



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

MALAYSIA

Communicated by the Government of Malaysia

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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* Note by the Secretariat: The present document is a direct reproduction of the texts communicated to the Secretariat.

Act 316

**DANGEROUS DRUGS (SPECIAL
PREVENTIVE MEASURES) ACT 1985**

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LAWS OF MALAYSIA

Act 316

**DANGEROUS DRUGS (SPECIAL
PREVENTIVE MEASURES) ACT 1985**

An Act to provide for the preventive detention of persons associated with any activity relating to or involving the trafficking in dangerous drugs.

[30th May 1985]

WHEREAS action which is prejudicial to public order in Malaysia has been taken and further similar action is being threatened by a substantial body of persons both inside and outside Malaysia;

AND WHEREAS Parliament considers it necessary to stop such action;

NOW, THEREFORE, pursuant to Article 149 of the Constitution BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

1. (1) This Act may be cited as the Dangerous Drugs (Special Preventive Measures) Act 1985.

Short title
and
commence-
ment.

(2) This Act shall come into force on such date as may be appointed by the Minister by notification in the *Gazette*.

(3) This Act shall continue in force for a period of five years from the date appointed by the Minister under subsection (2).

(4) Notwithstanding subsection (3), this Act may, by a resolution passed by both Houses of Parliament, be extended for a further period or periods as may be specified in the resolution.

(5) Upon the expiration of this Act—

(a) any person detained in police custody under section 3 shall forthwith be released; and

— (b) any order under section 6 or 7 shall cease to have effect and—

(i) the officer in charge of any place of detention shall forthwith release from custody every person detained therein pursuant to a detention order made under section 6 or 7; and

(ii) the Chief Police Officer of the State or Federal Territory within which a person subject to a restriction order made under section 6 or 7 resides shall forthwith inform such person that he has ceased to be subject to the restrictions and conditions imposed by such order.

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

“Advisory Board” means an Advisory Board constituted under Clause (2) of Article 151 of the Constitution for the purposes of that Article;

“Chief Police Officer” means any police officer vested by the Inspector-General with control of the Royal Malaysia Police in respect of any area or State and any senior police officer for the time being lawfully authorized to exercise the powers and perform the duties conferred or imposed upon a Chief Police Officer by this Act and shall in the case of Sabah and Sarawak include a Commissioner of Police;

Act 234. “dangerous drug” has the same meanings as is assigned to it under the Dangerous Drugs Act 1952.^{1/}

Act 41/67. “Inspector-General” means the Inspector-General appointed under section 5 of the Police Act 1967;

“Minister” means the Minister charged with the responsibility for internal security;

“police officer” means any member of the Royal Malaysia Police;

“senior police officer” means a police officer of any rank from and including the Inspector-General down to and including an Inspector on probation;

“trafficking” has the same meaning as is assigned to it under the Dangerous Drugs Act 1952.

^{1/} Note by the Secretariat: E/NL.1980/26.

PART II

POWERS OF PREVENTIVE DETENTION

3. (1) Any police officer may, without warrant, arrest and detain, for the purpose of investigation, any person in respect of whom he has reason to believe there are grounds which could justify his detention, under subsection (1) of section 6.

Power to
detain
suspected
persons.

(2) Any person arrested and detained under this section may be detained in police custody for a period not exceeding sixty days without an order of detention having been made in respect of him under subsection (1) of section 6:

Provided that—

- (a) he shall not be detained for more than twenty four hours except with the authority of a police officer of or above the rank of Inspector;
- (b) he shall not be detained for more than forty eight hours except with the authority of a police officer of or above the rank of Assistant Superintendent of Police;
- (c) he shall not be detained for more than fourteen days unless a police officer of or above the rank of Deputy Superintendent has reported the circumstances of the arrest and detention to the Inspector-General or to a police officer designated by the Inspector-General in that behalf and the Inspector-General or police officer so designated by him, as the case may be, shall forthwith report the same to the Minister.

(3) The police officer making an investigation pertaining to a person arrested and detained under this section shall cause a copy of the complete report of the investigation to be submitted—

- (a) to an Inquiry Officer appointed under subsection (1) of section 5; and
- (b) to the Minister,

within such period as may be prescribed by the Minister by regulations made under this Act.

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

— Examination
of persons
acquainted
with the
facts and
circumstances
of case.

4. (1) For the purpose of satisfying the Minister that an order under subsection (1) of section 6 should be made and for the purpose of enabling the Minister to furnish a statement under paragraph (b) of subsection (2) of section 9, a police officer making an investigation under this Act 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) Such person shall be bound to answer all questions relating to such case put to him by such officer.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to questions.

(4) A police officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under subsection (1) shall bear the date and time of making thereof and shall be signed by the person making it or affixed with his thumbprint, as the case may be, after it has been read to him in the language in which it was made and after he has been given an opportunity to make any corrections he may wish.

5. (1) There shall be appointed by the Minister in writing such number of Inquiry Officers as may be necessary for the purposes of this Act: Inquiry Officer

Provided that no police officer nor any person who is not legally qualified shall be appointed to be an Inquiry Officer.

(2) Upon receiving the report under subsection (3) of section 3, the Inquiry Officer shall inquire whether there are reasonable grounds for believing that such person has been or is associated with any activity relating to or involving the trafficking in dangerous drugs.

(3) An Inquiry Officer may, in his discretion, for the purpose of subsection (2)—

(a) require the attendance before him of a person detained under section 3;

(b) procure and receive all such evidence, whether oral or in writing and whether the same be admissible or not under any written law for the time being in force relating to evidence or criminal procedure, which he may think necessary or desirable;

(c) summon and examine witnesses on oath or affirmation, and may for those purposes administer any oath or affirmation;

(d) require the production of any document or other thing in his opinion relevant to the case.

(4) An Inquiry Officer shall submit his report in writing to the Minister within such period as may be prescribed by the Minister by regulations made under this Act.

Power
to order
detention and
restriction of
persons

6. (1) Whenever the Minister, after considering—

(a) the complete report of investigation submitted under subsection (3) of section 3; and

(b) the report of the Inquiry Officer submitted under subsection (4) of section 5,

is satisfied with respect to any person that such person has been or is associated with any activity relating to or involving the trafficking in dangerous drugs, the Minister may, if he is satisfied that it is necessary in the interest of public order that such person be detained, by order (hereinafter referred to as a "detention order") direct that such person be detained for a period not exceeding two years from the date of such order.

(2) Every person detained in pursuance of a detention order shall be detained in such place (hereinafter referred to as a "place of detention") as the Minister may direct and in accordance with any instructions issued by the Minister and any regulations made under section 22.

(3) If the Minister is satisfied that for the purpose mentioned in subsection (1) it is necessary that control and supervision should be exercised over any person or that restrictions and conditions should be imposed upon that person in respect of his activities, freedom of movement or places of residence or employment, but for that purpose it is unnecessary to detain him, he may make an order (hereinafter referred to as a "restriction order") imposing upon that person (hereinafter referred to as a "restricted order") all or any of the following restrictions and conditions:

(a) that he shall be subject to the supervision of the police for any period not exceeding two years;

(b) that he shall reside within the limits of any State or any Federal Territory or any area thereof specified in the restriction order;

-
- (c) that he shall not transfer his residence to any other area without the written authority of the Chief Police Officer of the State or Federal Territory concerned;
 - (d) that except in so far as may be otherwise provided by the restriction order, he shall not leave the area within which he resides without the written authority of the Chief Police Officer of the State or Federal Territory concerned;
 - (e) that he shall at all times keep the Officer in Charge of the Police District in which he resides notified of the house or place in which he resides;
 - (f) that he shall at such time or times as may be specified in the restriction order present himself at the nearest police station;
 - (g) that he shall remain within doors, or within such area as may be defined in the restriction order, between such hours as may be specified in the restriction order, unless he obtains special permission to the contrary from the Officer in Charge of the Police District;
 - (h) that except in so far as may be otherwise provided by the restriction order, he shall not enter any area specified in the restriction order;
 - (i) that he shall keep the peace and be of good behaviour;
 - (j) that he shall enter into a bond, with or without sureties as the Minister may direct and in such amount as may be specified in the restriction order, for his due compliance with the restrictions and conditions imposed on him by the restriction order.

(4) Every restriction order shall continue in force for such period, not exceeding two years, as may be specified therein, and may include a direction by the Minister that the person in respect of whom it is made shall enter into a bond with or without sureties and in such sum as may be specified for his due compliance with the restrictions and conditions imposed upon him.

*Ord. 5/69.
P.U. (A)
187/69.*

(5) The Minister may, where the Advisory Board has reported under subsection (4) of section 11 that in its opinion the detention or restriction should be extended, direct that the duration of any detention order or restriction order made under this Part or any detention order or restriction order made under section 4 or 4A respectively of the Emergency (Public Order and Prevention of Crime) Ordinance 1969 in respect of a person associated with any activity relating to or involving the trafficking of dangerous drugs under the Dangerous Drugs Act 1952 be extended for such further period, not exceeding two years, as he may specify, and thereafter for such further periods, not exceeding two years at a time, as he may specify, either—

- (a) on the same grounds as those on which the order was originally made;
- (b) on grounds different from those on which the order was originally made; or
- (c) partly on the same grounds and partly on different grounds:

Provided that if a detention order is extended on different grounds or partly on different grounds, the person to whom it relates shall have the same rights under section 9 as if the order extended as aforesaid were a fresh order.

(6) The Minister may, from time to time, by notice in writing served on a person who is the subject of a restriction order, vary, cancel or add to any restrictions or conditions imposed upon that person by that order, and the restrictions or conditions so varied and any additional restrictions or conditions so imposed shall, unless sooner cancelled, continue in force for the unexpired portion of the period specified under subsection (4) or (5).

(7) Any restricted person who contravenes or fails to comply with any restriction or condition expressed in his restriction order shall be guilty of an offence and shall on conviction be punished with imprisonment for a term not exceeding five years and not less than three years.

7. (1) The Minister may, at any time, direct that the operation of any detention order be suspended subject to all or any of the restrictions and conditions which he is empowered by subsection (3) of section 6 to impose by a restriction order, and subject, if the Minister so directs, to the requirement that the person against whom the detention order was made shall enter into a bond as provided in subsection (4) of section 6.

Suspension
of detention
orders

(2) Where a detention order is suspended as aforesaid, subsection (6) of section 6 shall have effect as if the restrictions and conditions on which the detention order is suspended were restrictions and conditions imposed by a restriction order.

(3) The Minister may revoke the suspension of any detention order if he is satisfied that the person against whom the detention order was made has failed to observe any restriction or condition imposed upon him or that it is necessary in the interest of public order that the suspension should be revoked, and in any such case the revocation of the suspension shall be sufficient authority to any police officer to re-arrest without warrant the person against whom the detention order was made, and that person shall as soon as practicable be returned to his former place of detention or, if the Minister so directs, sent to another place of detention.

(4) The suspension of any detention order as aforesaid shall, subject to subsection (6) of section 6 as applied by subsection (2) and subject also to subsection (3), continue in force for the unexpired portion of the period of the detention order specified under subsection (4) or (5) of section 6.

Detention or
restriction
deemed to be
undergone
during period
of imprison-
ment.

8. Where a person—

- (a) who is undergoing detention or restriction under section 6 or 7, is sentenced to any term of imprisonment under this Act or any other written law; or
- (b) has his period of detention or restriction extended under subsection (5) of section 6 whilst he is serving any such term of imprisonment,

such detention or restriction or extended detention or restriction shall be deemed to be undergone concurrently with that term of imprisonment, and if upon completion of any such term of imprisonment, there still remains any unexpired portion of the detention or restriction period or of the extended detention or restriction period, he shall be required to be detained or restricted, as the case may be, for such unexpired portion thereof.

Representations
against
detention
order.

9. (1) A copy of every order made by the Minister under subsection (1) of section 6 shall as soon as may be after the making thereof be served on the person to whom it relates, and every such person shall be entitled to make representations to an Advisory Board,

(2) For the purpose of enabling a person to make representations under subsection (1) he shall, at the time of the service on him of the order—

- (a) be informed of his right to make representations to an Advisory Board under subsection (1); and
- (b) be furnished by the Minister with a statement in writing—
 - (i) of the grounds on which the order is made;
 - (ii) of the allegations of fact on which the order is based; and
 - (iii) of such other particulars, if any, he may in the opinion of the Minister reasonably require in order to make his representations against the order to the Advisory Board.

(3) The Yang di-Pertuan Agong may make rules as to the manner in which representations may be made and for regulating the procedure of the Advisory Board.

10. (1) Whenever any person has made representations under subsection (1) of section 9 to an Advisory Board, the Advisory Board shall within three months from the date of receiving such representations, or within such longer period as the Yang di-Pertuan Agong may allow, consider the representations and make recommendations thereon to the Yang di-Pertuan Agong.

Report of
Advisory
Board

(2) Upon considering the recommendations of the Advisory Board under this section, the Yang di-Pertuan Agong may give the Minister such directions, if any, as he shall think fit regarding the order made by the Minister and every decision of the Yang di-Pertuan Agong shall, subject to section 11, be final and shall not be called into question in any court.

11. (1) Every order or direction made or given by the Minister under the subsection (1), (3) or (5) of section 6 or under section 7 shall, so long as it remains in force and whether or not representations under section 9 have been made, be reviewed by an Advisory Board not earlier than twelve months from the date of such order or direction and in any case not later than three months before the expiration of the period mentioned in such order or direction:

Review

— Provided that the Minister may, at any time during the period of detention or restriction imposed by such order or direction, direct the Advisory Board to review the case.

(2) The Advisory Board shall, on completing every review under this section, submit to the Minister, before the expiration of the period of detention or restriction, a written report of every such review.

(3) Where the Advisory Board has reported that in its opinion the detention or restriction should cease, the Minister shall revoke the detention order or restriction order.

(4) Where the Advisory Board has reported that in its opinion the detention or restriction should continue or be extended, the Minister may continue or extend the detention or restriction of the person concerned.

Power to
summon
witnesses

12. Every Advisory Board shall, for the purposes of this Act, but subject to the provisions of section 14, have all the powers of a court for the summoning and examination of witnesses, the administration of oaths or affirmations, and for compelling the production of documents.

Member of
Advisory
Board
deemed to be
public
servant
F.M.S.
Cap. 45.

13. Every member of an Advisory Board and every Inquiry Officer shall be deemed to be a public servant within the meaning of the Penal Code and shall have in the case of any action or suit brought against him for any act done or omitted to be done in the execution of his duty under this Part the like protection and privileges as are by law given to a Judge in the execution of his office.

Disclosure of
information.

14. Nothing in this Part or in any rules or regulations made thereunder shall require the Minister or any member of an Advisory Board or any Inquiry Officer or any public servant to disclose facts or to produce documents which he considers to be against the national interest to disclose or produce.

Power to
order
removal

15. (1) The Minister may by order direct the removal from any place of detention to another place of detention to be specified in such order of any person detained under subsection (1) of section 6, to be there detained for the whole or any part or parts of such period for which it has been ordered that such person shall be detained.

(2) Any person in the course of removal under subsection (1) shall be deemed to be in lawful custody.

16. (1) On proof to his satisfaction that the presence at any place of any person detained under subsection (1) of section 6, or lawfully in the custody of the police or confined in any prison whether under subsection (1) of section 6 or under an order of any court or otherwise howsoever, and notwithstanding any order of any court or other authority whatsoever, is required in the interests of justice, or for the purpose of any public or other inquiry, or in the national interest, or in the interests of the person detained, in custody, or confined, the Minister may order that such person be taken to that place.

Power to
order
production
of detained
person

(2) Any person in the course of being taken to any place under subsection (1) and whilst at such place shall be kept in such custody as the Minister may direct and whilst in that custody shall be deemed to be in lawful custody.

17. (1) The Registrar of Criminals appointed under section 3 of the Registration of Criminals and Undesirable Persons Act 1969 (hereinafter referred to as the "Registrar") shall keep a register for the purposes of this Act, in which shall be entered the name of every restricted person and of every person in respect of whom a detention order is in force (whether suspended under section 7 or not), together with such particulars concerning any such person as may be prescribed; and upon the name and particulars of any such person being entered in the register he shall be (and is hereinafter referred to as) a "registered person" for the purposes of this Act.

Registration
Act "

(2) Any police officer not below the rank of Inspector may—

- (a) visit any place referred to in subsection (2) of section 6 for the purpose of taking finger impressions and photographs of any person detained therein and of obtaining such other particulars concerning any such person as may be prescribed or as may be necessary for effecting the registration of that person under subsection (1);
- (b) by notice in writing direct the attendance before him, at a time and place specified in the notice, of any restricted person for the purpose of taking finger impressions and photographs of that person and of obtaining such other particulars concerning any such person as may be prescribed or as may be necessary for effecting the registration of that person under subsection (1).

— (3) Any person who, being required by a police officer not below the rank of Inspector to furnish the particulars referred to in paragraph (a) or (b) of subsection (2), refuses to furnish any such particulars or furnishes any particulars which he knows or has reason to believe to be false, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty ringgit or to imprisonment for a term not exceeding one month or to both.

(4) If any person fails to attend as directed under paragraph (b) of subsection (2), the police officer who issued the notice may cause him to be arrested without warrant by any police officer and brought before him for the purposes mentioned in that subsection.

Removal of
name from
register

18. (1) Whenever an order under subsection (1) or (3) of section 6 expires or is revoked or cancelled so that the person in respect of whom the order was made ceases to be subject to any restrictions or conditions whatsoever, the Registrar shall forthwith remove his name and all entries concerning him from the register.

(2) The Minister may, at any time in his discretion, direct the Registrar to remove the name of any person from the register, and thereupon such person shall cease to be a registered person, unless and until his name is subsequently re-entered in the register in accordance with section 17.

19. (1) Any registered person who is found in the company of any other registered person without the permission of the Officer in Charge of the Police District in which he resides shall be guilty of an offence and shall, on conviction, be liable to a fine of one thousand ringgit or to imprisonment for a term not exceeding one year or to both, unless he proves that he did not know and had no reason to suspect that the person in whose company he was found was a registered person.

Offence by
registered
person.

(2) In subsection (1), "registered person" includes—

- (a) any person who is a registered person under this Act;
- (b) any person in respect of whom registrable particulars of the kind mentioned in subparagraph (b) in the definition of "registrable particulars" in section 2 of the Registration of Criminals and Undesirable Persons Act 1969 are contained in either of the registers referred to in subsection (1) or (2) of section 7 of that Act; and

(c) any person who is subject to the supervision of the police under section 295 of the Criminal Procedure Code. *F.M.S. Cap. 6.*

20. Any police officer may, without warrant, arrest any person if he has reason to believe that that person has committed an offence against section 19, and every such offence shall be seizable and non-bailable for the purposes of the Criminal Procedure Code. *Arrest.*

21. (1) Any police officer may take or cause to be taken finger impressions and photographs of any person whose name is required to be entered in the register under subsection (1) of section 17, and shall send them to the Registrar and every such person shall be legally bound to submit to the taking of his finger impressions and photographs, and may be compelled thereto by the use of force, if necessary. *Provisions with regard to finger impressions and photographs.*

(2) Any person who, being legally bound under subsection (1) to submit to the taking of his finger impressions and photographs, refuses or fails to submit thereto on demand shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty ringgit or to imprisonment for a term not exceeding one month or to both.

(3) Whenever the name of any person is removed from the register under subsection (1) or (2) of section 18, the Registrar shall, upon the application of that person, deliver to him the sheet upon which his finger impressions have been made, together with the negative and all copies of any photograph taken of him and sent to the Registrar under this section; and if no such application is received within three months from the date of removal the Registrar shall destroy the sheet and every such negative and photograph.

Power to make regulations.

22. (1) The Minister may make regulations to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of subsection (1) such regulations may—

(a) provide for the maintenance and management of places of detention and for the discipline and treatment of persons detained therein and different regulations may be made for different places of detention;

(b) prescribe the form of the register, and such other forms as may be necessary or expedient to be used in connection with the matters dealt with in this Act or in any regulations made thereunder;

— (c) require all or any class of registered persons to carry identity cards, provide for the form, issue, production, inspection, cancellation, alteration, endorsement and replacement of any such cards, and the substitution thereof for identity cards issued to those persons or to persons of that class under any other written law, and for all other matters necessary or expedient in connection with any such cards or the carrying thereof or the enforcement of any such regulations, including the prescription of penalties not exceeding, in respect of any offence, a fine of five thousand ringgit or imprisonment for a term of three years or both; and

(d) prescribe anything which may be prescribed under this Act.

(3) All rules and regulations made, and directions given, under the Emergency (Public Order and Prevention of Crime) Ordinance 1969, shall be deemed to have been made or given under this Act shall accordingly have effect, amended if necessary under this section, for the purposes of this Act until such time as the rules, regulations or directions are revoked.

E/NL.1988/29

Act A629

**DANGEROUS DRUGS (SPECIAL PREVENTIVE
MEASURES) (AMENDMENT) ACT 1985**

An Act to amend the Dangerous Drugs (Special Preventive Measures) Act 1985,² and for matters connected therewith.

[18th December 1985]

WHEREAS action which is prejudicial to public order in Malaysia has been taken and further similar action is being threatened by a substantial body of persons both inside and outside Malaysia;

AND WHEREAS Parliament considers it necessary to stop such action;

NOW, THEREFORE, pursuant to Article 149 of the Constitution BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Dangerous Drugs (Special Preventive Measures) (Amendment) Act 1985 and shall come into force on the date of its publication in the *Gazette*, except as otherwise provided in subsection (2) of section 13 and in subsection (2) of section 14.

Short title
and
commence-
ment.

2. Section 2 of the Dangerous Drugs (Special Preventive Measures) Act 1985, which in this Act is referred to as "the principal Act", is amended—

Amend-
ment of
section 2.
Act 316.

(a) by inserting after the definition of "Minister", the following new definitions:

"Officer in Charge of the Police District" has the meaning given to the expression "Officer in charge of a Police District" by the Criminal Procedure Code;

*F.M.S.
Cap. 6.*

"Ordinance" means the Emergency (Public Order and Prevention of Crime) Ordinance 1969³; and

*Ord. 5/69.
P.U. (A)
187/69.*

(b) by deleting the definition of "senior police officer".

— Amend-
ment of
section 3.

3. Section 3 of the principal Act is amended by inserting after subsection (3), a new subsection (3A) as follows:

“(3A) Where the person arrested and detained under subsection (1) is a person in respect of whom subsection (5) of section 6 applies, the complete report of the investigation referred to in subsection (3) in respect of such person may include any statement, document, information, or other thing or material whatsoever which had been obtained in the course of any enquiries made in respect of such person by a police officer under section 3 of the Ordinance for the purpose of the detention order under section 4, or the restriction order under section 4A, as the case may be, of the Ordinance, against him, regardless that such statement, document, information, or other thing or material was obtained in a manner which does not accord or comply with the requirements of section 4, and it shall not be necessary for any statement to be taken under section 4 for the purpose of such report in respect of such person, but if any statement is taken under section 4 it shall also be included in such report in respect of such person.”

Amend-
ment of
section 4.

4. Section 4 of the principal Act is amended by inserting after subsection (5), a new subsection (6) as follows:

“(6) The foregoing provisions of this section shall be without prejudice to the provisions of subsection (3A) of section 3.”

Amend-
ment of
section 6

5. (1) Section 6 of the principal Act is amended—

(a) in the English text, by substituting the words “restricted person” for the words “restricted order” in subsection (3);

(b) by substituting for subsection (5), the following subsection (5):

“(5) A detention order under subsection (1), or a restriction order under subsection (3), may be made against a person notwithstanding that immediately, or at any time, before his arrest and detention under subsection (1) of section 3—

(a) he had been detained under a detention order made under section 4, or had been subject to a restriction order made under section 4A, of the Ordinance on grounds which are wholly or partly the same as or similar to the

grounds on which the detention order under subsection (1) or the restriction order under subsection (3) is to be made against him; and

(b) he had been released from detention either upon the expiry of the duration of the said detention order made under section 4 of the Ordinance against him, or otherwise howsoever before such expiry, or had ceased to be subject to the said restriction order made under section 4A of the Ordinance against him either upon the expiry of the duration of the said restriction order, or otherwise howsoever before such expiry.”; and

(c) by substituting the words “or under subsection (1) of section 11A” for the words “or (5)” in subsection (6).

(2) Where before the commencement of this Act, and, consequently, prior to the substitution of subsection (5) of section 6 of the principal Act under paragraph (b) of subsection (1), a detention order or a restriction order made in respect of any person under section 4 or 4A respectively of the Ordinance had been purportedly directed by the Minister to be extended under subsection (5) of section 6 of the principal Act as the said subsection then stood—

(a) the said purported direction for such extension shall be deemed to be a lawful and valid detention order made under subsection (1), or a lawful and valid restriction order made under subsection (3), as the case may be, of section 6 of the principal Act in pursuance of subsection (5) of the said section 6 as substituted under paragraph (b) of subsection (1), as if the said subsection (5) as so substituted had been in force on the date of the commencement of the principal Act, and as if all the requirements of the principal Act for the making of such order had been duly complied with and carried out;

(b) the provisions of sections 9 and 10 of the principal Act shall apply in the case of any such purported direction which is deemed under paragraph (a) to be a lawful and valid detention order made under subsection (1) of section 6 of the principal Act, and the provisions of subsection (2) of section 9 of the principal Act shall, notwithstanding anything contained in the said subsection (2), be

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complied with in relation thereto as soon as may be after the commencement of this Act, regardless that they may have been complied with earlier at the time of the service of the purported direction on the person to whom it relates; and

- (c) any detention of such person prior to the date of the said purported direction which is not a detention under a detention order made under section 4 of the Ordinance shall be deemed to be a lawful and valid detention under section 3 of the principal Act.

Amend-
ment of
section 7.

6. Section 7 of the principal Act is amended by substituting the words "subsection (1) of section 6 or under subsection (1) of section 11A" for the words "subsection (4) or (5) of section 6" in subsection (4).

7. Section 8 of the principal Act is amended—

Amend-
ment of
section 8.

- (a) in the national language text, by deleting the word "yang" in paragraph (b); and
(b) by substituting the words "subsection (1) of section 11A" for the words "subsection (5) of section 6".

8. Section 11 of the principal Act is amended—

Amend-
ment of
section 11.

- (a) by substituting the words "(1) or (3) of section 6, or under section 7, or under subsection (1) of section 11A," for the words "(1), (3) or (5) of section 6 or under section 7" in subsection (1); and
(b) by deleting the words "or be extended" and the words "or extend" in subsection (4).

9. The principal Act is amended by inserting after section 11, new sections 11A and 11B as follows:

New
sections
11A and
11B.

"Minister's
power to
extend a
detention
order, a
restriction
order, or a
suspended
detention
order.

11A. (1) The Minister may at any time before the expiration of the duration of—

- (a) a detention order made under subsection (1) of section 6;
(b) a restriction order made under subsection (3) of section 6; or
(c) a detention order suspended under subsection (1) of section 7 (hereinafter referred to as a "suspended detention order"),

direct that the duration of the order be extended for such further period, not exceeding two years, as he may specify, commencing immediately upon the expiration of its then current duration, and where the Minister so directs he shall set out in the direction the grounds for the extension and state whether such grounds are—

(aa) the same as the grounds on which the order was originally made;

(bb) different from the grounds on which the order was originally made; or

(cc) partly the same grounds and partly different grounds.

(2) Where the duration of a suspended detention order is extended under subsection (1), the duration of the direction for its suspension under subsection (1) of section 7 shall be deemed to be extended for the duration of the extension of the suspended detention order together with the restrictions and conditions imposed in respect of such suspension, subject, if the Minister so directs, to the requirement that the person against whom the detention order was made shall enter into a fresh bond as provided in subsection (4) of section 6, and the provisions of section 7 shall apply to such extended suspension in the same manner as they apply to an original suspension under subsection (1) of section 7.

(3) Where the direction under subsection (1) for the extension of the duration of a detention order or a suspended detention order is on grounds which fall under paragraph (bb) or (cc) of subsection (1), the provisions of sections 9 and 10 shall apply to such direction as if the direction were a fresh detention order.

(4) The duration of a detention order, or a restriction order, or a suspended detention order, which is extended under subsection (1) may, thereafter, be further extended from time to time for further periods not exceeding two years at a time, and the provisions of this section shall apply *mutatis mutandis* in relation to each such extension.

Minister's power to revoke a detention order, or a restriction order, or a suspended detention order, or a direction for the extension of any such order.

11B. Notwithstanding anything contained in this Act, the Minister may at any time revoke any detention order made under subsection (1) of section 6, or any restriction order made under subsection (3) of section 6, or any suspended detention order, or any direction under subsection (1) of section 11A for the extension of the duration of any such order, if he deems it just or fit to do so."

10. Section 15 of the principal Act is amended by inserting the words "or under subsection (1) of section 11A," after the words "section 6," in subsection (1). Amendment of section 15

11. Section 16 of the principal Act is amended— Amendment of section 16
(a) by inserting the words "or under subsection (1) of section 11A," after the words "section 6," in subsection (1); and
(b) by inserting the words " , or under subsection (1) of section 11A," after the words "section 6" in subsection (1).

12. Section 18 of the principal Act is amended by inserting the words " , or a direction under subsection (1) of section 11A," after the words "section 6" in subsection (1). Amendment of section 18

13. (1) Section 22 of the principal Act is amended by deleting subsection (3). Amendment of section 22

(2) Subsection (1) shall be deemed to have come into force on the date of the commencement of the principal Act.

14. (1) The principal Act is amended by inserting after section 22, new sections 23, 24 and 25 as follows: New sections 23, 24 and 25.

"Subsidiary legislation made, and directions given, under the Ordinance to have effect under this Act.

23. (1) All rules and regulations made, and directions given, under the Ordinance and in force immediately before the commencement of this Act shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made or given under this Act by the appropriate authority having power to make or give them under this Act (regardless whether the power under this Act is expressed as a power to make rules or a power to make regulations on the subject concerned), and shall, accordingly, have effect for the purposes of this Act with all such modifications as may be necessary to have them accord with the provisions of this Act, until such time as they are replaced by rules, regulations or directions made or given under this Act by the appropriate authority having power to make or give them under this Act.

(2) In applying the provisions of subsection (1), the provisions of—

(a) the proviso to subsection (3) of section 4;

(b) the first proviso to subsection (3) of section 5; and

(c) subsection (3) of section 13G,

of the Ordinance shall also apply *mutatis mutandis* in relation to this Act in the same manner as they apply in relation to the Ordinance.

Removal
of
difficulties.

24. (1) The Yang di-Pertuan Agong may, by Order published in the *Gazette*, make such provision as he may deem necessary or expedient to provide for the removal of any difficulty or anomaly whatsoever in any written law, or in the carrying out of any function, the exercise of any power, or the discharge of any duty, or the doing of any act, under any written law that may be occasioned by the provisions of this Act, and for that purpose such Order may make any modification, adaptation, alteration, change or amendment whatsoever, to any written law.

(2) In subsection (1) "written law" includes this Act and any written law expressly mentioned in this Act.

This Act
not to
derogate
from the
Ordinance.

25. For the avoidance of doubt it is hereby declared that nothing contained in this Act shall in any manner whatsoever derogate from the provisions of the Ordinance in its application to any person who has been or is associated with any activity relating to or involving the trafficking in dangerous drugs under the Dangerous Drugs Act 1952." 1/

Act 234.

(2) The new sections 23 and 25 introduced into the principal Act by subsection (1) shall be deemed to have come into force on the date of the commencement of the principal Act:

Provided that the provisions of the aforesaid section 25 shall, immediately after the commencement of this Act, be without prejudice to subsection (3A) of section 3, subsection (6) of section 4, and subsection (5) of section 6 of the principal Act as amended by this Act, and shall also be without prejudice to subsection (2) of section 5 of this Act.

15. (1) It is hereby declared that during the period between the date of the commencement of the principal Act and the date of the publication of this Act in the *Gazette* (hereinafter referred to as "the transitional period") every act or thing done by, or on behalf of, or under the authority or direction of, the Minister, an Advisory Board or a member of an Advisory Board, an Inquiry Officer, any police officer, or any other person whatsoever, acting or purportedly acting in the exercise of any power, or the performance of any function, or the discharge of any duty, conferred or purported to be conferred by the principal Act, including every subsequent act or thing done during the transitional period in continuation, in furtherance, or in consequence, of the original act or thing, shall be deemed always and at all times, both during and after the transitional period, to be and to have been, lawfully and validly done, regardless whether or not such act or thing was done in accordance with the provisions of the principal Act, and regardless of any deficiency, defect, infirmity or ambiguity in any provision of the principal Act in relation to the doing of such act or thing.

Validation
of acts or
things done
under the
authority
or
purported
authority
of the
principal
Act

(2) Every such original or subsequent act or thing done during the transitional period as is referred to in subsection (1), may, after the commencement of this Act, be lawfully and validly continued to be done, or further acted upon, or otherwise dealt with, under the principal Act as amended by this Act.

(3) The provisions of subsections (1) and (2) shall be in addition to, and in amplification of, and not in derogation of, the provisions of subsection (2) of section 5, and, consequently, an "act or thing" as is referred to in subsections (1) and (2) shall include a purported direction as is referred to in subsection (2) of section 5.

Indemnity.

16. (1) No action, suit, prosecution, or other legal proceeding whatsoever of any description or in any form, shall be brought, instituted or maintained on any ground against—

- (a) the Government of Malaysia or a State Government;
- (b) the Minister, an Advisory Board or a member of an Advisory Board, an Inquiry Officer, any police officer, or any other person, as mentioned in subsection (1) of section 15, either personally or in his official capacity; or
- (c) any person acting on behalf, or under the authority or direction, of any Government or person referred to in paragraphs (a) and (b), either personally or in his official capacity,

for or on account of, or in respect of---

- (aa) any such original or subsequent act or thing as is referred to in subsection (1) of section 15 done during the transitional period; or
- (bb) any act or thing being continued to be done, or being further acted upon, or being otherwise dealt with, after the commencement of this Act, as provided under subsection (2) of section 15.

(2) The provisions of subsection (1) shall apply to any action, suit, prosecution, or other legal proceeding whatsoever, as is referred to in subsection (1), which has been brought, instituted or maintained before the commencement of this Act, in the same manner that they apply to any action, suit, prosecution, or other legal proceeding whatsoever, as is referred to in subsection (1), which is brought, instituted or maintained after the commencement of this Act, save that the provisions of subsection (1) shall not apply to any such legal proceeding which had concluded and the final decision of the court in respect of which had been given before the commencement of this Act, or to any appeal in respect of such final decision.

Act A707

**DANGEROUS DRUGS (SPECIAL PREVENTIVE
MEASURES) (AMENDMENT) ACT 1988**

An Act to amend the Dangerous Drugs (Special Preventive Measures) Act 1985, and to provide for matters connected therewith.

WHEREAS action prejudicial to public order in Malaysia has been taken and further similar action is being threatened by a substantial body of persons both inside and outside Malaysia;

AND WHEREAS Parliament considers it necessary to stop such action;

NOW, THEREFORE, pursuant to Article 149 of the Constitution BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Dangerous Drugs (Special Preventive Measures) (Amendment) Act 1988 and shall come into force on the date of its publication in the *Gazette*, except as otherwise provided in subsection (2) of section 3.

Short title
and com-
mencement.

New section:
6A.
Act 316.

2. The Dangerous Drugs (Special Preventive Measures) Act 1985, which in this Act is referred to as "the principal Act", is amended by inserting after section 6 a new section 6A as follows:

6A. No detention order shall be invalid or inoperative by reason—
"Detention order not to be invalid or inoperative on certain grounds."

(a) that the person to whom it relates—

- (i) was immediately before the making of the detention order detained in any place other than a place of detention referred to in subsection (2) of section 6;
- (ii) continued to be detained immediately after the making of the detention order in the place in which he was detained under section 3 before his removal to a place of detention referred to in subsection (2) of section 6, notwithstanding that the maximum period of such detention under subsection (2) of section 3 had expired; or
- (iii) was during the duration of the detention order on journey in police custody or any other custody to a place of detention referred to in subsection (2) of section 6; or

(b) that the detention order was served on him at any place other than the place of detention referred to in subsection (2) of section 6, or that there was any defect relating to its service upon him.”.

3. (1) Section 11B of the principal Act is amended by renumbering it as “11B. (1)” and inserting thereafter the following new subsection (2):

Amendment
of section
11B.

“(2) Any revocation under subsection (1) shall be without prejudice to the validity of the order or direction before its revocation or to anything done thereunder, or to the power of the Minister to make a fresh order or to give a fresh direction as is mentioned under subsection (1) in respect of the person against whom the order or direction which is revoked was made or given.”.

(2) Subsection (2) of section 11B of the principal Act which has been inserted in section 11B by subsection (1) shall be deemed to have been an integral part of the said section 11B as from the date of the commencement of that section.

— 4. (1) Where a detention order was made under subsection (1) of section 6 of the principal Act against any person during the period between the date of the commencement of the principal Act and the commencement of this Act (hereinafter referred to as "the transitional period"), the detention order and the detention effected in pursuance thereof during the transitional period, and its continuation thereafter, if any, are hereby declared lawful and valid, and shall be deemed to be, and to have always and at all times been, lawful and valid, notwithstanding that at any time during the duration of the detention order he was detained at any place other than the place of detention referred to in subsection (2) of the said section 6, or continued to be detained in the place in which he was detained under section 3 of the principal Act after the expiry of the maximum period provided therefor under subsection (2) of the said section 3, or was on journey in police custody or any other custody to the place of detention as aforesaid, or that there was any delay in the service of the detention order on him, or that it was served on him at any place other than the place of detention, or that there was any defect relating to its service upon him.

Validation
of detention
orders and
detentions,
and
indemnity.

(2) No action, suit, prosecution, or other legal proceeding whatsoever of any description or in any form, shall be brought, instituted or maintained in any court on any ground after the commencement of this Act or, if brought or instituted before the commencement of this Act, shall continue to be maintained; for or on account of, or in respect of, anything lawfully done in relation to the detention order or the detention declared lawful and valid under subsection (1), save that the provisions of this subsection shall not apply to any such legal proceeding which had concluded and the final decision of the court in respect of which had been given before the commencement of this Act, or to any appeal in respect of such final decision.

(3) In so far as the provisions of subsections (1) and (2) apply to the period between the date of the commencement of the principal Act and the date of the publication of the Dangerous Drugs (Special Preventive Measures) (Amendment) Act 1985 in the *Gazette*, the provisions of subsections (1) and (2) shall be in addition to, and in amplification of, and not in derogation of, the provisions of sections 15 and 16 of the said Dangerous Drugs (Special Preventive Measures) (Amendment) Act 1985.