

THE STATUTES OF THE REPUBLIC OF SINGAPORE

BANISHMENT ACT

(CHAPTER 18)

1970 Ed. Cap. 109
Reprint 2 of 1966
M Ord 11 of 1959

Amended by
21 of 1973
LNs
231/63
407/64
S 14/66

REVISED EDITION 1985

PRINTED BY THE GOVERNMENT PRINTER, SINGAPORE

1986

Banishment Act

ARRANGEMENT OF SECTIONS

Section

1. Short title.
 2. Interpretation.
 3. Warrant of arrest and detention.
 4. Execution of warrant of arrest and detention.
 5. Banishment order.
 6. Execution of banishment order.
 7. Suspension of banishment order on execution of a bond.
 8. Expulsion order.
 9. Removal of detained person to mental hospital.
 10. Special provision relating to claim to citizenship.
 11. Power to revoke banishment or expulsion order.
 12. Power to grant exemption.
 13. Arrest and detention.
 14. Persons banished or expelled prohibited from entering Singapore.
 15. Concealing or harbouring a banished or expelled person.
 16. Duty of all persons to give information concerning person banished or expelled.
 17. Onus of proof of citizenship.
 18. Presumption relating to banishment and expulsion orders.
 19. Presumption of residence.
 20. Proof of instruments.
 21. Protection to persons acting under this Act.
 22. Power to make rules.
 23. Prosecution or proceeding under this Act.
- The Schedule — Forms.

An Act relating to banishment and expulsion from Singapore of persons other than citizens.

[16th September 1963]

1. This Act may be cited as the Banishment Act. Short title.
2. In this Act, unless the context otherwise requires — Interpre-
 “banishment order” means an order made by the tation.
 Minister under section 5; 21/73.

“exempted person” means a person exempted from sections 5 and 8 by an order made under section 12;

“expulsion order” means an order made by the Minister under section 8;

“warrant of arrest and detention” means a warrant issued under section 3.

Warrant of arrest and detention.

3.—(1) Where it appears to the Minister, on receiving written information submitted to him by the Commissioner of Police, that there are reasonable grounds for believing that the banishment of any person whom the Minister is satisfied is not a citizen of Singapore or an exempted person is conducive to the good of Singapore, the Minister may issue a warrant for the arrest and detention of that person.

(2) A warrant of arrest and detention shall be in accordance with Form 1 in the Schedule.

Execution of warrant of arrest and detention.

4.—(1) The police or prison officer executing a warrant of arrest and detention shall notify the substance thereof to the person arrested or detained and, if so required, shall show him the warrant or a copy thereof under the hand of the authority by whom it was issued.

(2) Where in execution of a warrant of arrest and detention any person is arrested or is required to be further detained in prison after the expiration of any sentence of imprisonment passed upon him, the officer executing the warrant shall without unnecessary delay, and in any case within 24 hours (excluding the time of any necessary journey) from the arrest or from the expiration of the sentence, produce the person arrested or so detained before a Magistrate who shall, upon production of the warrant duly signed and upon proof of the identity of the person arrested or detained with the person named in the warrant, by order endorsed on the warrant, commit the person to prison, there to be detained in accordance with the tenor of the warrant:

Provided that if that person proves that he is a citizen of Singapore or an exempted person the Magistrate shall order that person forthwith to be released.

Banishment order.

5.—(1) Where the Minister is satisfied after such inquiry or on such written information as he may consider necessary

or sufficient that the banishment from Singapore of any person not being a citizen of Singapore or an exempted person would be conducive to the good of Singapore, the Minister may make an order that the person be banished from Singapore either for the term of his natural life or for such other term as may be specified in such order.

(2) A banishment order shall be in accordance with Form 2 in the Schedule and shall be signed by the Minister.

(3) As soon as possible after the making of a banishment order against any person, a copy of the order shall be served on the person by the officer in charge of the prison in which the person may be confined or by a police officer not below the rank of sergeant; and the officer serving the copy shall notify the person against whom it is made that he may at any time within 14 days of the service apply to the High Court for an order that the banishment order be set aside on the ground that he is a citizen of Singapore or an exempted person. 21/73.

6.—(1) Subject to the provisions of this Act, a banishment order may be carried into execution at any time after the expiration of 14 days from the date of service of a copy thereof under section 5 (3), upon the issue by the Minister of a warrant of execution which shall be in accordance with Form 3 in the Schedule and shall be signed by the Minister. Execution of
banishment
order.

(2) Upon receiving the warrant of execution of a banishment order made against any person, the officer in charge of the prison in which the person is confined shall inform that person of the period for which he is banished and warn him that he is forbidden by law to return to Singapore or to enter or reside in Singapore, except as specially provided in the banishment order.

(3) As soon as possible after receiving the warrant of execution of a banishment order against any person, the officer in charge of the prison in which the person is confined or some prison officer appointed by that officer in that behalf shall hand the person ordered to be banished to a police officer not below the rank of sergeant appointed by the Commissioner of Police to receive him, and that person shall thereupon be conveyed in the custody of that or some other police officer not below the rank of sergeant on board 21/73.

a ship or such other means of transport as may be expedient for conveyance to the country of which he is a citizen or to such other place as may be stated in the warrant.

(4) Any banished person who is in the custody of a police officer under subsection (3) may be received into and detained in any prison or other suitable place in Singapore until he can be placed on board a ship or other means of transport in accordance with that subsection.

Suspension of
banishment
order on
execution of
a bond.

7.—(1) The Minister may at his discretion at the time of making a banishment order or at any time thereafter direct that the order be suspended and that the person ordered to be banished shall execute a bond with sureties to the satisfaction of the Minister for his good behaviour in such amount and for such period (not exceeding 5 years) and subject to such conditions as to residence or otherwise as may be specified in the direction.

(2) If the Minister is satisfied that a person subject to a banishment order directed to be suspended under subsection (1) has failed to observe any condition specified in the bond executed by him under that subsection or that it is not conducive to the good of Singapore that that person should further remain therein, the Minister may at any time revoke the suspension of the banishment order and upon revocation that person may be arrested and detained without a warrant, and the original banishment order shall thereupon be executed in accordance with the provisions of this Act.

(3) Where a banishment order has been suspended under subsection (1) and the suspension has not been revoked before the expiration of the period for which security for good behaviour was given under that subsection, then upon the expiration of that period the order shall lapse and cease to have effect, but nothing in this subsection shall prevent the making of a fresh banishment order against that person.

Expulsion
order.

8.—(1) The Minister may, if he thinks fit, in place of issuing a warrant of arrest and detention or in place of making a banishment order make an order requiring any person whom he is satisfied is not a citizen of Singapore or an exempted person to leave Singapore before the expiration of a period of 14 days from the date of service under subsection (4) of a copy of the order.

(2) An expulsion order shall be in accordance with Form 4 in the Schedule.

(3) The Minister may by an expulsion order impose such conditions as he may think fit as to the residence, occupation or conduct or police supervision or otherwise of the person against whom the order is made which shall be observed by the person so long as he remains in Singapore.

(4) A copy of the expulsion order shall be served on the person against whom it is made by a police officer not below the rank of sergeant, or by any other person authorised by the Minister to serve the order and shall be served personally on that person in the same manner as a summons is required to be served under section 43 of the Criminal Procedure Code; and the officer or person serving that copy shall notify the person against whom it is made that he may at any time within 14 days of the service apply to the High Court for an order that the expulsion order be set aside on the ground that he is a citizen of Singapore or an exempted person. 21/73.
Cap. 68.

(5) A person against whom an expulsion order has been made shall on or before a date specified by the Minister in the order execute a bond with sureties to the satisfaction of the Minister for due compliance with the terms of the expulsion order and for such amount and subject to such conditions as the Minister may think fit to specify.

(6) If a person against whom an expulsion order has been made, absconds or conceals himself so that the order cannot be served or if he fails before the specified date to execute the bond required under subsection (5) to the satisfaction of the Minister or if the person fails to observe any condition of the bond or fails to leave the country in accordance with the order, the person may be arrested without a warrant by any police officer and shall without unnecessary delay and in any case within 24 hours (excluding the time of any necessary journey) of the arrest be brought before a Magistrate who upon production before him of the expulsion order and upon proof of the identity of the person arrested with the person named in the order shall commit the person to prison there to be detained pending a decision as to whether a banishment order should be made against that person:

Provided that if that person proves that he is a citizen of Singapore or an exempted person the Magistrate shall order that person forthwith to be released.

(7) Where any person has been arrested and detained under subsection (6), the Minister may thereupon cancel the expulsion order and make a banishment order against the person in accordance with section 5.

(8) Nothing in this section shall prevent the Minister at any time from cancelling any expulsion order made by him against any person and taking action against that person in accordance with section 3, 4 or 5.

(9) Where an expulsion order has been made against any person detained in accordance with a warrant of arrest and detention, that person shall upon his executing the bond required under subsection (5) be released from detention under the warrant.

Removal of
detained
person to
mental
hospital.

9.—(1) Whenever a person detained under the provisions of this Act appears to the Minister, on the certificate of a registered medical practitioner, to be of unsound mind, the Minister may, by order in writing setting forth the grounds of belief that the person is of unsound mind, direct his removal to any mental hospital or other fit place of safe custody within Singapore, there to be kept and treated as the Minister directs until it appears to the Minister, on the certificate of a registered medical practitioner, that the person has again become of sound mind; and an order made under this subsection shall, notwithstanding the provisions of any written law to the contrary be sufficient authority for the reception of that person to the mental hospital or other place mentioned in the order.

(2) In this section, “registered medical practitioner” means a medical practitioner who is registered under any written law for the time being in force relating to the registration of medical practitioners.

Special
provision
relating to
claim to
citizenship.

10. Any person in respect of whom a banishment or expulsion order has been made may within 14 days of the service of a copy of the banishment order under section 5 (3) or of the service of a copy of the expulsion order under section 8 (4), as the case may be, apply to the High Court for an order that the banishment or expulsion order be set

aside on the ground that he is a citizen of Singapore or an exempted person; and if it is proved on such application that that person is a citizen of Singapore or an exempted person the High Court shall set aside the banishment or expulsion order, as the case may be, and direct that the applicant be set at liberty.

11. A banishment or expulsion order may at any time be revoked by the Minister.

Power to revoke banishment or expulsion order.

12. The Minister may by order direct that any particular person, or persons of any specified class, shall be exempt, either unconditionally or subject to such conditions as the Minister may impose, from sections 5 and 8.

Power to grant exemption.

13.—(1) Any person who has committed or is reasonably suspected of having committed an offence under this Act may be arrested without warrant by any police officer.

Arrest and detention.

(2) Where a person has been arrested or detained under this Act, any police officer, or any other person authorised by the Minister in that behalf, may take all such steps as may be reasonably necessary for photographing, measuring, fingerprinting and otherwise identifying that person.

14.—(1) Every person, not being a citizen of Singapore or an exempted person, lawfully banished, deported or expelled from Singapore or from Malaysia or from any territory comprised in Malaysia under any law in force at the date of such banishment, deportation or expulsion in Singapore or Malaysia or any territory comprised in Malaysia is hereby prohibited from entering or residing in Singapore so long as the term for which he was banished, deported or expelled has not expired or the banishment, deportation or expulsion order has not been cancelled or revoked, and whether or not the order has been executed:

Persons banished or expelled prohibited from entering Singapore.

Provided that the Minister may in his discretion exempt any person banished, deported or expelled from Singapore or from Malaysia or from any territory comprised in Malaysia from the prohibition contained in this subsection.

(2) Any person entering or residing in any part of Singapore in contravention of the prohibition contained in subsection (1) shall be guilty of an offence and shall be liable —

- (a) if the term for which that person was banished, deported or expelled was less than 5 years, to imprisonment for a term equal to the term of such banishment, deportation or expulsion;
- (b) if the term for which that person was banished, deported or expelled was for life or for 5 years or more, to imprisonment for a term of 5 years;
- (c) if that person has previously been convicted under the provisions of this Act or of any law in force relating to banishment, deportation or expulsion in Malaysia or any territory comprised in Malaysia of unlawfully entering or residing in Singapore or in Malaysia or in any territory comprised in Malaysia, as the case may be, after having been lawfully banished, deported or expelled from Singapore or from Malaysia or from any territory comprised in Malaysia, to imprisonment for a term of 15 years.

(3) Notwithstanding the fact that a prosecution is pending against any person under this section, the Minister may make a banishment order against the person in accordance with the provisions of this Act and thereupon the court shall order that person to be discharged not amounting to an acquittal from the charge under this section in order to enable the banishment order to be executed.

(4) If at the expiration of any sentence passed on any person under this section, the term for which the person has been banished, deported or expelled has not expired, that person shall, unless the Minister otherwise orders, be removed from Singapore, and section 6 (3) and (4) shall *mutatis mutandis* apply to that person as if a banishment order had been made in his case under section 5.

Concealing
or harbouring
a banished or
expelled
person.

15. Any person who knowingly conceals or harbours any other person —

- (a) against whom a warrant of arrest and detention has been issued but has not yet been executed;
- (b) against whom an expulsion order has been made but has not yet been served; or

(c) who is liable to be arrested and detained under any of the provisions of this Act,

shall be guilty of an offence and shall be liable on conviction to a fine of \$500 and imprisonment for 6 months:

Provided that this section shall not apply to a wife harbouring or concealing her husband or a husband harbouring or concealing his wife.

16.—(1) Any person aware of the presence in Singapore of any person described in section 15 (a), (b) or (c) shall forthwith give full and accurate information thereof to the nearest Magistrate or police officer.

Duty of all persons to give information concerning person banished or expelled.

(2) Any person failing without reasonable excuse (the proof whereof shall be on him) to give such information shall be guilty of an offence and shall be liable on conviction to a fine of \$250 and imprisonment for 3 months:

Provided that this subsection shall not apply to a wife failing to give information relating to her husband or a husband failing to give information relating to his wife.

17. If in any proceedings under this Act or with reference to anything done or proposed to be done under this Act, any question arises whether any person is a citizen of Singapore or an exempted person, the onus of proving that he is a citizen of Singapore or an exempted person lies upon that person.

Onus of proof of citizenship.

18.—(1) Subject to section 10, a banishment or expulsion order shall, until it has been set aside or revoked under the provisions of this Act, or until it has expired, as the case may be, be conclusive evidence in all courts and for all purposes that the person thereby ordered to be banished or expelled is not a citizen of Singapore or an exempted person.

Presumption relating to banishment and expulsion orders.

(2) An endorsement on a banishment or expulsion order that it has been executed by placing the person named therein on a ship or aircraft shall be conclusive evidence until the contrary is proved that the person ordered to be banished or expelled has been sent out of Singapore.

Presumption
of residence.

19. If it is proved in any prosecution under this Act that any person has remained in Singapore for more than 24 hours, the court shall presume until the contrary is proved that that person has voluntarily resided therein.

Proof of
instruments.

20. Every document purporting to be a warrant, order, direction or other instrument made or issued by the Minister in pursuance of any provision contained in or having effect under this Act and to be signed by him or on his behalf shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by him.

Protection to
persons
acting
under this
Act.

21. Subject to this Act no suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Power to
make rules.

22.—(1) The Minister may from time to time make rules for carrying this Act into effect.

(2) In making any rules under subsection (1), the Minister may add to, vary or revoke all or any of the forms set out in the Schedule.

Prosecution
or proceeding
under this
Act.

23. For the purposes of any prosecution or proceeding under this Act, any order of banishment, deportation or expulsion issued under any law in force at the date of the banishment, deportation or expulsion —

- (a) in Singapore before 9th August 1965; and
- (b) in Malaysia or in any territory comprised in Malaysia,

shall have effect, for the purposes of this Act, in all respects as if the order had been validly issued under the provisions of this Act.

THE SCHEDULE

FORM 1

Section 3 (2).
21/73.

The Banishment Act
(Chapter 18)

WARRANT OF ARREST AND DETENTION

To:

The Commissioner of Police and all other police officers
*The Director of Prisons.

Whereas it appears to me in accordance with section 3 of the Banishment Act that it is conducive to the public good that of be banished from Singapore:

Now, therefore, you, the said officers, are hereby directed to arrest the said wherever he may be found in Singapore and to convey him to prison at

*You, the Director of Prisons, are hereby directed to detain the said in safe custody in the prison at until you shall receive further orders from me.

Dated this day of 19.....

.....

Minister.

Endorsement

It is hereby ordered pursuant to section 4 (2) of the Banishment Act that the within-named of be committed to prison, there to be detained in accordance with the tenor of this warrant.

Dated this day of 19.....

.....

Magistrate

*Delete in the case of a person already detained in prison.

Section 5
(2).

FORM 2

The Banishment Act
(Chapter 18)

BANISHMENT ORDER

I,, the Minister for the time being charged with responsibility for banishment hereby order in accordance with section 5 of the Banishment Act that be banished from Singapore for the term of his natural life *

..... years from the date of this order.

Given under my hand this day of 19.....

.....
Minister

Endorsement

I,, hereby certify that I today served a copy of the above order on the person named therein and explained to him the effect of the order.

Dated this day of 19.....

.....
(Officer in charge of the prison
at or police officer not
below the rank of sergeant)

Section 6
(1).

FORM 3

The Banishment Act
(Chapter 18)

WARRANT OF EXECUTION OF BANISHMENT ORDER

To the Director of Prisons and
to the Commissioner of Police and all other police officers:

Whereas by a banishment order made in accordance with section 5 of the Banishment Act (hereinafter called the banishee) has been ordered to be banished from Singapore for the term of his natural life: *

..... years from the date of such order:

Now, therefore, I hereby direct you, the Director of Prisons, to deliver the banishee into the custody of such police officer not below the rank of sergeant as may be appointed by the Commissioner of Police in that behalf together with this warrant:

And I further direct you, the Commissioner of Police, or other police officer appointed by you in that behalf to receive the banishee

*Delete whichever alternative is inapplicable.

into your custody and to cause him to be conveyed to and there placed on board for removal to

And I further direct you, the Commissioner of Police, to return this warrant to me within the space of days from the execution thereof showing by an endorsement made thereon its due execution.

Given under my hand thisday of 19.....

.....
Minister

Endorsement

I,, hereby certify that the above warrant was duly executed by conveying the banishee named therein to and there placing him on board for removal to

And I further certify that I handed a copy of the banishment order referred to in the said warrant to the banishee at the time of his removal from Singapore and explained to him the effect of the order and warned him that he is forbidden by law to return to or to enter or reside in Singapore during the term of his banishment.

Dated this day of 19.....

.....
(Police officer not below the rank of sergeant)

FORM 4
The Banishment Act
(Chapter 18)

Section 8
(2).

EXPULSION ORDER

I,, the Minister for the time being charged with responsibility for banishment hereby order in accordance with section 8 of the Banishment Act that leave Singapore before the expiration of a period of 14 days from the date of service of a copy of this order, and thereafter remain out of Singapore:

And I hereby specify the day of 19..... as the date on or before which the said shall execute the bond specified in section 8 (5) of the Act in the sum of \$ with sureties :
surety :

[Insert here any conditions imposed under section 8 of the Banishment Act]

Given under my hand thisday of 19.....

.....

Minister

Endorsement

I,, hereby certify that I today served a copy of the above order on the person named therein and explained to him the effect of the order and warned him that upon the coming into force of the order he is forbidden by law to return to or to enter or reside in Singapore.

Dated this day of 19.....

.....

(Police officer not below the rank of sergeant or other person authorised by the Minister to serve the above order)