain charge or prosecution now pending before this Court against _____ and after the said _____ shall have given his testimony before this Court or this Court shall have dispensed with his further attendance cause him to be conveyed back to the prison.

Given under my hand and the seal of the Court, this _____ day of _____, 20____.

*(Signature and title of office)**(Seal)*

XLIII — Bond and bail bond on a preliminary inquiry before a Magistrate

(section 346)

I _____ of _____ being in custody [*or* brought before the _____ Court at _____] charged with the offence of _____, and required to give security for my attendance in that Court [and in the High Court if required], do bind myself to attend at the said Court on every day of the preliminary inquiry into the said charge, and should the case be sent for trial by the High Court to be and appear before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of _____ dollars [which I hereby deposit].

Dated this _____ day of _____, 20 _____.

(*Signature*)

I hereby declare myself [*or* we jointly and severally declare ourselves and each of us] surety [*or* sureties] for the said _____ that he shall attend at the _____ Court at _____ on every day of the preliminary inquiry into the offence charged against him and, should the case be sent for trial by the High Court, that he shall be and appear before the said Court to answer the charge against him; and, in case of his making default therein, I bind myself [*or* we bind ourselves, jointly and severally] to forfeit to His Majesty the Sultan and Yang Di-Pertuan the sum of _____ dollars [which we hereby deposit].

Dated this _____ day of _____, 20 _____.

(*Signature*)

XLIV — Warrant to discharge a person imprisoned on failure to give security

(section 350)

To the Officer in charge of the Prison at

Whereas _____ of _____ was committed to your custody under warrant of this Court, dated the _____ day of _____, 20 _____, and has since with his surety [*or* sureties] duly executed a bond under the Criminal Procedure Code (Chapter 7):

This is to authorise and require you forthwith to discharge the said from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this _____ day
of _____, 20 _____.

(Signature and title of office)

(Seal)

XLV — Warrant of attachment to enforce a bond

(section 335)

To

Whereas _____ of _____ has failed to appear on _____ pursuant to his recognisance, and has by such default forfeited to His Majesty the Sultan and Yang Di-Pertuan the sum of _____ dollars and whereas the said _____ has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him:

This is to authorise and require you to attach any movable property of the said _____ that you may find within Brunei Darussalam by seizure and detention; and if the said amount be not paid within 3 days, to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day
of _____, 20 _____.

(Signature and title of office)

(Seal)

XLVI — Notice to surety on breach of a bond

(section 355)

To of

Whereas on the _____ day of _____, 20____, you became surety for _____ of _____ that he should appear before this Court on the _____ day of _____, 20____, and bound yourself in default thereof to forfeit the sum of _____ dollars to His Majesty the Sultan and Yang Di-Pertuan and whereas the said _____ has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of _____ dollars:

You are hereby required to pay the said penalty or show cause, within _____ days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this _____ day of _____, 20____.

*(Signature and title of office)**(Seal)***XLVII — Notice to surety of forfeiture of bond for good behaviour**

(section 355)

To of

Whereas on the _____ day of _____, 20____, you became surety by a bond for _____ of _____ that he would be of good behaviour for the period of _____ and bound yourself in default thereof to forfeit the sum of _____ dollars to His Majesty the Sultan and Yang Di-Pertuan and whereas the said _____ has been convicted of the offence of _____ committed since you became such surety, whereby your security bond has become forfeited:

You are hereby required to pay the said penalty of _____ dollars, or to show cause within _____ days why it should not be paid.

Given under my hand and the seal of the Court, this _____ day of _____, 20____.

(Signature and title of office)

(Seal)

XLVIII — Warrant of attachment against a surety

(section 355)

To

Whereas _____ of _____ has bound himself as surety for the appearance of _____ [state the condition of the bond], and the said _____ has made default, and thereby forfeited to His Majesty the Sultan and Yang Di-Pertuan the sum of _____ dollars.

This is to authorise and require you to attach any movable property of the said _____ which you may find by seizure and detention; and, if the said amount be not paid within 3 days, to sell the property so attached, or so much of it as may be sufficient to realise the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 20 _____.

(Signature and title of office)

(Seal)

XLIX — Warrant of commitment of the surety of an accused person admitted to bail

(section 355)

To the Officer in charge of the Prison at

Whereas _____ of _____ has bound himself as a surety for the appearance of _____ [state the condition of the bond] and the said _____ has therein made default whereby the penalty mentioned in the said bond has been forfeited to His Majesty the Sultan and Yang Di-Pertuan and whereas the said _____ has, on due notice to him, failed to pay the said sum or show any sufficient cause why

payment should not be enforced against him, and the same cannot be recovered by attachment and sale of movable property of his, and an order has been made for his imprisonment for [*specify the period*]:

This is to authorise and require you, _____, to receive the said _____ into your custody with this warrant, and to keep him safely in prison for the said [*term of imprisonment*] and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day of _____, 20 _____.

(Signature and title of office)

(Seal)

L — Notice to the principal of forfeiture of a bond to keep the peace

(section 355)

To _____ of _____

Whereas on the _____ day of _____, 20 _____, you entered into a bond not to commit etc. [*as in the bond*], and proof of the forfeiture of the same has been given before me and duly recorded:

You are hereby called upon to pay the said penalty of _____ dollars or to show cause before me within _____ days why payment of the same should not be enforced against you.

Dated this _____ day of _____, 20 _____.

(Signature and title of office)

(Seal)

**LI — Warrant to attach the property of the principal on breach
of a bond to keep the peace**

(section 335)

To

Whereas of did on the day of ,
20 , enter into a bond for the sum of dollars, binding
himself not to commit a breach of the peace etc. [*as in the bond*], and proof
of the forfeiture of the said bond has been given before me and duly
recorded; and whereas notice has been given to the said calling
upon him to show cause why the said sum should not be paid, and he has
failed to do so or to pay the said sum:

This is to authorise and require you to attach by seizure the property
belonging to the said to the value of dollars which
you may find; and if the said sum be not paid within , to sell
the property so attached or so much of it as may be sufficient to realise the
same, and to make return of what you have done under this warrant
immediately upon its execution.

Given under my hand and the seal of the Court, this day
of , 20 .

(Signature and title of office)

(Seal)

**LII — Warrant of imprisonment on breach of a bond to
keep the peace**

(section 355)

To the Officer in charge of the Prison at

Whereas proof has been given before me and duly recorded that
of has committed a breach of the bond entered into by him
to keep the peace, whereby he has forfeited to His Majesty the Sultan and
Yang Di-Pertuan the sum of dollars; and whereas the
said has failed to pay the said sum or to show cause why
the said sum should not be paid, although duly called upon to do so, and
payment thereof cannot be enforced by attachment of his movable property,

and an order has been made for the imprisonment of the said
for the period of .

This is to authorise and require you, the said Officer of the said prison to receive the said into your custody, together with this warrant, and to keep him safely in the said prison for the said period of ; and to return this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day
of , 20 .

(Signature and title of office)

(Seal)

LIII — Warrant of attachment and sale on forfeiture of bond for good behaviour

(section 355)

To

Whereas of did on the day of ,
20 , give security by bond in the sum of dollars for the
good behaviour of , and proof has been given before me duly
recorded of the commission by the said of the offence
of whereby the said bond has been forfeited; and whereas
notice has been given to the said calling upon him to
show cause why the said sum should not be paid, and he has failed to do or to
pay the said sum:

This is to authorise and require you to attach by seizure the property
belonging to the said to the value of dollars,
which you may find, and if the said sum be not paid within to
sell the property so attached, or so much of it as may be sufficient to realise
the same, and to make return of what you have done under this warrant
immediately upon its execution.

Given under my hand and the seal of the Court, this _____ day
of _____, 20_____.

(Signature and Title of Office)

(Seal)

**LIV — Warrant for imprisonment on forfeiture of bond
for good behaviour**

(section 355)

To the Officer in charge of the Prison at

Whereas _____ of _____ did on the _____ day of _____,
20_____, give security by bond in the sum of _____ dollars for the
good behaviour of _____ and proof of the breach of the said bond
has been given before me and duly recorded _____, whereby the
said _____ has forfeited to His Majesty the Sultan and Yang Di-Pertuan
the sum of _____ dollars; and whereas he has failed to pay the said sum
or to show cause why the said sum should not be paid, although duly called
upon to do so, and payment thereof cannot be enforced by attachment of his
property, and an order has been made for the imprisonment of the
said _____ for the period of _____.

This is to authorise and require you _____, to receive the
said _____ into your custody; together with this warrant, and to
keep him safely in prison for the said period of _____; returning
this warrant with an indorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this _____ day
of _____, 20_____.

(Signature and title of office)

(Seal)

THIRD SCHEDULE

[S 9/2006]

(section 14A(7))

RELEASE OF PERSONS SENTENCED TO REFORMATIVE TRAINING

1. A person sentenced to reformative training shall be detained in a reformative training centre for such period, not extending beyond 3 years after the date of his sentence, as the Visiting Justices may determine, and shall then be released:

Provided that no person shall be released from a reformative training centre before the expiration of 18 months from the date of his sentence except by direction of the Minister.

2. A person shall, after his release from a reformative training centre and until the expiration of 4 years from the date of his sentence, be under the supervision of such person as may be specified in a notice to be given to him by the Visiting Justices on his release, and shall, while under that supervision, comply with such requirements as may be so specified:

Provided that the Visiting Justices may at any time modify or cancel any of the requirements or order that the person who is under supervision shall cease to be under supervision.

3. If before the expiration of 4 years from the date of his sentence the Visiting Justices are satisfied that a person who is under supervision after his release from a reformative training centre under paragraph 1 has failed to comply with any requirement for the time being specified in the notice given to him under paragraph 2, they may by order recall him to a reformative training centre, and thereupon he shall be liable to be detained in the reformative training centre until the expiration of 3 years from the date of his sentence, or until the expiration of 6 months from the date of his being taken into custody under the order whichever is the later and, if at large, shall be deemed to be unlawfully at large:

Provided that —

(a) any such order shall, at the expiration of 4 years from the date of the sentence, cease to have effect unless the person to whom it relates is then in custody thereunder; and

THIRD SCHEDULE — *(continued)*

(b) the Visiting Justices may at any time release a person who is detained in a reformatory training centre under this paragraph; and paragraphs 1 and 2 shall apply in the case of a person so released as they apply in the case of a person released under paragraph 1.

4. If any person while under supervision, or after his recall to a reformatory training centre, is sentenced to corrective training or reformatory training his original sentence of reformatory training shall cease to have effect; and if he is so sentenced to imprisonment, any period for which he is imprisoned under that sentence shall count as part of the period for which he is liable to detention in a reformatory training centre under his original sentence.

5. (1) Notwithstanding paragraph 1, the Minister may on the recommendation of the Visiting Justices, direct that a detainee shall be released daily engage in such employment (including self-employment) as the Minister may specify.

(2) Any direction made under sub-paragraph (1) shall have effect for a period to be fixed by the Minister and may be subject to such conditions as he may impose.

(3) The Minister may at any time revoke any direction made under sub-paragraph (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 sub-paragraph (1) to spend his leave at such place as he may specify.

(5) The Minister may at any time revoke any leave granted to a detainee under sub-paragraph (4).

(6) Where any direction made under sub-paragraph (1) is in force in respect of a detainee or any leave is granted under sub-paragraph (4) to a detainee, the superintendent of the reformatory training centre shall release him at such times and for such periods as are necessary to give effect to the direction or grant of leave.

THIRD SCHEDULE — *(continued)*

(7) If any detainee in respect of whom a direction has been made under sub-paragraph (1) or to whom leave has been granted under sub-paragraph (4) remains at large without lawful excuse or fails to return to his place of detention after such 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 paragraph shall continue to be in the legal custody of the superintendent of the reformatory training centre from which he is released during every period for which he is so released.

(9) In this paragraph, “detainee” means any person who is detained in a reformatory training centre in pursuance of a sentence passed under section 14A.

5. The Visiting Justices in exercising their functions under this Schedule shall act in accordance with any general or special directions of the Minister, and shall consider any report made to them by the superintendent of a reformatory training centre on the advisability of releasing a person.

6. In this Schedule —

“Minister” means the Minister of Home Affairs;

“Visiting Justices” means The Board of Visiting Justices appointed under section 60(1) of the Prisons Act (Chapter 51), and includes any committee thereof as the Minister may direct.