



# LAWS OF MALAYSIA

REPRINT

Act 88

## OFFICIAL SECRETS ACT 1972

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**OFFICIAL SECRETS ACT 1972**

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## Act 88

### OFFICIAL SECRETS ACT 1972

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**LAWS OF MALAYSIA****Act 88****OFFICIAL SECRETS ACT 1972**

An Act to revise and consolidate the law relating to the protection of official secrets.

[1 October 1972]

**BE IT ENACTED** by the 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:

**Short title**

1. This Act may be cited as the Official Secrets Act 1972.

**Interpretation**

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

“armed forces” includes—

- (a) any regular or volunteer armed forces of Malaysia whether in Malaysia or outside Malaysia;
- (b) any regular or volunteer armed forces of any foreign country or of any territory outside Malaysia attached to or operating with any of the armed forces of Malaysia whether in Malaysia or outside Malaysia;
- (c) any visiting forces within the meaning of any law for the time being in force regulating visiting forces lawfully present in Malaysia;

“article” includes any thing, substance or material;

“competent authority” means the competent authority appointed by the Minister by order published in the *Gazette* in respect of any one or more prohibited places or class of prohibited places;

“document” includes, in addition to a document in writing and part of a document—

- (a) any map, plan, model, graph or drawing;
- (b) any photograph;
- (c) any disc, tape, sound track or other device in which sound or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (d) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (as aforesaid) of being reproduced therefrom;

“foreign agent” includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign country or any organisation within or without Malaysia either directly or indirectly for the purpose of committing an act, either within or without Malaysia, prejudicial to the safety or interests of Malaysia, or who has or is reasonably suspected of having, either within or without Malaysia, committed, or attempted to commit, such an act in the interests of a foreign country;

“foreign country” means any independent and sovereign state and includes any colony, dominion or protectorate of such state;

“Government” means the Government of Malaysia or a State Government;

“material” includes any equipment, device or object;

“munitions of war” includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, bomb, torpedo or mine, intended or adapted for use in war, and any other article, material, instrument or device, whether actual or proposed, intended for such use;

“offence under this Act” includes any act, omission or other thing which is punishable under this Act;

“office in the public service” includes any office or employment in or under any public service;

“official” relates to any public service;

“official secret” means any document specified in the Schedule and any information and material relating thereto and includes any other official document, information and material as may be classified as “Top Secret”, “Secret”, “Confidential” or “Restricted”, as the case may be, by a Minister, the Menteri Besar or Chief Minister of a State or such public officer appointed under section 2B;

“photographic apparatus” means any apparatus for taking or making of photographs, film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom and includes any component part of such apparatus;

“police officer” includes any person upon whom the powers of a police officer not below the rank of Inspector are conferred by the Minister under section 29;

“prohibited place” means—

- (a) any work of defence, arsenal, naval, military or air force establishment, barrack, camp or station, factory, dockyard, aerodrome, mine, minefield, ship or aircraft belonging to or occupied by or on behalf of the Government or any telegraph, telephone, wireless or signal station or office so belonging or occupied, and any place belonging to or occupied by or on behalf of the Government and used for the purpose of building, repairing, making, proving, testing or storing any munitions of war, or any photographs, drawings, plans, models or documents relating thereto, or for the purpose of getting or storing any metals, oil, mechanical transport spirit or aviation spirit or minerals of use in time of war;
- (b) any place not belonging to the Government where any munitions of war, oil, mechanical transport spirit, aviation spirit, fuel or supplies or any documents relating thereto, are being made, repaired, gotten or stored under contract, with, or with any person on behalf of, the Government, or otherwise on behalf of the Government;
- (c) any camp, barrack or place where prisoners of war, members of the armed forces, internees or detainees are detained;

- (d) any place which is for the time being declared by the Minister, by order published in the *Gazette*, to be a prohibited place for the purpose of this Act;

“public officer” means any person holding any office or employment in or under any public service;

“public service” means—

- (a) any of the public services referred to in Article 132 of the Constitution including any Ministry, any department of the Government, or any Court;
- (b) any city council, municipality, town council or local authority;
- (c) any statutory authority exercising powers vested in it by Federal or State law;
- (d) any person, tribunal, body, institution or authority whatsoever which may be declared by the Minister, by order published in the *Gazette*, to be a public service for the purpose of this definition; and
- (e) in the event of war, any department of the government of any ally of Malaysia.

(2) In this Act, unless the context otherwise requires, expressions referring to—

- (a) communicating, receiving, obtaining, retaining, collecting, recording or publishing includes any communicating, receiving, obtaining, retaining, collecting, recording or publishing, whether in whole or in part and whether the article, document or information itself or the substance, effect or description thereof only be communicated, received, obtained, retained, collected, recorded or published;
- (b) obtaining or retaining any article or document includes the copying or causing to be copied the whole or any part of any article or document; and
- (c) the communication of any article or document includes the transfer or transmission, or the publishing, of the whole or any part of any article or document.

(3) In this Act, unless the context otherwise requires, any reference to a place belonging to the Government includes a place belonging to or occupied by any department of the Government, whether the place is or is not actually vested in the Government.

### **Addition, deletion or amendment of the Schedule**

**2A.** The Minister may, from time to time, by order published in the *Gazette*, add to, delete from, or amend any of the provisions of the Schedule hereto.

### **Appointment of public officer to classify official document, etc.**

**2B.** A Minister, the Menteri Besar or the Chief Minister of a State may appoint any public officer by a certificate under his hand to classify any official document, information or material as “Top Secret”, “Secret”, “Confidential” or “Restricted”, as the case may be.

### **Declassification of official secret by a Minister or a public officer**

**2c.** A Minister or public officer charged with any responsibility in respect of any Ministry, department or any public service or the Menteri Besar or the Chief Minister of a State or the principal officer in charge of the administrative affairs of a State may, at any time, declassify any document specified in the Schedule or any official document, information or material as may have been classified and upon such declassification, the said document, information or material shall cease to be official secret.

### **Penalties for spying**

**3.** If any person for any purpose prejudicial to the safety or interest of Malaysia—

- (a) approaches, inspects, passes over or is in the neighbourhood of, or enters any prohibited place;
- (b) makes any document which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign country;

- (c) obtains, collects, records, publishes or communicates to any other person any secret official code word, countersign, password or any article, document or information which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign country,

he shall be guilty of an offence punishable with imprisonment for life.

**Prohibition of taking or making any document, measurement, sounding or survey of or within a prohibited place**

4. (1) If any person takes or makes any document, measurement, sounding or survey of or within a prohibited place, he shall, unless he proves that the thing so taken or made is not prejudicial to the safety or interests of Malaysia and is not intended to be directly or indirectly useful to a foreign country, be guilty of an offence punishable with imprisonment for a term not less than one year but not exceeding fourteen years.

(2) (a) It shall not be an offence under subsection (1) to take or make, outside a prohibited place a photograph or drawing in which such place or part thereof is included, unless it is proved that the photograph or drawing is intended to be prejudicial to the safety or interests of Malaysia or to be directly or indirectly useful to a foreign country.

(b) Paragraph (a) shall not apply to the taking or making of a photograph or drawing from an aircraft.

(3) (a) It shall not be an offence to take or make any document, measurement, sounding or survey if such taking or making is done with the prior written permission of the competent authority.

(b) In granting such written permission, the competent authority may impose as a condition that anything so taken or made must immediately be submitted to the competent authority for examination. The competent authority, if satisfied that there is reasonable cause to believe that the thing so taken or made contains matter or information prejudicial to the safety or interests of Malaysia and directly or indirectly useful to a foreign country, may order that the document be forfeited or that any part of such document be obliterated, erased or removed.

**Penalty for making or assisting in making false declarations or statements in obtaining permits**

5. If any person makes or assists in making a declaration or statement false in any material respect for the purpose of obtaining permission under paragraph 4 (3) (a) from a competent authority he shall be guilty of an offence punishable with a fine not exceeding two thousand ringgit.

**Special power of the court to direct search and seizure**

6. (1) If any court is satisfied that there is reasonable cause to believe that a document contains matter or information prejudicial to the safety or interests of Malaysia and directly or indirectly useful to a foreign power or to an enemy, the court may issue a search warrant to search for and seize such document even though an offence under this Act is not alleged to have been committed.

(2) Where a document required to be seized under a search warrant issued under subsection (1) is so seized or is voluntarily produced by the person in whose possession it is, it shall be sent by the court to the competent authority which may, if it considers that the document contains matter or information prejudicial to the safety or interests of Malaysia and directly or indirectly useful to a foreign power or to an enemy, order the document to be forfeited, or order that any part of such document be obliterated, erased or removed.

**Prohibition from carrying photographic apparatus**

7. (1) If any person within any prohibited place carries or has in his possession or under his control any photographic apparatus otherwise than with lawful authority or for a lawful purpose he shall be guilty of an offence punishable with a fine not exceeding two thousand ringgit or imprisonment for a term not exceeding one year or with both.

(2) In a prosecution for an offence under subsection (1) the onus of proving the existence of a lawful purpose shall be upon the accused.

(3) A photographic apparatus shall be presumed to be carried with lawful authority if it is carried in connection with the performance of his duty by a police officer or member of the armed forces employed on guard, security patrol or other similar duty.

(4) Any photographic apparatus in respect of which any offence under this Act has been or is suspected of having been committed may be seized by any police officer or by the competent authority or by any person duly authorized in that behalf by the competent authority and any photograph, plate, film negative or tape or other device in or belonging to such apparatus may also be seized and may be subjected to such process of development as the police officer or competent authority may direct either generally or in any particular case.

**Duty to report request for information, etc.**

**7A.** (1) Any person who is in any manner whatsoever approached by any other person whether directly or indirectly to obtain for or supply that other person any official secret or any secret official code word, countersign or password which—

- (a) relates to or is used in a prohibited place or relates to anything in such a place;
- (b) relates to munitions of war and to other apparatus, equipment and machinery which are used in the maintenance of the safety and security of Malaysia;
- (c) has been made or obtained in contravention of this Act;
- (d) has been entrusted in confidence to him by any public officer; or
- (e) he has made or obtained, or to which he has had access, owing to his position as a person who holds or has held office in the public service, or as a person who holds or has held a contract made on behalf of the Government, or as a person who is or has been employed by or under a person who holds or has held such an office or contract,

otherwise than in the course of his duty, shall immediately report such communication to a police officer of the rank of Inspector or above, and if he is a public officer it shall be sufficient for him to report in writing to the head of the department of such public officer.

(2) Any person who fails to comply with the requirement of subsection (1) shall be guilty of an offence punishable with imprisonment for a term not less than one year but not exceeding five years.

### **Placing in confidence of foreign agent**

**7B.** Any person who does any act so as to place or likely to place himself in the confidence of any foreign agent shall be guilty of an offence punishable with imprisonment for a term not less than one year but not exceeding five years.

### **Wrongful communication, etc., of official secret**

**8.** (1) If any person having in his possession or control any official secret or any secret official code word, countersign or password which—

- (a) relates to or is used in a prohibited place or relates to anything in such a place;
- (b) relates to munitions of war and to other apparatus, equipment and machinery which are used in the maintenance of the safety and security of Malaysia;
- (c) has been made or obtained in contravention of this Act;
- (d) has been entrusted in confidence to him by any public officer; or
- (e) he has made or obtained, or to which he has had access, owing to his position as a person who holds or has held office in the public service, or as a person who holds, or has held a contract made on behalf of the Government, or as a person who is or has been employed by or under a person who holds or has held such an office or contract,

does any of the following:

- (i) communicates directly or indirectly any such information or thing to any foreign country other than any foreign country to which he is duly authorized to communicate it, or any person other than a person to whom he is duly authorized to communicate it or to whom it is his duty to communicate it;

- (ii) uses any such official secret or thing as aforesaid for the benefit of any foreign country other than any foreign country for whose benefit he is duly authorized to use it, or in any other manner prejudicial to the safety or interests of Malaysia;
- (iii) retains in his possession or control any such thing as aforesaid when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with all lawful directions issued by lawful authority with regard to the return or disposal thereof; or
- (iv) fails to take reasonable care of, or so conducts himself as to endanger the safety or secrecy of, any such official secret or thing,

he shall be guilty of an offence punishable with imprisonment for a term not less than one year but not exceeding seven years.

(2) If any person receives any official secret or any secret official code word, countersign or password knowing or having reasonable ground to believe at the time when he receives it, that the official secret, code word, countersign or password is communicated to him in contravention of this Act, he shall, unless he proves that the communication to him of the official secret, code word, countersign or password was contrary to his desire, be guilty of an offence punishable with imprisonment for a term not less than one year but not exceeding seven years.

### **Unauthorized use of uniforms, falsification of reports, forgery, personation and false documents**

**9.** (1) If any person gains or assists any other person to gain admission to a prohibited place otherwise than by an authorized point of entry or for the purpose of gaining admission, or of assisting any other person to gain admission, to a prohibited place, or for any other purpose prejudicial to the safety or interests of Malaysia—

- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be likely to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform;
- (b) makes use of any disguise or false name, or knowingly conceals his identity or nationality;

- (c) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission;
- (d) forges, alters, tampers with, disposes of or destroys any passport or any naval, military, air force, police or official pass, permit, certificate, licence or other document of a similar character (hereinafter in this section referred to as an “official document”), or uses or has in his possession any such forged, altered, or irregular official document;
- (e) personates, or falsely represents himself to be, a person holding office or in the employment of a person holding office in the public service, or personates, or falsely represents himself to be or not to be, a person to whom an official document or secret official code word, countersign or password has been duly issued or communicated; or
- (f) uses, or has in his possession or under his control, without the authority of the public service concerned, any key, badge, device, die, seal, stamp or official paper of or belonging to, or used, made or provided by any public service or by any diplomatic, naval, military or air force authority appointed by or acting under the authority of the Government, or any key, badge, device, die, seal or stamp so nearly resembling any such articles as aforesaid as to be likely to deceive, or counterfeits any such articles as aforesaid, or uses, or has in his possession, or under his control, any such counterfeited articles,

he shall be guilty of an offence punishable with a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding seven years or with both.

(2) If any person for any purpose prejudicial to the safety of Malaysia—

- (a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any public service or any person authorized by such public service with regard to the return or disposal thereof;

- (b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word, countersign or password so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code word, countersign or password issued for the use of some person other than himself;
- (c) on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to the Chief Police Officer;
- (d) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such key, badge, device, die, seal or stamp; or
- (e) with intent to obtain an official document, secret official code word, countersign or password, whether for himself or for any other person, knowingly makes any false statement,

he shall be guilty of an offence punishable with imprisonment for a term not less than one year but not exceeding seven years.

### **Interfering with police officers or members of the armed forces**

**10.** If any person who is within or in the vicinity of any prohibited place, obstructs, misleads or otherwise interferes or impedes any police officer or any member of the armed forces engaged on duty in relation to the prohibited place, he shall be guilty of an offence punishable with a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding seven years or with both.

### **Duty to give information**

**11.** (1) If any person who has any information relating to an offence or suspected offence under this Act fails—

- (a) to give, on demand, such information; or
- (b) to attend at such reasonable time and place to give such information,

when required to do so by—

- (aa) any police officer above the rank of Inspector;
- (bb) any member of the armed forces employed on guard, sentry, patrol or other similar duty; or
- (cc) any public officer authorized by the Minister,

he shall be guilty of an offence punishable with imprisonment for a term not less than one year but not exceeding seven years.

(2) Before requiring a person to attend at such place and time, the police officer or member of the armed forces shall tender to him a sum which is reasonable for his expenses.

### **Power to require the production of messages**

**12.** (1) Where it appears to the Minister that such a course is expedient, he may by warrant under his hand, require any person who owns or controls any telecommunications, used for sending or receipt of messages to or from any place out of Malaysia, to produce to him or to any person named in the warrant, the originals and transcripts of any message sent from or addressed to any specified persons or place, sent to or received from any place out of Malaysia by means of such telecommunication and all other papers relating to such message.

(2) If any person, on being required to produce such original or transcript or paper, refuses or neglects to do so or mutilates or destroys the same, he shall be guilty of an offence punishable with imprisonment for a term not less than one year but not exceeding seven years.

(3) In this section the expression “message” and “telecommunication” shall have the same meaning as in the law relating to telecommunications for the time being in force.

### **Harbouring**

**13.** (1) If any person who knows, or has reasonable grounds for suspecting that another person is about to commit or has committed an offence under this Act—

- (a) harbours that other person; or

- (b) permits those other persons to meet or assemble in any premises in his occupation or under his control,

he shall be guilty of an offence punishable with imprisonment for a term not less than one year but not exceeding seven years.

(2) If any person—

- (a) who has harboured or has permitted to meet or assemble as stated in subsection (1); and

- (b) who has information in his power relating to such persons,

fails to disclose on demand such information to a police officer not below the rank of Inspector, he shall be guilty of an offence punishable with a fine not exceeding ten thousand ringgit or imprisonment for a term not exceeding seven years or with both.

(3) In this section the word “harbour” includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance or the assisting a person in any way to commit an offence under this Act.

### **Attempts, incitements, etc.**

**14.** If any person—

- (a) attempts to commit an offence under this Act;

- (b) solicits or incites or endeavours to persuade or conspires with another person to commit an offence under this Act;  
or

- (c) aids, or abets or does any act preparatory to the commission of an offence under this Act,

he shall be liable to the same punishments, and to be proceeded against in the same manner, as if he had committed the offence.

### **Restrictions on prosecutions**

**15.** (1) Any prosecution for an offence under this Act shall not be instituted except by or with the consent of the Public Prosecutor.

(2) Notwithstanding that the consent of the Public Prosecutor has not been obtained, a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed. Such person may be remanded in custody or on bail, but the case shall not be further prosecuted until the consent has been obtained.

(3) When a person is brought before a court before the Public Prosecutor has consented to the prosecution, the charge shall be explained to him but he shall not be called upon to plead, and the law for the time being in force relating to criminal procedure shall be modified accordingly.

### **Burden of proof and presumptions**

**16.** In any prosecution for an offence under this Act, unless the context otherwise requires—

(1) it shall not be necessary to show that the accused person was guilty of a particular act tending to show a purpose prejudicial to the safety or interests of Malaysia;

(2) notwithstanding that no act as stated in subsection (1) is proved against him, the accused person may be convicted if, from the circumstances of the case, his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of Malaysia; and

(3) if any documents, articles or information relating to or used in any prohibited place or anything in such a place, or any secret official code word, countersign or password, is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, it shall be presumed until the contrary is proved, to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of Malaysia.

### **Certificate by a public officer to be conclusive evidence**

**16A.** A certificate by a Minister or a public officer charged with any responsibility in respect of any Ministry, department or any public service or the Menteri Besar or the Chief Minister of a State or by the principal officer in charge of the administrative affairs

of a State certifying to an official document, information or material that it is an official secret shall be conclusive evidence that the document, information or material is an official secret and shall not be questioned in any court on any ground whatsoever.

**Communications with foreign agents to be evidence of commission of certain offences**

**17.** (1) In any prosecution for an offence under this Act, the fact that a person has been in communication with, or attempted to communicate with, a foreign agent, whether within or without Malaysia, shall be evidence that he has, for a purpose prejudicial to the safety or interests of Malaysia, obtained or attempted to obtain or to communicate information which is likely to be or might be or is calculated to be or is intended to be directly or indirectly useful to a foreign power or to an enemy.

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision—

- (a) a person shall, unless he proves the contrary, be presumed to have been in communication with a foreign agent if—
  - (i) he has, either within or without Malaysia, visited the address of a foreign agent or consorted or associated with a foreign agent; or
  - (ii) either, within or without Malaysia, the name or address of, or any other information regarding, a foreign agent has been found in his possession or control or has been supplied by him to any other person, or has been obtained by him from any other person;
- (b) (*Deleted by Act A573*);
- (c) any address, whether within or without Malaysia, reasonably suspected of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of a foreign agent, and communications addressed to such an address to be communication with a foreign agent.

### **Defence available to a public officer**

**17A.** Any person who is charged with any offence under this Act shall not be convicted if he proves that he did any such thing in the performance of his official duties or with proper authority.

### **Power to arrest**

**18.** (1) If any person is found committing an offence under this Act or is reasonably suspected of having committed, or has attempted to commit, or is about to commit, such an offence, he may be arrested without a warrant.

(2) Without limiting the generality of subsection (1), if any person in a prohibited place is found offending or suspected of offending against this Act he may be arrested with or without a warrant, by a police officer or any member of the armed forces and shall be brought forthwith before a Magistrate to be dealt with according to law.

### **Powers of search and seizure**

**19.** (1) Whenever it appears to any Magistrate upon information and after such inquiry as he thinks necessary that there is reasonable cause to believe that in any place there is any evidence of the commission of an offence under this Act, he may, by warrant directed to any police officer empower such officer to enter such place, by force if necessary, and there to search for, seize and detain any such evidence.

(2) Whenever it appears to any police officer not below the rank of Inspector that there is reasonable cause to believe that in any place there is concealed or deposited any evidence of the commission of an offence under this Act, or of any prescribed offence, and such police officer has reasonable grounds for believing that by reason of the delay in obtaining a search warrant the object of the search is likely to be frustrated, he may exercise in and in respect of such place all the powers mentioned in subsection (1) in as full and ample a measure as if he were empowered to do so by warrant issued under such subsection.

### Special powers of investigation

**20.** (1) Notwithstanding anything in any other law contained, the Public Prosecutor, if satisfied that there are reasonable grounds for suspecting that an offence under this Act has been, or is about to be, committed by any person, may by order authorize any police officer not below the rank of Assistant Superintendent named in such order to make an investigation in the matter in such manner or mode as may be specified in such order. Such order may authorize the investigation of any bank account or any other account or any article or any document which may be with any person or at any place and shall be sufficient authority for the disclosure or production by any person of all or any information or accounts or articles or documents as may be required by the officer so authorized.

(2) Any person who fails or refuses to disclose such information or to produce such accounts or articles or documents to the person so authorized shall be guilty of an offence punishable with a fine not exceeding two thousand ringgit or imprisonment for a term not exceeding one year or with both.

(3) An authorization to a police officer under subsection (1) to investigate a bank account shall be deemed to include an authorization to inspect any banker's book considered relevant by the police officer so authorized, and such police officer may, at all reasonable times, enter the bank specified in such order and inspect such books kept therein and may take copies of any relevant entry in any such book.

(4) For the purpose of this section—

“bank” includes—

- (a) any bank licensed under the Banking and Financial Institutions Act 1989 [Act 372];
- (b) any co-operative society registered under any written law relating to co-operative societies;
- (c) the Bank Simpanan Nasional;
- (d) any finance companies registered under the Banking and Financial Institutions Act 1989; and

“banker's book” includes ledgers, day books, cash books, account books and all other books and documents used in the ordinary course of the business of the bank.

**Admission of statements in evidence**

21. (1) Where any person is charged with any offence against this Act any statement, whether such statement amounts to a confession or not or is oral or in writing, made at any time, whether before or after such person is charged and whether in the course of a police investigation or not and whether or not wholly or partly in answer to questions, by such person to or in the hearing of any police officer of or above the rank of Inspector and whether or not interpreted to him by any other police officer or any other person concerned, or not, in the arrest, shall notwithstanding anything to the contrary contained in any written law, be admissible at his trial in evidence and, if such person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) No such statement shall be admissible or used—

(a) if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against such person, proceeding from a person in authority and sufficient in the opinion of the court to give such person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceeding against him; or

(b) in the case of a statement made by such person after his arrest, unless the court is satisfied that a caution was administered to him in the following words or words to the like effect:

*“It is my duty to warn you that you are not obliged to say anything or to answer any question, but anything you say, whether in answer to a question or not, may be given in evidence.”.*

(3) Any statement made by any person before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of no such caution having been given if it has been given as soon as possible.

(4) Notwithstanding anything to the contrary contained in any written law a person accused of an offence to which subsection (1) applies shall not be bound to answer any questions relating to such case after such caution has been administered to him.

(5) This section shall apply in relation to any person tried after the commencement of this Act, whether or not the proceedings against such person were instituted and whether or not the relevant statement was made before such commencement.

### **Evidence of accomplice**

**22.** Notwithstanding any rule of law or written law to the contrary, no witness shall, in any trial or inquiry by a court in respect of an offence under this Act, be presumed to be unworthy of credit by reason only of being an accomplice in relation to such offence.

### **Examination of offenders**

**23.** (1) Whenever two or more persons are charged with any offence under this Act the court may require one or more of them to give evidence as a witness for the prosecution.

(2) Any person referred to in subsection (1) who refuses to be sworn or to answer any lawful question shall be dealt with in the same manner as witnesses so refusing may by law be dealt with by a court.

(3) Every person required to give evidence under subsection (1), who in the opinion of the court makes true and full discovery of all things as to which he is lawfully examined, shall be entitled to receive a certificate of indemnity from the court, under the seal of the court, stating that he has made a true and full discovery of all things as to which he was examined, and such certificate shall be a bar to all legal proceedings against him in respect of all such things.

### **Protection of informers**

**24.** (1) Except as hereinafter provided, no complaint as to an offence under this Act shall be admitted in evidence in any civil or criminal proceedings whatsoever, and no witness shall be obliged or permitted to disclose the name or address of any informer, or state any matter which might lead to his discovery.

(2) If any documents which are in evidence or liable to inspection in any civil or criminal proceedings whatsoever contain any entry

in which any informer is named or described or which might lead to his discovery, the court before which the proceeding is had shall cause all such passages to be concealed from view or to be obliterated so far as is necessary to protect the informer from discovery, but no further.

(3) If in any proceeding relating to any offence under this Act or any prescribed offence the court, after full inquiry into the case, is of the opinion that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or is of the opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, the court may require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning the informer.

### **Liability for offences outside Malaysia**

**25.** (1) The provisions of this Act shall, in relation to citizens, permanent residents of Malaysia and to persons (whether citizens or not) who hold or have at any time held office in a public service, have effect outside as well as within Malaysia; and when an offence under this Act is committed in any place outside Malaysia by any citizen, permanent resident or by any person (whether a citizen or not) who holds or had at any time held office in a public service, he may be dealt with in respect of such offence as if it had been committed at any place within Malaysia at which he may be found.

(2) Any proceeding against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in Malaysia shall be a bar to further proceedings against him under any written law relating to extradition or the surrender of fugitive criminals in force in Malaysia.

### **Trial of offences**

**26.** For the purposes of the trial of a person for an offence under this Act, the offence shall be deemed to have been committed either at the place in which the same actually was committed, or any place in Malaysia in which the offender may be found.

**Exclusion of public during proceedings**

27. In addition and without prejudice to any powers which a court may possess to order the exclusion of the public from any proceedings, if, in the course of proceedings before a court against any person for an offence under this Act or in the course of the proceedings on appeal, or in the course of the trial of a person for an offence under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of Malaysia, that all or any portion of the public shall be excluded during any part of the hearing, the court may make an order to that effect, but the passing of sentence shall in any case take place in public.

**Criminal liability of corporation or firm**

28. Where the person guilty of an offence under this Act is a company or corporation or a member or servant of a partnership or firm, every director and officer of the company or corporation or every member of the partnership or firm, as the case may be, shall be guilty of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and to all other circumstances.

**Minister may confer police powers on suitable persons**

29. The Minister may confer upon any person whom he deems fit and suitable, the powers of a police officer not below the rank of Inspector for the purposes of this Act.

**Powers under Criminal Procedure Code not restricted**

30. Nothing in this Act shall be deemed to limit or restrict any powers conferred by the Criminal Procedure Code [Act 593].

## Regulations

**30A.** The Minister may make regulations to carry out the purposes of this Act and, without prejudice to the generality of the foregoing words, may—

- (a) prescribe the manner of classifying information, documents and other materials;
- (b) prescribe the procedure for handling, storage and delivery of official documents and other information;
- (c) prescribe the manner of disposing waste official documents;
- (d) prescribe the manner of communication of official information;
- (e) prescribe all other matters necessary to protect the safety or secrecy of any information or thing;
- (f) provide for offences and penalties not exceeding a fine of five thousand ringgit or imprisonment not exceeding one year for the contravention of any provision of the regulations; and
- (g) provide for the compounding of any of such offences.

## Repeal

**31.** (1) The Official Secrets Ordinance 1950 of the States of Malaya [*F.M. 15 of 1950*] and the Official Secrets Ordinance of Sabah [*Cap. 90*] are hereby repealed.

(2) The Official Secrets Act 1911 [*1 and 2 Geo. 5. c. 28*] and the Official Secrets Act 1920 [*10 and 11. Geo. 5. c. 75*], both of the United Kingdom, in so far as they have effect in Sarawak or any other part of Malaysia, with or without modification, are hereby repealed.

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### SCHEDULE

#### [Section 2A]

Cabinet documents, records of decisions and deliberations including those of Cabinet committees;

State Executive Council documents, records of decisions and deliberations including those of State Executive Council committees;

Documents concerning national security, defence and international relations.

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## LAWS OF MALAYSIA

### Act 88

## OFFICIAL SECRETS ACT 1972

### LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 6	Finance Companies Act 1969	01-06-1969
Act 102	Banking Act 1973	15-04-1973
Act 146	Bank Simpanan Nasional Act 1974	01-12-1974
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A324	Criminal Procedure Code (Amendment and Extension) Act 1976	10-01-1976
Act A454	Banking and Borrowing Companies (Amendment) Act 1979	02-03-1979 except s. 5: 15-04-1973
Act A573	Official Secrets (Amendment) Act 1984	20-01-1984
Act A660	Official Secrets (Amendment) Act 1986	01-01-1987
Act 372	Banking and Financial Institutions Act 1989	01-10-1989

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# LAWS OF MALAYSIA

## Act 88

### OFFICIAL SECRETS ACT 1972

#### LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Act A573 Act A660	20-01-1984 01-01-1987
2A-C	Act A660	01-01-1987
3	Act A573	20-01-1984
7A-B	Act A573 Act A660	20-01-1984 01-01-1987
8	Act A573 Act A660	20-01-1984 01-01-1987
9	Act A660	01-01-1987
11	Act A573 Act A660	20-01-1984 01-01-1987
12	Act A660	01-01-1987
13	Act A660	01-01-1987
16A	Act A660	01-01-1987
17	Act A573	20-01-1984
17A	Act A660	01-01-1987
30A	Act A573	20-01-1984
Schedule	Act A660	01-01-1987