

[EMERGLAW69(4)]

LAWS OF MALAYSIA

Ordinance 5

EMERGENCY (PUBLIC ORDER AND PREVENTION
OF CRIME) ORDINANCE, 1969

An Ordinance promulgated by the Yang di-Pertuan Agong
under Article 150 (2) of the Constitution.

[16th May, 1969.]

WHEREAS by reason of the existence of a grave emergency threatening the security of Malaysia, a Proclamation of Emergency has been issued by the Yang di-Pertuan Agong under Article 150 of the Constitution;

AND WHEREAS Parliament was dissolved on the twentieth day of March, 1969, and elections to the new Dewan Ra'ayat have not been completed;

AND WHEREAS the Yang di-Pertuan Agong is satisfied that immediate action is required for securing public order, the suppression of violence and the prevention of crimes involving violence;

IT IS HEREBY ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong pursuant to Clause (2) of Article 150 of the Constitution as follows:

1. (1) This Ordinance may be cited as the Emergency (Public Order and Prevention of Crime) Ordinance, 1969, and shall have effect throughout Malaysia.

(2) This Ordinance shall be deemed to have come into force on 16th May, 1969.

2. The provisions of this Ordinance shall have effect without prejudice to the provisions of the Prevention of Crime Ordinance, 1959.

3. (1) Any police officer may without warrant arrest and detain pending enquiries any person in respect of whom he has reason to believe that there are grounds which would justify his detention under section 4 (1).

(2) Any police officer may without warrant arrest and detain pending enquiries any person who on being questioned by him fails to satisfy him as to his identity or as to the purposes for which he is in the place where he is found

if the police officer suspects that person of having acted or being about to act or being likely to act in any manner prejudicial to public order or if he has reason to believe that it is necessary for the suppression of violence or the prevention of crimes involving violence that that person should be detained.

(3) 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 section 4 (1):

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;
- (c) he shall not be detained for more than thirty 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 of Police or to a police officer designated by the Inspector-General in that behalf who shall forthwith report the same to the Minister.

(4) The powers conferred upon a police officer by sub-sections (1) and (2) 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 authorised in that behalf by a Chief Police Officer.

(5) 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 similar place authorised generally or specially by the Minister.

4. (1) If the Minister is satisfied that with a view to preventing any person from acting in any manner prejudicial to public order it is necessary that that person should be detained, or that it is necessary for the suppression of violence or the prevention of crimes involving violence that that person should be detained, the Minister shall make an order directing that that person be detained for any period not exceeding two years.

(2) Every person detained in pursuance of an order made under sub-section (1) shall be detained in such place as the Minister may direct and in accordance with instructions issued by the Minister and any rules made under sub-section (3).

- (3) The Minister may by rules provide for -
- (a) the maintenance and management of any place referred to in sub-section (2);
 - (b) compelling persons detained therein to perform such work or duties therein or connected therewith as he considers necessary or expedient; and
 - (c) the discipline of persons detained therein:

Provided that until any such rules are made under this sub-section and thereafter in respect of any matters not provided for by such rules the Internal Security (Detained Persons) Rules, 1960 shall apply to every place of detention and to all persons detained therein under this Ordinance.

(4) Whenever any person is detained under any order made under sub-section (1) he shall, in accordance with Article 151 of the Constitution, as soon as may be-

- (a) be informed of the grounds of this detention;
- (b) subject to Clause (3) of the said Article (which provides that no authority may be required to disclose facts whose disclosure would in its opinion be against the national interest) be informed of the allegations of fact on which the order is based; and
- (c) be given the opportunity of making representations against the order as soon as may be.

5. (1) A copy of every order made by the Minister under section 4 (1) 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 against the order to an Advisory Board.

(2) For the purpose of enabling a person to make representations under sub-section (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 sub-section (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, as 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 Minister may make rules as to the manner in which representations may be made under this section and for regulating the procedure of Advisory Boards:

Provided that until any such rules are made under this sub-section and thereafter in respect of any matter not

provided for by such rules the Internal Security (Detained Persons Advisory Board) Rules, 1964, as modified by the Emergency (Internal Security) (Modification of Laws) Ordinance, 1969, shall apply to the making of representations under this section and in applying them references therein to an order of detention or a place of detention shall be construed as references to an order of detention made or a place of detention directed, under section 4.

6. (1) Whenever any person has made any representations under section 5 (1) to an Advisory Board, the Advisory Board, shall within three months of the date on which such person was detained, consider such representations and make recommendations thereon to the Yang di-Pertuan Agong.

(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 thereon shall, subject to the provisions of section 7, be final, and shall not be called into question in any Court.

7. (1) Every order made by the Minister under section 4(1) may, so long as it shall remain in force, be reviewed from time to time by an Advisory Board at the discretion of the Chairman thereof.

(2) The Advisory Board shall on completing every review under sub-section (1) forthwith submit to the Minister a written report of every such review, and may make therein such recommendations as it shall think fit.

8. The Emergency (Detained Non-Citizens) Regulations, 1965, as amended by section 5 of the Emergency (Internal Security) (Modification of Laws) Ordinance, 1969, shall apply to persons detained under section 4(1).

9. Every Advisory Board shall, for the purposes of this Ordinance, but subject to the provisions of section 11, 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.

10. Every member of an Advisory Board shall be deemed to be a public servant within the meaning of the Penal Code in force in that part of Malaysia in which he exercises the functions of a member of an Advisory Board, and shall have in 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 the provisions of this Ordinance the like

protection and privileges as are by law given to a Judge in the execution of his office.

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

12. (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 in pursuance of the provisions of section 4, 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 course of removal under the provisions of sub-section (1) shall be deemed to be in lawful custody.

13.(1) On proof to his satisfaction that the presence at any place of any person detained under the provisions of section 4, or lawfully in the custody of the police or confined in any prison whether in pursuance of the provisions of section 4 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.

(2) Any person in course of being taken to any place in pursuance of the provisions of sub-section (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.

14. The provisions of this Ordinance shall have effect in relation to

- (a) any person arrested under this Ordinance on or after the date of its commencement; and
- (b) any person arrested under the Prevention of Crime Ordinance, 1959, at any time before the coming into force of this Ordinance if that person:
 - (i) has been remanded in custody or released on bond or is subject to police supervision pending an inquiry under that Ordinance;
 - (ii) is subject to police supervision under section 15 (1) thereof; or
 - (iii) is subject to police supervision under section 15 (1) and to restrictions imposed on him under section 15 (2).

Promulgated at Istana Negara, Kuala Lumpur, on the
Twelfth day of June, 1969.

TUANKU ISMAIL NASIRUDDIN SHAH,
Yang di-Pertuan Agong
