

witness; (2) when a person is charged with any offence in relation to the false statement made by him to the officer in the course of an investigation, such statement may be used as evidence in such prosecution¹².

A Religious Enforcement Officer or a person in authority cannot offer or make inducements, threats or promises to any person charged with an offence to induce the person to make any statement having reference to the charge against such person¹³. They are also prohibited from preventing or discouraging, by any caution or otherwise, any person from making in the course of an investigation any statement which he may be disposed to make of his own free will¹⁴.

1 As to the appointment of Religious Enforcement Officers see [400.051].

2 See the Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 57(1); the Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 57(1); the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 57(1); the Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 57(1).

For the meaning of 'offence' see [400.519] note 1.

3 Every Religious Enforcement Officer making an investigation must, day by day, enter his proceedings in the investigation diary setting forth: (1) the time at which the order, if any, for investigation reached him; (2) the time at which he began and closed the investigation; (3) the place or places visited by him; (4) the person or persons questioned by him; and (5) a statement of the circumstances ascertained through his investigation: Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 65(1)(a)-(e); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 65(1)(a)-(e); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 65(1)(a)-(e); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 65(1)(a)-(e).

Notwithstanding anything contained in the law relating to evidence, an accused person will not be entitled, either before or in the course of any inquiry or trial, to call for or inspect any such diary. However if the Religious Enforcement Officer who has made the investigation refers to the diary, such entries only as the officer has referred to must be shown to the accused, and the court must at the request of such officer cause any other entries to be concealed from view or obliterated: Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 65(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 65(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 65(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 65(2).

4 See [400.496] text to note 10.

5 Syariah Criminal Procedure (Federal Territories) Act 1997 s 58(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 58(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 58(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 58(1).

6 If the person refuses to attend as so required, the Religious Enforcement Officer may report such refusal to a judge who may thereupon in his discretion issue a warrant to secure the attendance of such person: Syariah Criminal Procedure (Federal Territories) Act 1997 s 58(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 58(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 58(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 58(2).

- 7 Syariah Criminal Procedure (Federal Territories) Act 1997 s 59(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 59(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 59(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 59(1).
- 8 Syariah Criminal Procedure (Federal Territories) Act 1997 s 59(5); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 59(5); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 59(5); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 59(5).
- 9 Syariah Criminal Procedure (Federal Territories) Act 1997 s 59(2), (3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 59(2), (3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 59(2), (3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 59(2), (3).
- 10 Syariah Criminal Procedure (Federal Territories) Act 1997 s 59(4); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 59(4); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 59(4); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 59(4).
- 11 Syariah Criminal Procedure (Federal Territories) Act 1997 s 60; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 60; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 60; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 60.
- 12 Syariah Criminal Procedure (Federal Territories) Act 1997 s 60(2), (3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 60(2), (3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 60(2), (3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 60(2), (3).
- 13 Syariah Criminal Procedure (Federal Territories) Act 1997 s 61(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 61(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 61(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 61(1).
- 14 Syariah Criminal Procedure (Federal Territories) Act 1997 s 61(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 61(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 61(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 61(2).

[400.499] Power to require bond for appearance of complainant

and witnesses If upon an investigation being made, it appears to the officer making such investigation that there is sufficient evidence or reasonable grounds of suspicion to justify the commencement or continuance of criminal proceedings against any person, such officer will require the complainant, if any, and so many of the persons who appear to such officer to be acquainted with the circumstances of the case, to execute a bond¹ to appear before a court therein named and give evidence in the matter of the charge² against the accused³.

The officer in whose presence the bond is executed must send it to the court⁴. If any complainant or witness refuses to execute such bond, the officer must report such refusal to the court which may thereupon, in its discretion, issue a summons⁵ or warrant to secure the attendance of such complainant or witness before itself to give evidence in the matter of the charge against the accused⁶.

- 1 As to the meaning of 'bond' see [400.506] note 6.
- 2 As to charges see [400.513]–[400.517].
- 3 Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 64(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 64(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 64(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 64(1).

When any person is required by any court to execute a bond with sureties, and in such bond the person executing it binds himself to keep the peace or binds himself to be of good behaviour, the court may require that there be included in such bond one or more of the following conditions, namely: (1) a condition that such person must remain under the supervision of some other person named in the bond during such period as may be therein specified; (2) such conditions for securing such supervision as the court may think it desirable to impose; (3) such conditions with respect to residence, employment, associations, abstention from intoxicating liquors or drugs or with respect to any other matter as the court may think it desirable to impose: Syariah Criminal Procedure (Federal Territories) Act 1997 s 130; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 130; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 134; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 130.

- 4 Syariah Criminal Procedure (Federal Territories) Act 1997 s 64(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 64(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 64(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 64(2).
- 5 See [400.510]–[400.512].
- 6 Syariah Criminal Procedure (Federal Territories) Act 1997 s 64(3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 64(3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 64(3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 64(3).

[400.500] Powers of arrest Without prejudice to the provisions of any other written law, any Religious Enforcement Officer¹, police officer or Pegawai Masjid² may, without an order from a judge³ and without a warrant, arrest:

- (1) any person who has been concerned in any seizable offence⁴ or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists that he has been so concerned;
- (2) any person who has committed or attempted to commit in his presence any offence involving a breach of the peace;
- (3) any person against whom a warrant issued under the Act or Enactments is still in force, although such warrant is not in his possession⁵.

When any person in the presence of a Religious Enforcement Officer or police officer commits or is accused of committing a non-seizable⁶ offence and refuses, on the demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name and residence may be ascertained, and he must, within

24 hours of the arrest, exclusive of the time necessary for the journey from the place of arrest, be taken before the nearest judge of the Syariah Subordinate Court⁷ unless before that time his true name and residence are ascertained in which case such person must be forthwith released on his executing a bond for his appearance before a judge if so required⁸.

When any person is taken before a judge of a Syariah Subordinate Court under the above provision⁹, such judge may either require him to execute a bond, with a surety, for his appearance before a judge if so required, or may order him to be detained in custody until he can be tried¹⁰. When any person in the presence of a Religious Enforcement Officer or police officer commits or is accused of committing a non-seizable offence and on the demand of such officer to give his name and residence gives as his residence a place outside the Federal Territories or any of the States as the case may be, he may be arrested by such officer and must be taken forthwith before the nearest judge of a Syariah Subordinate Court who may require him to execute a bond, with a surety, for his appearance before a judge if so required, or may order him to be detained in custody until he can be tried¹¹.

A Religious Enforcement Officer or police officer making an arrest without a warrant must without unnecessary delay and subject to the provisions as to bail or previous release, take or send the person arrested before a Judge of a Syariah Subordinate Court¹². A Religious Enforcement Officer or police officer will not detain in custody a person arrested without a warrant for a longer period than is reasonable¹³ under all the circumstances of the case¹⁴. When the person arrested is brought before the court, the court must immediately hear the charge against him or adjourn the case¹⁵. If the case against the accused is adjourned, the accused must, unless he is released on bail, be remanded in prison or police custody under a remand warrant issued by a judge¹⁶. When any offence is committed in the presence of a judge within the local limits of his jurisdiction, he may himself arrest or authorise any person to arrest the offender and may thereupon, subject to the provisions as to bail, commit the offender to custody¹⁷.

A person arrested pursuant to a warrant of arrest must, subject to the provision as to security¹⁸, be brought before the court without unnecessary delay¹⁹.

When a warrant of arrest is executed outside the local limits of the jurisdiction of the court by which it was issued, the person arrested must, unless security is taken²⁰, be brought before the nearest judge of a Syariah Subordinate Court²¹. The judge must, if the person arrested appears to be the person intended by the court which issued the warrant, direct his removal in custody to the court named in the warrant²². However, if the offence is bailable and the person arrested is ready and willing to give bail to the satisfaction of the court before which he is brought, or a direction has been indorsed²³ on the warrant and such person is ready and willing to give the security required by such direction, the judge must take such bond or security, as the case may be,

and forward the bond to the court named in the warrant²⁴. Nothing in this provision²⁵ will prevent a Religious Enforcement Officer or police officer from taking security²⁶.

When any offence is committed in the presence of a judge within the local limits of his jurisdiction, he may himself arrest or authorise any person to arrest the offender and may thereupon, subject to the provisions as to bail²⁷, commit the offender to custody²⁸. A judge may at any time arrest or authorise the arrest in his presence within the local limits of his jurisdiction of any person for whose arrest he is competent to issue a warrant²⁹.

- 1 As to the appointment of Religious Enforcement Officers see [400.051].
- 2 A *Pegawai Masjid* making an arrest without a warrant must without unnecessary delay hand over the person so arrested to the nearest Religious Enforcement Officer or police officer or, in the absence of such officer, take such person to the nearest police station, and a Religious Enforcement Officer or police officer must re-arrest every person so arrested: Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 20; Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 20; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 20; Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 20.
- 3 As to Syariah court judges see [400.038]–[400.046].
- 4 For the meaning of 'seizable offence' see [400.496] note 9.
- 5 Syariah Criminal Procedure (Federal Territories) Act 1997 s 18(1)(a)–(c); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 18(1)(a)–(c); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 18(1)(a)–(c); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 18(1)(a)–(c).
- 6 For the meaning of 'non-seizable offence' see [400.496] note 5.
- 7 As to Syariah Subordinate Courts see [400.025].
- 8 Syariah Criminal Procedure (Federal Territories) Act 1997 s 19(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 19(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 19(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 19(1).
As to the meaning of 'bond' see [400.506] note 6.
- 9 See text to note 8 above.
- 10 Syariah Criminal Procedure (Federal Territories) Act 1997 s 19(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 19(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 19(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 19(2).
- 11 See the Syariah Criminal Procedure (Federal Territories) Act 1997 s 19(3); the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 19(3); the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 19(3); the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 19(3).
- 12 Syariah Criminal Procedure (Federal Territories) Act 1997 s 22(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 22(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 22(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 22(1).

- 13 Such period will not exceed 24 hours, exclusive of the time necessary for the journey from the place of arrest to the court: Syariah Criminal Procedure (Federal Territories) Act 1997 s 22(3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 22(3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 22(3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 22(3).
- 14 Syariah Criminal Procedure (Federal Territories) Act 1997 s 22(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 22(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 22(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 22(2).
- 15 Syariah Criminal Procedure (Federal Territories) Act 1997 s 22(4); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 22(4); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 22(4); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 22(4).
- 16 Ie under the Sch 2 Form 1: see the Syariah Criminal Procedure (Federal Territories) Act 1997 s 22(5); the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 22(5); the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 22(5); the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 22(5).
- 17 Syariah Criminal Procedure (Federal Territories) Act 1997 s 23; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 23; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 23; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 23.
For the meaning of 'offence' see [400.519] note 1.
- 18 Any court issuing a warrant for the arrest of any person may, in its discretion, direct by indorsement on the warrant that if such person executes a bond with sufficient sureties for his attendance before the court at a specified time and thereafter until otherwise directed by the court, the officer to whom the warrant is directed must take such security and must release such person from custody: Syariah Criminal Procedure (Federal Territories) Act 1997 s 33; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 33; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 33; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 33.
- 19 Syariah Criminal Procedure (Federal Territories) Act 1997 s 36; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 36; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 36; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 36.
- 20 As to the provision under which security is taken see note 18 above.
- 21 Syariah Criminal Procedure (Federal Territories) Act 1997 s 37(1); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 37(1); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 37(1); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 37(1).
As to the territorial jurisdiction of courts generally see [400.029] and following.
- 22 Syariah Criminal Procedure (Federal Territories) Act 1997 s 37(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 37(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 37(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 37(2).
- 23 Ie indorsement as to security: see note 18 above.

- 24 Syariah Criminal Procedure (Federal Territories) Act 1997 s 37(3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 37(3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 37(3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 37(3).
- 25 *Ie* in the Syariah Criminal Procedure (Federal Territories) Act 1997 s 37; the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 37; the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 37; the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 37.
- 26 Syariah Criminal Procedure (Federal Territories) Act 1997 s 37(4); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 37(4); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 37(4); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 37(4).

As to the provision under which security is taken see note 18 above.

- 27 See [400.506].
- 28 Syariah Criminal Procedure (Federal Territories) Act 1997 s 24; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 24; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 24; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 24.
- 29 Syariah Criminal Procedure (Federal Territories) Act 1997 s 25; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 25; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 25; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 25.

[400.501] Powers of detention When a person is arrested, he will be brought to the custody of the investigating officer. Detention pursuant to an arrest and a charge is allowed¹. The statutory provisions also provide for the detention of any person found in a place searched² or where the case against the accused is adjourned³.

1 This is based on the practise of the Prophet Mohamad (SAW), as reported by Imam Ahmad, where the Prophet had detained a man in connection to a charge. Under Islamic law, detention is of two kinds: namely detention of person and detention of properties. The first restrains a person from conducting his ordinary or daily business throughout the detention period. His liberty is restricted to his place of confinement to the extent that he is not even permitted to perform Friday prayer in public. This necessitates utmost care be exercised to prevent wrongful detention in order to avoid hardship being caused to the wrong person.

2 Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 12; Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 12; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 12; Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 12.

3 See [400.500] text to note 16.

[400.502] Powers of search Any person acting under a warrant of arrest or where a Religious Enforcement Officer¹ or police officer has reason to believe the culprit has entered a premise, the owner of the premise must afford all reasonable facilities for the search therein

on demand of the officer². The officer is allowed to break open any door or window of the said premise in case of any refusal of admittance³. Power is also provided to break open any place for purposes of liberation⁴.

A search can be made on persons in the premises searched under warrant⁵. A person must be searched by a person of the same sex with strict regard to decency⁶. Upon the arrest of a person by the Religious Enforcement Officer or police officer under a warrant or without warrant, they may search such person⁷. Every person lawfully in custody, who by reason of incapacity from intoxication, illness, mental disorder or infancy is unable to give a reasonable account of himself, may be searched for the purpose of ascertaining his name and place of residence⁸.

Whenever a Religious Enforcement Officer making an investigation considers that the production of any document or other thing is necessary for the conduct of an investigation into any offence⁹ which he is authorised to investigate and he has reason to believe that:

- (1) the person to whom a summons or order under the particular provision¹⁰ has been or might be issued will not, or would not, produce such document or other thing as directed in the summons or order; or
- (2) such document or other thing is not known to be in the possession of any person,

the officer may search or cause a search to be made for the document or other thing in any place¹¹.

The officer must, if practicable, conduct the search in person¹². If he is unable to conduct the search in person and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search. He must deliver to such subordinate officer an order in writing specifying the document or other thing for which a search is to be made and the place to be searched, and the subordinate officer may thereupon search for the thing in such place¹³.

1 As to the appointment of Religious Enforcement Officers see [400.051].

2 See the Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 11(1); the Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 11(1); the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 11(1); the Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 11(1).

3 See the Syariah Criminal Procedure (Federal Territories) Act 1997 s 11(2); the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 11(2); the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 11(2); the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 11(2).

4 See the Syariah Criminal Procedure (Federal Territories) Act 1997 s 13; the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 13; the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 13; the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 13.

- 5 See the Syariah Criminal Procedure (Federal Territories) Act 1997 s 12; the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 12; the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 12; the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 12.
- 6 See the Syariah Criminal Procedure (Federal Territories) Act 1997 s 14(2); the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 14(2); the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 14(2); the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 14(2).
- 7 See the Syariah Criminal Procedure (Federal Territories) Act 1997 s 15; the Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 15; the Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 15; the Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 15.
- 8 Syariah Criminal Procedure (Federal Territories) Act 1997 s 17; Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 17; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 17; Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 17.
- 9 For the meaning of 'offence' see [400.519] note 1.
- 10 Is the provision under [400.503] note 1.
- 11 Syariah Criminal Procedure (Federal Territories) Act 1997 s 63(1)(a), (b); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 63(1)(a), (b);; Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 63(1)(a), (b); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 63(1)(a), (b);.
- 12 Syariah Criminal Procedure (Federal Territories) Act 1997 s 63(2); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 63(2); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 63(2); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 63(2).
- 13 Syariah Criminal Procedure (Federal Territories) Act 1997 s 63(3); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 63(3); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 63(3); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 63(3).

The provisions as to search warrants will, so far as may be, apply to a search made: Syariah Criminal Procedure (Federal Territories) Act 1997 s 63(4); Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 63(4); Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 63(4); Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 63(4). As to search warrants see [400.503].

[400.503] When search warrants may be issued A search warrant may be issued if:

- (1) any court has reason to believe that a person to whom a summons¹ has been or might have been addressed will not or would not produce the property or document as required;
- (2) such property or document is not known to the court to be in the possession of any person;
- (3) the court considers that the purposes of justice or of any inquiry, trial or other proceedings under the statute will be served by a general search or inspection; or
- (4) the court upon information, and after such inquiry as he thinks necessary, has reasons to believe that an offence has been committed in any place,

and the person to whom such warrant is directed² may search and inspect in accordance therewith³.

The court may, if it thinks fit, specify in the search warrant the particular place or part thereof to which only the search or inspection will extend, and the person charged with the execution of such warrant must then search or inspect only the place or that part so specified⁴.

Where a judge⁵, upon information and after such inquiry as he thinks necessary, believes that any thing upon, by or in respect of which an offence has been committed, or any evidence or thing which is necessary to the conduct of an investigation into any offence, may be found in any place, he may issue a warrant authorising the person to whom it is directed to enter, with such assistance as may be required, and search the place for any such evidence or thing and, if the object searched for is found, to seize it and bring it before the judge issuing the warrant or some other judge⁶.

If a judge has reason to believe that any person is confined under such circumstances that it amounts to an offence, he may issue a search warrant, and the person to whom such warrant is directed may search for the person confined. The person, if found, must be immediately taken before a judge who must make such order as in the circumstances of the case seems proper⁷.

Whenever any place liable to search or inspection is closed, any person residing in or being in charge of such place must, on demand of the officer or other person executing the warrant and on production of the warrant, allow him free ingress thereto and afford all reasonable facilities for a search therein⁸. If ingress to such place cannot be so obtained, the officer or other person executing the warrant may proceed in the manner provided⁹.

A search carried out must strictly comply with the rules of ethics¹⁰. However, in an exceptional case, where consent cannot be obtained, an officer may effect a forced entry¹¹. A list of all articles seized in the course of the search must be prepared by the officer making the search and signed by him¹².

1. In a summons to produce documents or things: *Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560) s 42*; *Syariah Criminal Procedure (State of Malacca) Enactment 2002 (No 9 of 2002) s 42*; *Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 (No 13 of 2003) s 42*; *Syariah Criminal Procedure (State of Selangor) Enactment 2003 (No 3 of 2003) s 42*.

2. A search warrant must ordinarily be directed to the Chief Religious Enforcement Officer and to other Religious Enforcement Officers to be designated by name therein, and all or any of such officers may execute such warrant: *Syariah Criminal Procedure (Federal Territories) Act 1997 s 44(2)*; *Syariah Criminal Procedure (State of Malacca) Enactment 2002 s 44(2)*; *Syariah Criminal Procedure (Negeri Sembilan) Enactment 2003 s 44(2)*; *Syariah Criminal Procedure (State of Selangor) Enactment 2003 s 44(2)*. For the meaning of 'offence' see [400.519] note 1.

The Court issuing a search warrant may direct it to the Inspector General of Police and to other police officers to be designated by name therein, and all or