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PART III

SPECIAL PROVISIONS RELATING TO SECURITY AREAS

CHAPTER I

Proclamation of Security Areas

Proclamation of security areas

47. (1) If in the opinion of the Yang di-Pertuan Agong public security in any area in Malaysia is seriously disturbed or threatened by reason of any action taken or threatened by any substantial body of persons, whether inside or outside Malaysia, to cause or to cause a substantial number of citizens to fear organized violence against persons or property, he may, if he considers it to be necessary for the purpose of suppressing such organized violence, proclaim that area as a security area for the purposes of this Part.

(2) Every proclamation made under subsection (1) shall apply only to such area as is therein specified and shall remain in force until it is revoked by the Yang di-Pertuan Agong or is annulled by resolutions passed by both Houses of Parliament:

Provided that any such revocation or annulment shall be without prejudice to anything previously done by virtue of the proclamation.

(3) A proclamation made under subsection (1) shall be published in such manner as the Minister thinks necessary for bringing it to the notice of all persons who in his opinion ought to have notice thereof and shall have effect as soon as such notice has been given, without publication in the *Gazette*.

(4) A copy of every proclamation made under subsection (1) shall be published in the *Gazette* and laid before Parliament as soon as possible after it has been made.

CHAPTER II

Powers Relating to Preservation of Public Security

Danger areas

48. (1) The Minister, if he considers it necessary or expedient in the public security so to do, may, by order to be published in the *Gazette*, declare any area within a security area to be a danger area.

(2) The limits and extent of every danger area shall be demarcated at the site by such means as will, in the opinion of the Minister, make apparent to persons in or about the area concerned that the area has been declared a danger area.

(3) No person shall enter or remain in a danger area, and any person who fails to comply with this subsection shall be guilty of an offence:

Provided that this subsection shall not apply to members of the security forces in the performance of their duty or to any person accompanied by any such member.

(4) Any member of the security forces may within a danger area take such measures, including means dangerous or fatal to human life, as he considers necessary to ensure that no person prohibited from entering or remaining in a danger area shall enter or remain in the area.

(5) No claim of any kind shall accrue to, or in respect of any injury sustained by, any person as a result of his having entered or remained in a danger area in contravention of subsection (3):

Provided that this subsection shall not preclude the award of compensation under any regulations made under section 71 if, in the particular circumstances under which a person sustaining the injury entered or remained in a danger area, the authority empowered to award compensation thereunder considers it equitable to award such compensation.

(6) Where any land, building or other immovable property is within a danger area, a claim for compensation in respect of the land, building or other immovable property may be made in the manner prescribed by regulations made under section 71.

Controlled areas

49. (1) The Minister may, if he considers it expedient in the public security so to do, make an order, which shall be published in the *Gazette*, declaring any area within a security area to be a controlled area, and in the same or any subsequent order may declare any specified part of that controlled area to be a residential part.

- (2) Every such order shall declare—
- (a) that after the expiration of a period to be specified in the order (which shall not be less than seven days from the date thereof) and subject to any exemption for which provision may be made by the same or by a subsequent order and to any conditions upon which such exemption may be granted, no person shall reside or continue to reside in any part of a controlled area other than a residential part; and
 - (b) that between such hours or at such times as may be specified in the order and subject to any exemption for which provision may be made by the same or by a subsequent order and to any conditions upon which such exemption may be granted, no person shall enter or remain in any part of the controlled area other than a residential part.
- (3) Any person who contravenes an order made under this section shall be guilty of an offence.
- (4) No order under this section shall apply to—
- (a) the Yang di-Pertuan Agong, a Ruler or Yang di-Pertua Negeri;
 - (b) any member of the security forces when acting in the course of his duty; and
 - (c) any person or class of persons exempted from the order by the Chief Police Officer or the Officer in Charge of the Police District.

Protected place

50. (1) If, as respects any place or premises in any security area, it appears to a Chief Police Officer to be necessary or expedient in the interests of public security or order, or for the maintenance of supplies or services essential to the life of the community, that special precautions should be taken to prevent the entry of unauthorized persons, he may by order declare the place or premises to be a protected place for the purposes of this Part; and so long as the order is in force, no person shall, subject to any exemptions for which provision may be made in the order, enter or remain in that place or those premises without the permission of such authority or person as may be specified in the order.

(2) Where, in pursuance of this section, any person is granted permission to be in a protected place, that person shall, while acting under that permission, comply with such directions for regulating his conduct as may be given by the Chief Police Officer or by the authority or person granting the permission.

(3) Any police officer, or any person authorized in that behalf by the Officer in Charge of the Police District, may search any person entering or seeking to enter, or being in, a protected place, and may detain any such person for the purpose of searching him.

(4) If any person is in a protected place in contravention of this section, or, while in such a place, fails to comply with any directions given under this section, then without prejudice to any proceedings which may be taken against him, he may be removed from the place by any police officer or any person authorized in that behalf by the occupier of the premises.

(5) Any person who is in a protected place in contravention of this section or who on being challenged by a police officer wilfully fails to stop or who unlawfully refuses to submit to search shall be guilty of an offence.

(6) It shall be lawful for the Chief Police Officer to take or cause to be taken such steps as he may deem necessary for the protection of any protected place, and such steps may extend to the taking of defensive measures which involve or may involve danger to the life of any person entering or attempting to enter the protected place.

(7) Where any measures involving such danger as aforesaid are adopted, the Chief Police Officer shall cause such precautions to be taken, including the prominent display of warning notices, as he deems reasonably necessary to prevent inadvertent or accidental entry into any protected place, and where such precautions have been duly taken, no person shall be entitled to compensation or damages in respect of injury received or death caused as a result of any unauthorized entry into any such protected place.

(8) For the purposes of this section “police officer” shall include—

- (a) any member of the security forces;
- (b) any prison officer; and

- (c) any other person performing the duties of guard or watchman in a protected place, the appointment of whom has been either specially or generally authorized by a Chief Police Officer.

(9) No woman shall be searched under this section except by a woman.

Exclusion of persons

51. The Officer in Charge of a Police District may by order in writing exclude any person from the Police District under his charge or from any part thereof, the District or part being part of a security area.

Curfew

52. (1) Every person within any Police District or part thereof within a security area which may be designated by order by the Officer in Charge of the Police District shall remain within doors, or within such area as may be defined in the order, between such hours as may be specified in the order, unless in possession of a written permit in that behalf issued by a police officer of or above the rank of Sub-Inspector.

(2) No order under this section shall apply to—

- (a) the Yang di-Pertuan Agong, a Ruler or Yang di-Pertua Negeri;
- (b) any member of the security forces when acting in the course of his duty; or
- (c) any person or class of persons exempted from the order by the Chief Police Officer or the Officer in Charge of the Police District.

Power to take possession of land or buildings

53. (1) The Minister may if it appears to him to be necessary or expedient so to do in the interests of public security, or for the accommodation of any security forces, take possession of any land or of any building or part of a building in any security area and may give such directions as appear to him necessary or expedient in connection with the taking of possession of that land or building.

(2) Any police officer may take such steps and use such force as appears to him to be reasonably necessary for securing compliance with directions given to any person under subsection (1).

(3) While any land or building is in possession of the Minister by virtue of this section, the land or building may, notwithstanding any restriction imposed on the use thereof (whether by any written law or other instrument or otherwise), be used by, or under the authority of, the Minister for such purpose, and in such manner, as the Minister thinks expedient in the interests of public security or for the accommodation of any security forces; and the Minister, so far as appears to him to be necessary or expedient in connection with the taking of possession or use of the land or building in pursuance of this subsection—

- (a) may do, or authorize persons using the land or building as aforesaid to do, in relation to the land or building, anything any person having an interest in the land or building would be entitled to do by virtue of that interest; and
- (b) may by order provide for prohibiting or restricting the exercise of rights of way over the land or building, and of other rights relating thereto which are enjoyed by any person, whether by virtue of an interest in the land or otherwise.

(4) The owner or occupier of any land or building shall, if requested by or on behalf of the Minister so to do, furnish to such authority or person as may be specified in the request such information in his possession relating to the land or building (being information which may reasonably be demanded of him in connection with the execution of this section) as may be so specified.

(5) For the purposes of this section there shall be one or more advisory committee consisting of persons appointed by the Minister; and any such committee may make rules for the conduct of its proceedings.

(6) Any person aggrieved by reason of the taking possession of any land or building under this section may within fourteen days after possession has been taken give notice of his objection thereto to an advisory committee appointed under subsection (5).

(7) The chairman of an advisory committee to which such notice has been given by an aggrieved person shall inform any person on whose behalf possession of the land or building has been taken, and the advisory committee shall thereupon consider the objection made by the aggrieved person and any grounds which may be put forward against the objections by the person on whose behalf possession has been taken, and shall forward its recommendations to the Minister.

(8) The Minister after considering the recommendations of the advisory committee shall give such directions thereon as he may think fit.

Power to order destruction of certain unoccupied buildings

54. (1) Where in any security area any building or structure is left unoccupied by reason of the operation of any order made under this Chapter, the Officer in Charge of the Police District in which the building or structure is situate may if it appears to him—

(a) to be likely that the building or structure will if left standing be used by any person who intend, or are about, to act or have recently acted in a manner prejudicial to public security or by any other person who is likely to harbour any such persons; and

(b) to be impracticable in any other way to prevent such use,

destroy or authorize the destruction of that building or structure.

(2) Compensation shall be payable in respect of the destruction of any building or structure under this section if the claimant satisfies the Minister—

(a) that the building or structure was erected by or with the consent of the person lawfully entitled to the land on which the same was erected; and

(b) that the building or structure was not liable to forfeiture under any regulations made under section 71:

Provided that compensation may be paid to the owner or occupier of any building or structure erected by or with the consent of the person lawfully entitled to the land on which it was erected, notwithstanding that the building or structure is liable to forfeiture under any regulations made under section 71, if the owner or occupier satisfies the Minister that the building or structure was

used by persons who intend, or are about, to act or have recently acted, in a manner prejudicial to public security or that those persons were being or had been harboured by his servant or agent, as the case may be, without his knowledge or consent, and that he exercised all due diligence to prevent the building or structure being so used or the harbouring of those persons, as the case may be.

(3) Any compensation payable under this section shall be assessed in accordance with regulations made under section 71.

Power to control roads, etc.

55. (1) Any Officer in Charge of a Police District or any person duly authorized by any such Officer may by order, or by giving directions, or in any other manner, regulate, restrict, control or prohibit the use of any road or water-way in any security area by any person or class of persons or any vehicle or vessel or type or description of vehicle or vessel or close any road or water-way in such area.

(2) Any Officer in Charge of a Police District may, by the issue of permits to which conditions may be attached or in any other manner, regulate, restrict, control or prohibit the travelling by any person or class of persons in any train, motor car, motor bus or vehicle of any description in any security area, and may similarly regulate, restrict, control or prohibit the travelling by any person in any vessel in such area.

Power to seize rice and other food

56. (1) When on duty, any police officer of or above the rank of Corporal or any member of the security forces of or above the rating or rank of leading rate or non-commissioned officer, as the case may be, or any person authorized in writing so to do by the Officer in Charge of the Police District may seize any rice or any other article of food in any security area which by reason of its quantity or its situation is or is likely to or may become available to any persons who intend or are about to act or have recently acted in a manner prejudicial to public security or to the maintenance of public order.

(2) Any such police officer or member of the forces as aforesaid may without warrant enter and search any premises if he suspects that any rice or any food liable to seizure under this section is likely to be found on those premises.

(3) When on duty any police officer or any member of the security forces or any person who is authorized in writing so to do by the Officer in Charge of the Police District may stop and search any vessel, vehicle, or individual in any security area, whether in a public place or not, if he suspects that any rice or any food liable to seizure under this section is likely to be found on that vessel, vehicle or individual.

(4) No woman shall be searched under this section except by a woman.

CHAPTER III

Offences Relating to Security Areas

Offences relating to firearms, ammunition and explosives

57. (1) Any person who without lawful excuse, the onus of proving which shall be on that person, in any security area carries or has in his possession or under his control—

- (a) any firearm without lawful authority therefor; or
- (b) any ammunition or explosive without lawful authority therefor,

shall be guilty of an offence and shall, on conviction, be punished with death.

(2) A person shall be deemed to have lawful authority for the purposes of this section only if he—

- (a) is a police officer or a member of the security forces, or any person employed in the Prisons Department of Malaysia, and in every such case is carrying or is in possession of or has under his control that firearm, ammunition or explosive in or in connection with the performance of his duty;
- (b) is a person duly licensed, or authorized without a licence, under any written law for the time being in force to carry, possess or have under his control that firearm, ammunition or explosive; or

- (c) is a person exempted from this section by an Officer in Charge of a Police District, or is a member of any class of persons so exempted by the Inspector General by notification in the *Gazette*:

Provided that no person shall be deemed to have lawful authority for the purposes of this section or to be exempt from this section if he carries or has in his possession or under his control any such firearm, ammunition or explosive for the purpose of using the same in a manner prejudicial to public security or the maintenance of public order.

(3) A person shall be deemed to have lawful excuse for the purposes of this section only if he proves—

- (a) that he acquired the firearm, ammunition or explosive in a lawful manner and for a lawful purpose; and
- (b) that he has not at any time while carrying or having in his possession or under his control the firearm, ammunition or explosive, acted in a manner prejudicial to public security or the maintenance of public order.

(4) A person charged with an offence against this section shall not be granted bail.

Consorting with person carrying or having possession of arms or explosives

58. (1) Any person who in any security area consorts with or is found in the company of another person who is carrying or has in his possession or under his control any firearm, ammunition or explosive in contravention of section 57, in circumstances which raise a reasonable presumption that he intends, or is about, to act, or has recently acted, with that other person in a manner prejudicial to public security or the maintenance of public order shall be guilty of an offence and shall, on conviction, be punished with death or with imprisonment for life.

(2) Any person who in any security area consorts with, or is found in the company of, another person who is carrying or has in his possession, or under his control any firearm, ammunition or explosive in contravention of section 57, in circumstances which raise a reasonable presumption that he knew that that other person was carrying or had in his possession or under his control any such

firearm, ammunition or explosive, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding ten years.

(3) Where, in any prosecution for an offence under this section, it is established to the satisfaction of the court that the accused person was consorting with or in the company of any person who was carrying or had in his possession or under his control any firearm, ammunition or explosive, it shall be presumed, until the contrary is proved, that the last mentioned person was carrying or had in his possession or under his control the firearm, ammunition or explosive in contravention of section 57.

Supplies

59. (1) Any person who whether within or outside a security area demands, collects or receives any supplies from any other person in circumstances which raise a reasonable presumption that he intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that the supplies so demanded, collected or received are intended for the use of any person who intends or is about, so to act, or has recently so acted, or for the use of any terrorist, shall be guilty of an offence and shall, on conviction, be punished with death in cases where the supplies in respect of which he is convicted consist of firearms, ammunition or explosives, or with imprisonment for life in other cases.

(2) Any person who whether within or outside a security area is found in possession of any supplies for which he cannot satisfactorily account in circumstances which raise a reasonable presumption that the supplies are intended for the use of any person who intends, or is about, to act, or has recently acted, in a manner prejudicial to public security or the maintenance of public order, or that the supplies are intended for the use of any terrorist, shall be guilty of an offence and shall, on conviction, be punished with death in cases where the supplies in respect of which he is convicted consist of firearms, ammunition or explosives, or with imprisonment for life in other cases.

(3) Any person who whether within or outside a security area provides, whether directly, or indirectly, any supplies to any other person in circumstances which raise a reasonable presumption that that other person intends, or is about, to act, or has recently acted,

in a manner prejudicial to public security or the maintenance of public order, or that the supplies so provided are intended for the use of any person who intends or is about, so to act, or has recently so acted, or that the supplies are intended for the use of any terrorist, shall be guilty of an offence and shall, on conviction, be punished with death in cases where the supplies in respect of which he is convicted consist of firearms, ammunition or explosives, or with imprisonment for life in other cases:

Provided that no person shall be convicted of any offence against this subsection if he proves that prior to being arrested by a police officer or a person in authority he voluntarily gave full information of the offence to a police officer.

(4) In any charge for an offence against this section it shall not be necessary to specify the person from whom any supplies were demanded, collected or received or to whom any supplies were provided or intended to be provided.

Failure to report offences or to give information

60. Any person who whether within or outside a security area, while any proclamation under section 47 is in force—

- (a) knowing or having reasonable cause to believe that another person has committed an offence against this Part fails to report the same to a police officer; or
- (b) having in his possession any information as to the present or intended movements or whereabouts of any person whom he knows or has reasonable cause to believe to be a terrorist fails to report the same to a police officer,

shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding ten years:

Provided that no person shall be convicted of any offence against this section if he proves that prior to being arrested by a police officer or a person in authority, he voluntarily gave full information of that other offence or of those movements or whereabouts to a police officer.

Attempt to commit offences

61. Without prejudice to the operation of Chapter V of the Penal Code, any person who whether within or outside a security area, while any proclamation under section 47 is in force attempts to commit, or does any act preparatory to the commission of an offence against this Part shall be deemed to be guilty of that offence and shall, on conviction, be liable to the penalties provided for that offence.

Assisting offenders

62. No person, knowing or having reasonable cause to believe that another person has committed an offence against this Part shall, whether within or outside a security area, give that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for the said offence.

Other offences under this Part and abetment

63. If any person contravenes or fails to comply with any provision of this Part, or any order made or direction given or requirement imposed under any such provision or, whether within or outside a security area, abets such contravention or failure not otherwise declared to be an offence shall be guilty of an offence.

General penalty under this Part

63A. Any person guilty of an offence against this Part for which no special penalty is provided shall, subject to any special provision contained in this Part or any regulation made under section 71, be liable, on conviction, to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

CHAPTER IV

Powers of Police and Others

Arrest

64. (1) Any police officer may without warrant arrest any person suspected of the commission of an offence against this Part.

(2) The powers conferred upon a police officer by subsection (1) may be exercised by any member of the security forces, by any person performing the duties of guard or watchman in a protected place, and by any other person generally authorized in that behalf by a Chief Police Officer.

Powers of search

65. (1) When on duty any police officer or any member of the security forces or any person who is authorized in writing so to do by the Officer in Charge of a Police District, may without warrant and with or without assistance stop and search any vehicle, vessel, train, aircraft or individual, whether in a public place or not, if he suspects that any article or material being evidence of the commission of an offence against this Part is likely to be found in the vehicle, vessel, train, aircraft or on the individual, and may seize any article or material so found.

(2) When on duty any police officer of or above the rank of Corporal or any member of the security forces of or above the rating or rank of leading rate or non-commissioned officer, as the case may be, or any person authorized in writing so to do by the Officer in Charge of a Police District may without warrant and with or without assistance enter and search any premises or place if he suspects that any article or material being evidence of the commission of any offence against this Part is likely to be found on the premises or place and may seize any article or material so found.

(3) No woman shall be searched under this section except by a woman.

Power to dispense with inquests, etc.

66. Notwithstanding anything to the contrary in any written law, in any security area—

- (a) a Magistrate or a Coroner may dispense with the holding of a death inquiry or inquest on the dead body of any police officer or of any member of the security forces; and
- (b) where the Magistrate or Coroner responsible for holding a death inquiry or inquest upon the body of any person is satisfied that the person has been killed in a security

area as a result of operations by the police or by the security forces for the purpose of suppressing organized violence, the Magistrate or Coroner, as the case may be, may dispense with the holding of a death inquiry or inquest on the body of the person.

Medical officers of armed forces to be regarded as Government medical officers for purpose of inquiries

67. Chapter XXXII and section 399 of the Criminal Procedure Code shall, in respect of any inquiries into any death in any security area, have effect as if reference therein to a Government Medical Officer and to a Medical Officer included reference in each case to a medical officer of the armed forces when acting in the course of his duty:

Provided that—

- (a) it shall not be necessary under section 330 of the Criminal Procedure Code to inform a medical officer of the armed forces of any death in any such area if it is possible to inform the nearest Government Medical Officer, other than a medical officer of the armed forces, without undue delay; and
- (b) no medical officer of the armed forces shall, without his consent, be required by any order or otherwise to perform a post-mortem examination of any body.

CHAPTER V

General

Compensation

68. (1) Where in the exercise of the powers conferred by section 53 or by any regulations made under section 71, possession is taken of any land, building or other structure or of any movable property or of any space or accommodation in any vessel, aircraft, train or vehicle, compensation in respect of the possession shall be assessed in accordance with regulations made under section 71.

(2) For the avoidance of doubt it is hereby declared that no compensation shall be payable to any person in respect of any damage or injury to his person or property caused by or consequent upon any act authorized by this Part or any regulations made under section 71, unless provision for such compensation is made by this Part or any regulations made under section 71.

Application of section 94 of the Penal Code

69. Section 94 of the Penal Code (which relates to an act to which a person is compelled by threats) shall have effect as if offences punishable with death under this Part were offences included in Chapter VI of the Penal Code punishable with death.

Extension of right of private defence

70. The right of private defence of property conferred by section 103 of the Penal Code shall be deemed to extend to any mischief by fire or explosive committed on a railway engine, railway rolling stock or a motor vehicle in any security area, as it applies to mischief by fire committed on a building used as a human dwelling or as a place for the custody of property.

CHAPTER VI

Power to make Regulations

Power to make regulations

71. (1) When a proclamation has been made under section 47 it shall be lawful for the Yang di-Pertuan Agong to make in respect of any security area any regulations whatsoever which he considers desirable for the public security.

(2) Without prejudice to the generality or scope of the powers conferred by subsection (1), regulations may be made under subsection (1) in respect of any matters coming within the classes of subjects hereinafter specified:

- (a) the assessment and payment of remuneration, compensation and allowances in respect of all matters done under this Act or in respect of injuries occasioned by or resulting from any proclamation under section 47;