

PUBLIC ORDER ORDINANCE, 1961
(No. 21 of 1961)

An Ordinance to make further provisions for the preservation of public order.

Date of commencement.

[28th December, 1961]

ENACTED by the Legislature of North Borneo as follows:-

Short title.

1. This Ordinance may be cited as the Public Order Ordinance, 1961.

Interpretation.

2. In this Ordinance –

“assembly” means any gathering of five or more persons;

*“competent authority” means any person appointed by the Minister, by notice in the *Gazette*, for the purposes of such provisions of this Ordinance as may be specified in the notice in respect of any specified district, area or place;

“meeting” means an assembly held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters;

“procession” means a procession of five or more persons or three or more vehicles;

“public place” includes any highway, public street, public road, public park or garden, any sea beach, river, public bridge, land, footway, square, court, alley or passage, whether a thoroughfare or not, any unalienated land and any open space, whether such open space is enclosed or unenclosed, or place of public

* See Notifications, 1962 (G.N.S. 130/62).

resort to which for the time being the public have or are permitted to have access, whether on payment or otherwise.

Prohibition of uniforms of political or quasimilitary organisations.

‡3. (1) The Minister may, by order, prohibit the wearing, in public places or at meetings or assemblies, of –

- (a) any uniform or distinctive dress signifying association with any political organisation or with the promotion of any political object; or
- (b) any uniform, distinctive dress or emblem by members or adherents of any organisation or association specified or described in the order, whether incorporated or not, when it appears to him that members of that organisation or association are organised or trained or equipped for the purpose of enabling them to be employed –
 - (i) in usurping the function of the police or the armed forces; or
 - (ii) for the use or display of physical force in promoting any political or other object, or in such a manner as to arouse reasonable apprehension that they are organised, trained or equipped for that purpose.

(2) Every person who wears any uniform, distinctive dress or emblem in contravention of any order made under the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for six months and a fine of one thousand dollars.

Prohibition of quasimilitary organisations.

4. (1) If the members or adherents of any association of persons, whether incorporated or not, are organised, trained or equipped for the purpose of enabling them to be employed –

- (a) in usurping the functions of the police or the armed forces; or
- (b) for the use or display of physical force in promoting any political or other object, or in such a manner as to arouse reasonable

‡ See Public Order (Unlawful Societies) Order, 1962 (G.N.S. 155/62 as amended by S.157/62).

apprehension that they are organised or trained or equipped for that purpose,

then, any member or adherent of such association who is so organised, trained or equipped shall be guilty of an offence and shall be liable on conviction to imprisonment for one year and a fine of two thousand dollars; and any person who promotes or conspires with another to promote, or who takes part in the control or management of the association, or in so organising or training as aforesaid any member or adherent thereof, shall be guilty of an offence and shall be liable on conviction to imprisonment for five years and a fine:

Provided that, in any proceedings against any person charged with the offence of taking part in the control or management of such an association as aforesaid, it shall be a defence to that charge to prove that he neither consented to, nor connived at, the organisation, training or equipment of any member or adherent of the association in contravention of the provisions of this section.

(2) No charge for any offence against this section shall be made in any Court without the consent of the *State Attorney-General.

(3) If, upon application being made by or on behalf of the *State Attorney-General, it appears to the High Court that any association is an association of which members or adherents are organised, trained or equipped in contravention of the provisions of this section, the Court may –

- (a) make such order as appears necessary to prevent any disposition without the leave of the Court of property held by or for the association;
- (b) direct an inquiry and report to be made as to any such property as aforesaid and as to the affairs of the association;
- (c) make such further order as appears to the Court to be just and equitable for the application of such property in or towards –

* See proviso to section 4 (b) of F.L.N. 232 of 1963.

* See proviso to section 4 (b) of F.L.N. 232 of 1963.

- (i) the discharge of the liabilities of the association lawfully incurred before the date of the application, or since that date with the approval of the Court;
 - (ii) the repayment of moneys to persons who became subscribers or contributors to the association in good faith and without the knowledge of any such contravention as aforesaid; and
 - (iii) any costs incurred in connection with any such inquiry and report as aforesaid, or in winding-up or dissolving the association; and
- (d) order that any property which is not directed by the Court to be so applied as aforesaid shall be forfeited to the Government.

(4) In any criminal or civil proceedings under this section, proof of things done or of words written, spoken or published (whether or not in the presence of any party to the proceedings) by any person taking part in the control or management of an association, or in organising, training or equipping members or adherents of an association, shall be admissible as evidence of the purposes for which, or the manner in which, members or adherents of the association were organised, trained or equipped.

(5) If a Magistrate is satisfied by information that there is reasonable ground for suspecting that an offence under this section has been committed, and that evidence of the commission thereof is to be found at any premises or place specified in the information, he may by warrant authorise the person to whom it is directed to enter, with such assistance as may be required, the premises or place at any time within one month from the date of the warrant, if necessary by force, and to search the premises or place and every person found therein, and to seize anything found on the premises or place, or on any such person, which the officer has reasonable grounds for suspecting to be evidence of the commission of such an offence as aforesaid:

Provided that no woman shall, in pursuance of a warrant issued under this subsection, be searched except by a woman.

(6) Nothing in this section shall be construed as prohibiting the employment of a reasonable number of persons as stewards to assist in the preservation of order at any public meeting held upon private premises with the permission of the owner of those premises, or the making of arrangements for that purpose, or the instruction of the

persons to be so employed in their lawful duties as such stewards, or their being furnished with badges or other distinguishing signs.

Illegal drilling.

5. (1) Any person, other than a police officer or member of the armed forces of the Federation or of any visiting force lawfully present in Sabah, or of a volunteer force or local force constituted under any written law, or of any association specially exempted by the Minister, who –

- (a) is present at or attends any meeting or assembly for the purpose of training or drilling themselves to the use of arms, or being so trained or drilled, or for the purpose of practising military exercises, movements or evolutions; or
- (b) is present at or attends any such meeting or assembly for the purpose of training or drilling any other person to the use of arms, or the practice of military exercises, movements or evolutions,

shall be guilty of an offence and shall be liable on conviction to imprisonment for one year and a fine of two thousand dollars.

(2) Any person, other than a member of the armed forces of the Federation or of any visiting force lawfully present in Sabah or the Police Force, or of a volunteer force or local force constituted under any written law, or of any association specially exempted by the Minister, who –

- (a) trains or drills any person to the use of arms or the practice of military exercises, movements or evolutions; or
- (b) takes part in the control or management of any association or organisation whose members are trained or drilled in the practice of military exercises, movements or evolutions,

shall be guilty of an offence and shall be liable on conviction to imprisonment for five years and a fine.

(3) Nothing in this section shall be construed as prohibiting the training or drilling in rehearsal of any person for the sole purpose of enabling them to march in a lawful procession.

Unlawful oaths to commit capital offences.

6. Any person who –

(a) administers, or is present at and consents to the administering of, any oath, or any engagement in the nature of an oath, purporting to bind the person who takes it to commit any offence punishable with death; or

(b) takes any such oath or engagement, not being compelled to do so,

shall be guilty of an offence, and shall be liable to imprisonment for life, with or without a fine.

Other unlawful oaths to commit offences.

7. Any person who –

(a) administers or is present at and consents to the administering of, any oath, or any engagement in the nature of an oath, purporting to bind the person who takes it to act in any of the ways following, that is to say –

(i) to engage in any mutinous or seditious enterprise;

(ii) to commit any offence not punishable with death;

(iii) to disturb the public peace;

(iv) to be of any association, society or confederacy formed for the purpose of doing any such act as aforesaid;

(v) to obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law for that purpose;

(vi) not to inform or give evidence against any associate, confederate or other person;

(vii) not to reveal or discover any unlawful association, society or confederacy, or any illegal act done or to be done, or any illegal oath or engagement that may have been administered or tendered to or

taken by himself or any other person, or the import of any such oath or engagement; or

(b) takes any such oath or engagement, not being compelled to do so,

shall be guilty of an offence and shall be liable to imprisonment for seven years and a fine.

Permits required for meetings and processions in public place.

*8. (1) Any person who wishes to organise or convene a meeting or a procession in a public place shall first make an application for a permit in that behalf to the competent authority and, unless such authority is satisfied that such meeting or procession is likely to prejudice the maintenance of peace or good order, he shall issue a permit specifying –

- (a) in the case of a procession, the purpose for which and the routes by which and the times at which such procession may pass, and such other conditions as he may think fit to impose;
- (b) in the case of a meeting, the purpose for which and the place and time or times at or between which such meeting may be held, and such other conditions as he may think fit to impose;
- (c) the name or names of the person or persons to whom it is issued.

(2) Every person to whom a permit is issued under the provisions of subsection (1) shall be responsible for the due observance of all the conditions specified in the permit.

(3) The local federal authority may, by order, exempt any part of Sabah or any class of meeting or procession from all or any of the provisions of this section.

Powers of local federal authority.

#9. (1) The local federal authority may, if it appears to him expedient so to do in the interest of public safety and the maintenance of public order at any time, by order –

* See Notifications, 1962 (G.N.S. 130/62).

See Prohibition of Assemblies (Lahad Datu) Order, 1962 (G.N.S. 28/62).

- (a) prohibit the holding of any assembly in any place, whether such place is a public place or not, in any area specified in the order either generally or within any specified condition; or
- (b) prohibit the holding of any meeting or procession in any place, other than a public place, in any area specified in the order either generally or within any specified condition.

(2) Nothing in this section shall apply to any assembly or procession held in a church, mosque, temple or other place of worship solely for the purposes of a religious ceremony in accordance with the adopted rites of such church, mosque, temple or other place of worship.

Powers to order processions, meetings, and assemblies held in contravention of this Ordinance to stop and disperse.

10. (1) Any police officer may stop any procession for which no permit has been issued under subsection (1) of section 8 or which contravenes any of the conditions specified in such a permit or which has been convened or is taking place in contravention of an order under section 9 or any of the conditions specified therein and may order any such procession to disperse.

(2) Any police officer may order any meeting which has been convened or is taking place without a permit issued under subsection (1) of section 8 or which contravenes any of the conditions specified in such permit or any meeting or assembly which has been convened or is taking place in contravention of any order under section 9 or any of the conditions specified therein to disperse.

When assembly or procession unlawful.

11. Any meeting or procession convened or taking place in a public place for which no permit has been issued under subsection (1) of section 8 or which contravenes any of the conditions contained in any such permit and any meeting, assembly or procession convened or taking place in contravention of an order under section 9 or any of the conditions specified therein, shall be deemed to be an unlawful assembly within the meaning of section 141 of the Penal Code [3 of 1959.] and Chapter VIII of the Criminal Procedure Code [4 of 1959.].

Offences and penalties.

12. (1) Any person who –
- (a) takes part in a meeting or procession in a public place for which no permit has been issued under subsection (1) of section 8; or
 - (b) takes part in a meeting or procession held in contravention of any condition of a permit issued under subsection (1) of section 8; or
 - (c) takes part in a meeting, assembly or procession convened or taking place in contravention of an order under section 9 or any of the conditions specified therein,

shall be guilty of an offence and shall be liable on conviction to imprisonment for six months and to a fine of one thousand dollars.

- (2) Any person –
- (a) takes part in organising, convening or directing a meeting or procession in a public place for which no permits has been issued under subsection (1) of section 8; or
 - (b) takes part in organising, convening or directing a meeting or procession held in contravention of any condition of a permit issued under subsection (1) of section 8; or
 - (c) takes part in organising, convening or directing a meeting, assembly or procession convened or taking place in contravention of an order under section 9 or any of the conditions specified therein; or
 - (d) who continues to take part in a meeting, assembly or procession which has been ordered under section 10 to disperse,

shall be guilty of an offence and shall be liable on conviction to imprisonment for one year and a fine of two thousand dollars.

Imposition of curfews.

*13. (1) In any district, area or place to which the provisions of this section have been applied by the local federal authority, by notice in the *Gazette*, the competent authority may, if it appears to him expedient so to do in the interest of public safety and the maintenance of public order, subject to such exceptions as may be specified therein, by order require every person within any area specified in such order to remain within doors during such period and between such hours as may be specified therein and in such a case if any person is or to remains out of doors within such area without a permit in writing issued by any officer in charge of a police station or any other police officer of or above the rank of inspector, he shall be guilty of an offence and shall be liable on conviction to imprisonment for one year and to a fine of two thousand dollars.

(2) No order made under the provisions of subsection (1) shall remain in force for a period exceeding forty-eight hours unless confirmed by the local federal authority.

(3) No order under the provisions of this section shall apply to –

- (a) the Yang di-Pertua Negara or any member of the Legislative Assembly;
- (b) any police officer or any member of the armed forces of the Federation or of any visiting force lawfully present in Sabah or of any local forces established under any written law when such officer or member is acting in the course of his duty;
- (c) any person or class of persons exempted from the provisions of such order by the competent authority.

Disturbance in public places, etc.

14. (1) Any person who in any public place or at any meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence against this section.

* See Notifications, 1962 (G.N.S. 130/62).

* Amended by virtue of Article 48 (1) of the Sabah Constitution.

(2) Any police officer may give to any person directions for the purpose of preventing obstruction or keeping order in public places and any person who, without lawful excuse, contravenes any such direction so given to him shall be guilty of an offence against this section.

(3) Any person who is guilty of an offence against this section shall be liable on conviction to imprisonment for three months and to a fine of five hundred dollars.

Power to restrict traffic.

[‡]15. In any district, area or place to which the provisions of this section have been applied by the local federal authority, by notice in the *Gazette*, the competent authority may, if it appears to him expedient so to do in the interest of public safety and the maintenance of public order, by order, prohibit or restrict the use of any vehicle, or any class of vehicle, on any specified road within any area, either generally or during particular hours, and any person who uses any vehicle in contravention of any order shall be guilty of an offence and shall be liable on conviction to imprisonment for one year or to a fine of two thousand dollars.

Road barriers.

16. (1) Notwithstanding the provisions of any other written law, any officer in charge of a police station and a police officer of or above the rank of inspector may, if he considers it necessary so to do for the maintenance and preservation of law and order, or for the prevention or detection of crime, erect or place barriers in or across any public road or street or in any public place within Sabah, in such manner as he may think fit.

(2) Any police officer in uniform may take all reasonable steps to prevent any vehicle passing any such barrier and may, by any reasonable signal, indicate where such vehicle is required to stop. Any driver of any vehicle who fails to comply with such signal shall be guilty of an offence and shall be liable on conviction to imprisonment for one year and to a fine of two thousand dollars.

(3) No police officer shall be liable for any loss or damage resulting to any vehicle, or for any injury to the driver or any other occupant of such vehicle, as a result of the driver of such vehicle failing to obey any police officer acting under the provisions of subsection (2).

[‡] See Notifications, 1962 (G.N.S. 130/62).

(4) Any police officer may search any vehicle at any road barrier which he has reasonable grounds for suspecting is being used or is about to be used in the commission of any offence against any law in force in Sabah, and may search any occupant of such vehicle.

Offences under this Ordinance to be seizable.

17. A police officer may arrest without warrant any person committing, or who he has reason to suspect has committed, an offence against this Ordinance.

Publicity for orders.

18. When any order is made under the provisions of this Ordinance, the local federal authority or competent authority shall cause notice of the effect of such order to be given as soon as may be in such manner he thinks necessary for bringing it to the notice of all persons who, in his opinion, ought to have notice of the order, and such order shall have effect as soon as notice aforesaid has been given without publication in the *Gazette*.

Repeal. Section 3 of Cap. 80.

19. Section 3 of the Minor Offences Ordinance is repealed.