

No. S 5

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**PETROLEUM MINING (AMENDMENT) ORDER, 2002**

**ARRANGEMENT OF SECTIONS**

**Section**

1. Citation and commencement.
2. Amendment of long title to Chapter 44.
3. Amendment of section 2.
4. Insertion of new sections 2A and 2B.
5. Amendment of section 3.
6. Amendment of section 4.
7. Amendment of section 5.
8. Amendment of section 7.
9. Amendment of section 8.
10. Amendment of section 11.
11. Amendment of section 12.

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**PETROLEUM MINING (AMENDMENT) ORDER, 2002**

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**Citation and commencement.**

1. This Order may be cited as the Petroleum Mining (Amendment) Order, 2002 and shall commence on the 5th. January, 2002.

**Amendment of long title to Chapter 44.**

2. The long title to the Petroleum Mining Act, in this Order referred to as the Act, is amended by deleting "petroleum mining" and by substituting "exploration, prospecting and mining for petroleum" therefor.

**Amendment of section 2.**

3. Section 2 of the Act is amended by —

(a) inserting the following 3 new definitions immediately before the definition of "State Land" —

""Company" means the Brunei National Petroleum Company Sendirian Berhad referred to in the Brunei National Petroleum Company Sendirian Berhad Order, 2002;

"designated area" has the meaning provided in the Brunei National Petroleum Company Sendirian Berhad Order, 2002;

"mineral rights" means the exclusive authority to explore, prospect and mine for petroleum within any State Land;"

(b) by deleting the definition of "petroleum" and by substituting the following new definition therefor —

""petroleum" means any mineral oil or relative hydro-carbon and natural gas or casinghead petroleum spirit existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;"

(c) adding the following 2 new definitions —

"petroleum mining Agreement" means an agreement with regard to exploration, prospecting and mining for petroleum or any of them that the State Party enters into under this Act. For the avoidance of doubt, petroleum mining Agreements shall include, without limitation, any licences, leases, concessions, production sharing agreements and service agreements with regard to exploration, prospecting and mining for petroleum or any of them entered into by the State Party in accordance with this Act;

"State Party" means —

(a) His Majesty in Council;

(b) the Government or any of its lawful authorities (including, without limitation, the Clerk to the Council of Ministers or a Minister) designated by His Majesty to act on behalf of His Majesty in Council; or

(c) as empowered by His Majesty in Council in respect of any designated area under the Brunei National Petroleum Company Sendirian Berhad Order, 2002, the Company or any of the Company's representatives acting on its behalf."

**Insertion of new sections 2A and 2B.**

4. The Act is amended by inserting the following 2 new sections immediately after section 2 —

**"Ownership of petroleum.**

2A. The entire ownership of any petroleum extracted from any State Land shall vest in the holder of mineral rights unless otherwise expressly provided in any petroleum mining Agreement.

**Mineral rights.**

2B. Mineral rights shall not be granted or otherwise transferred or assigned, unless expressly provided in any other written law or in any petroleum mining Agreement."

**Amendment of section 3.**

5. Section 3 of the Act is amended, in subsection (1).

(a) by deleting "or mining" from the second line and by substituting "and mining or any of them" therefor;

(b) by deleting "or mining" from the fourth line and by substituting "and mining or any of them" therefor;

**Amendment of section 4.**

6. Section 4 of the Act is amended by deleting —

(a) "Government" from the fourth and sixth lines and by substituting "State Party" therefor;

(b) "for or of the mining of petroleum," from the fourth line and by substituting", prospecting for and the mining of petroleum or any of them" therefor.

**Amendment of section 5.**

7. Section 5 of the Act is amended by deleting "Government" from the second and third lines and by substituting "State Party" therefor.

**Amendment of section 7.**

8. Section 7 of the Act is amended by deleting "His Majesty in Council" from the 3 places where it appears and by substituting "State Party" therefor.

**Amendment of section 8.**

9. Section 8 of the Act is amended —

(a) in subsection (1), by deleting "His Majesty in Council" from the first and antepenultimate lines and by substituting "State Party" therefor;

(b) in subsection (2), by inserting "in Council" immediately after "Majesty" in the first line;

(c) in subsection (2), by deleting "His Majesty in Council" from the penultimate line and by substituting "State Party" therefor.

**Amendment of section 11.**

10. Section 11 of the Act is amended by substituting a colon for the fullstop at the end and by adding the following —

"Provided that any petroleum mining Agreement and any collateral agreement or agreements in respect of any designated area shall be executed for and on behalf of the Company by a duly authorised representative of the Company."

**Amendment of section 12.**

**11.** Section 12 of the Act is amended by deleting "Minister" from the first line and by substituting "State Party" therefor.

Made this 30th. day of Syawal, 1422 Hijriah corresponding to the 14th. day of January, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM

No. S 6

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**BRUNEI NATIONAL PETROLEUM COMPANY SENDIRIAN BERHAD ORDER,  
2002**

ARRANGEMENT OF SECTIONS

**Section**

**PART I**

**PRELIMINARY**

1. Citation, commencement and long title.
2. Interpretation.

**PART II**

**MINERAL RIGHTS**

3. Mineral rights within designated areas granted to Company.
4. Guarantees of validity of licences, leases and petroleum mining Agreements.

**PART III**

**INCORPORATION AND ORGANISATION OF COMPANY**

5. Incorporation of Company.
6. Objects, powers and duties of Company.
7. Structure and functions of Company.
8. General meeting of shareholders.
9. Board.
10. Chief Executive Officer of Company.
11. Capital of Company.

12. Financial provisions.
13. Administrative control and supervision.
14. Indemnity of members of Board and employees of Company.
15. Delegation.
16. Rules.

**FIRST SCHEDULE** — Form of decision under section 3(2)

**SECOND SCHEDULE** — Bodies corporate subject to section 12(5)

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**BRUNEI NATIONAL PETROLEUM COMPANY SENDIRIAN BERHAD ORDER,  
2002**

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**PART I**

**PRELIMINARY**

**Citation, commencement and long title.**

1. (1) This Order may be cited as the Brunei National Petroleum Company Sendirian Berhad Order, 2002 and shall commence on the 5th. January, 2002.

(2) The long title of this Order is "An Order to make provision for the incorporation of the Brunei National Petroleum Company Sendirian Berhad and for other purposes connected therewith".

**Interpretation.**

2. In this Order, unless the context otherwise requires —

"Board" means the Board of the Company set up under subsection (2) of section 9;

"Chief Executive Officer" means the Chief Executive Officer of the Company appointed under section 10;

"commercial income" means the income of the Company referred to in subsection (2) of section 12;

"Company" means the company incorporated under section 5;

"designated area" has the meaning provided by subsection (1) of section 3;

"mineral rights" has the same meaning as in the Petroleum Mining Act (Chapter 44);

"person" has the same meaning as in the Petroleum Mining Act (Chapter 44);

"petroleum" has the same meaning as in the Petroleum Mining Act (Chapter 44);

"petroleum mining Agreement" has the same meaning as in the Petroleum Mining Act (Chapter 44);



"regulatory income" means the income of the Company referred to in subsection (3) of section 12;

"State Land" has the same meaning as in the Petroleum Mining Act (Chapter 44);

"State Party" has the same meaning as in the Petroleum Mining Act (Chapter 44).

## **PART II**

### **MINERAL RIGHTS**

#### **Mineral rights within designated areas granted to Company.**

3. (1) His Majesty the Sultan and Yang Di-Pertuan in Council hereby grants to the Company all mineral rights within such area of State Land (in this Order referred to as a designated area) as His Majesty the Sultan and Yang Di-Pertuan in Council may from time to time allocate.

(2) The granting of mineral rights under subsection (1) shall take effect upon the date of the decision of His Majesty the Sultan and Yang Di-Pertuan in Council issued in the form set out in the First Schedule.

(3) Once granted to the Company in accordance with subsections (1) and (2), mineral rights shall remain so granted to the Company until His Majesty the Sultan and Yang Di-Pertuan in Council has revoked in writing the decision referred to in subsection (2) but, in any case, for the full duration of and subject to any petroleum mining Agreement that the Company has entered into as State Party with any third party.

#### **Guarantees of validity of licences, leases and petroleum mining Agreements.**

4. (1) Nothing in this Order shall invalidate any exploration licence, prospecting licence, mining lease or petroleum mining Agreement issued or entered into by His Majesty the Sultan and Yang Di-Pertuan in Council and any lawful authority of the Government, or by either of them, before the date of commencement of this Order or abrogate any of the rights or privileges conferred thereby:

Provided that every such right or privilege shall be limited to the extent prescribed by such licence, lease or petroleum mining Agreement.

(2) All rights, interests, benefits, privileges, duties, undertakings and obligations (other than those of the State Party under any petroleum mining Agreement) owned, held and assumed before the date of commencement of this Order by His Majesty the Sultan and Yang Di-Pertuan in Council and any lawful authority of the Government, or by either of them, (including, without limitation, the Prime Minister Corporation) in and in relation to each of the bodies corporate listed in the Second Schedule are without further assurance hereby transferred to and vested in the Company.

(3) Any assignment or transfer of rights or duties of His Majesty the Sultan and Yang Di-Pertuan in Council and any lawful authority of the Government, or of either of them, under the conditions of licences, leases or petroleum mining Agreements to the Company shall in no way prejudice the validity of any such licences, leases and petroleum mining Agreements.

### **PART III**

#### **INCORPORATION AND ORGANISATION OF COMPANY**

##### **Incorporation of Company.**

5. (1) The Prime Minister Corporation is hereby authorised to incorporate a private company limited by shares under the provisions of the Companies Act (Chapter 39), to be called the "Brunei National Petroleum Company Sendirian Berhad", in Malay "Syarikat Petroleum Kebangsaan Brunei Sendirian Berhad" or by the short form "Petroleum BRUNEI", which company, when incorporated, shall be subject to the provisions of this Order and of the Companies Act to the extent that the provisions of that Act are not inconsistent with the provisions of this Order, and where any such inconsistency exists the provisions of this Order shall prevail.

(2) No person other than the Prime Minister Corporation shall become or remain a member of the Company.

##### **Objects, powers and duties of Company.**

6. (1) The objects of the Company shall be such as the Company may choose to exercise under the Companies Act (Chapter 39) to the extent that the provisions of that Act are not inconsistent with the provisions of this Order, and where any such inconsistency exists the provisions of this Order shall prevail.

(2) In order to achieve its objects, the Company shall exercise such powers and perform such duties as are mentioned in this Order and such other powers and duties as it may exercise and perform under the Companies Act to the extent that the provisions of that Act are not inconsistent with the provisions of this Order, and where any such inconsistency exists the provisions of this Order shall prevail. The powers and duties of the Company mentioned in this Order shall not be granted or otherwise transferred or assigned to any other person, unless the Order provides otherwise.

##### **Structure and functions of Company.**

7. (1) The Company shall be structured in accordance with the Companies Act (Chapter 39) to the extent that the provisions of that Act are not inconsistent with the provisions of this Order, and where any such inconsistency exists the provisions of this Order shall prevail.

(2) The Company is hereby required to perform the following regulatory and advisory functions —

(a) acting as a State Party in the negotiation, conclusion and implementation of a petroleum mining Agreement in respect of any designated area;

(b) enforcing the provisions of this Order and of any rules made under section 16;

(c) informing and advising His Majesty the Sultan and Yang Di-Pertuan of the matters referred to in subsection (3) of section 13;

(d) carrying out such other regulatory functions as His Majesty the Sultan and Yang Di-Pertuan in Council or any lawful authority of the Government may delegate to it under subsection (1) of section 15.

(3) The Company may in its discretion engage in any activities, other than those referred to in subsection (2), in accordance with the Companies Act to the extent that the provisions of that Act are not inconsistent with the provisions of this Order, and where any such inconsistency exists the provisions of this Order shall prevail.

**General meeting of shareholders.**

8. The Prime Minister Corporation shall assume the responsibility of and shall act at general meetings of shareholders of the Company in accordance with the Companies Act (Chapter 39) to the extent that the provisions of that Act are not inconsistent with the provisions of this Order, and where any such inconsistency exists the provisions of this Order shall prevail.

**Board.**

9. (1) In accordance with the Companies Act (Chapter 39), to the extent that the provisions of that Act are not inconsistent with the provisions of this Order (and where any such inconsistency exists the provisions of this Order shall prevail), the Company shall be directed and managed by a Board presided over by a chairman.

(2) The Board shall consist of members appointed in accordance with the Companies Act to the extent that the provisions of that Act are not inconsistent with the provisions of this Order, and where any such inconsistency exists the provisions of this Order shall prevail. The Chief Executive Officer shall be a member of the Board. None of the members of the Board shall be subject to sections 139, 140 and 141 or any associated requirements of the Companies Act.

(3) The Board shall be responsible for —

(a) any issue referred to the Board in accordance with the Companies Act to the extent that the provisions of that Act are not inconsistent with the provisions of this

Order, and where any such inconsistency exists the provisions of this Order shall prevail;

(b) informing and advising His Majesty the Sultan and Yang Di-Pertuan of the matters referred to in subsection (3) of section 13.

**Chief Executive Officer of Company.**

**10.** (1) In accordance with the Companies Act (Chapter 39) to the extent that the provisions of that Act are not inconsistent with the provisions of this Order (and where any such inconsistency exists the provisions of this Order shall prevail), execution of the policy and day-to-day management of the Company shall be the responsibility of the Chief Executive Officer who shall be accountable to the Board.

(2) His Majesty the Sultan and Yang Di-Pertuan shall appoint the Chief Executive Officer after consultation with the Board, but he shall not be obliged to act in accordance with any advice given by the Board at such consultation.

(3) The Chief Executive Officer shall report to the Board and shall not be subject to any control or direction other than by the Board, but subject always to subsection (7) of section 12 and subsection (1) of section 13.

**Capital of Company.**

**11.** (1) The paid up share capital of the Company shall be funded from the Consolidated Fund.

(2) The Prime Minister Corporation shall hold every share representing the capital of the Company.

(3) The shares of the Company shall not be transferable.

**Financial provisions.**

**12.** (1) Subject to subsections (4) and (5), the income of the Company shall consist of commercial income and regulatory income.

(2) The commercial income shall consist of all receipts, returns and revenues that the Company receives as a result of activities conducted as provided in subsection (3) of section 7.

(3) The regulatory income shall consist of all fees, returns and payments that the Company receives in the exercise of functions as provided in subsection (2) of section 7.

(4) The Company shall be entitled to retain —

(a) all of the commercial income, subject only to paragraph (b) of subsection (5);

(b) a share of up to 5 per cent (as may be decided by the Board) of the part of regulatory income representing the profit share of produced petroleum (or its value) to which the Company becomes entitled as State Party under a petroleum mining Agreement, notwithstanding any provision of this Order or of any other written law;

(c) the part of the regulatory income representing the totality of research and development or other similar contributions to which the Company becomes entitled as State Party under a petroleum mining Agreement.

(5) The following income of the Company shall be the property of Brunei Darussalam and shall be transferred to the Consolidated Fund —

(a) all of the regulatory income subject to paragraphs (b) and (c) of subsection (4) and notwithstanding any other provision of this Order or of any other written law;

(b) a share equal to 95 per cent of the part of commercial income representing the dividends and other revenues directly resulting from the Company's participation in the bodies corporate referred to in the Second Schedule, notwithstanding any provision of this Order or of any other written law.

(6) Notwithstanding any provision of this Order, all amounts of taxes, royalties and other fiscal levies payable under the terms of a petroleum mining Agreement or otherwise shall be paid into the Consolidated Fund.

(7) Subject to subsection (8), His Majesty the Sultan and Yang Di-Pertuan in Council shall have the right to decline a dividend as proposed by the Board and to direct the Company in writing to pay such amount of dividend as he considers appropriate in the public interest. Subject only to subsection (1) of section 13 and notwithstanding any other provision of this Order or of any other written law, any direction so issued shall be binding on the Company, its directors, officers and other employees.

(8) When issuing any direction to the Company, as provided in subsection (7) of this section or subsection (1) of section 13, His Majesty the Sultan and Yang Di-Pertuan in Council shall abide by the requirements of the Company's annual budgets, as approved by the Board, and by the Company's binding commitments to third parties.

**Administrative control and supervision.**

**13.** (1) Subject to subsection (8) of section 12, the Company shall be subject to the control and direction of His Majesty the Sultan and Yang Di-Pertuan in Council who may from time to time issue such directions in writing as he considers appropriate. Notwithstanding any provision of this Order or of any other written law, any direction so issued shall be binding on the Company, its directors, officers and other employees.

(2) His Majesty the Sultan and Yang Di-Pertuan in Council shall not be deemed to be a director for the purposes of section 260 or of any other provision of the Companies Act (Chapter 39) by virtue only of subsection (7) of section 12 and subsection (1) of this section.

(3) His Majesty the Sultan and Yang Di-Pertuan shall be entitled to receive from the Company information and advice on the state of the petroleum sector in Brunei Darussalam and internationally, on policies and their implementation in all matters pertaining to petroleum and petroleum products and on measures of control and protection of investments in the national petroleum sector. This advisory function shall be the responsibility of the Board.

(4) His Majesty the Sultan and Yang Di-Pertuan in Council shall have the right at any time to initiate an inquiry into the activities of the Company. Such inquiry shall be conducted by the Auditor General. While conducting such inquiry, the Auditor General shall be entitled to have immediate and unrestricted access to all records, documents and other sources of information available within or with the sanction of the Company.

**Indemnity of members of Board and employees of Company.**

14. The Company shall indemnify every member of the Board, the Chief Executive Officer, officers and other employees against any liability and expenses incurred by them or by any of them in defending any proceedings, whether civil or criminal, if such proceedings are brought against them in connection with the proper discharge of their respective duties and functions in the capacity as a member of the Board, Chief Executive Officer, or such officer or employee.

**Delegation.**

15. (1) Subject to subsection (2), His Majesty the Sultan and Yang Di-Pertuan in Council or any lawful authority of the Government may by notification in the *Gazette* delegate to the Company, subject to such conditions as may be imposed in such notification, the exercise of any of their respective powers or the performance of any of their respective duties, in addition to the powers and duties already vested in the Company by this Order.

(2) His Majesty the Sultan and Yang Di-Pertuan in Council may by notification in the *Gazette* delegate, subject to such conditions as may be imposed in such notification, the exercise of any powers or the performance of any duties under this Order, other than the powers and duties under section 3.

**Rules.**

16. His Majesty the Sultan and Yang Di-Pertuan in Council may make rules for carrying out the provisions of this Order, and, without prejudice to the generality of the foregoing, and providing for —

(a) the appointment, duties, privileges and powers of persons to enforce any provision of this Order;

(b) the prescribing of fees to be paid in respect of anything to be done in accordance with any provision of this Order.

**FIRST SCHEDULE**

(section 3(2))

**DECISION OF HIS MAJESTY THE SULTAN AND YANG DI-PERTUAN IN COUNCIL CONCERNING ALLOCATION OF DESIGNATED AREA TO THE BRUNEI NATIONAL PETROLEUM COMPANY SENDIRIAN BERHAD**

His Majesty the Sultan and Yang Di-Pertuan in Council, in exercise of the power conferred by section 3 of the Brunei National Petroleum Company Sendirian Berhad Order, 2002, and having reviewed the Petroleum Mining Act (Chapter 44), has resolved on the date hereof to allocate to the Brunei Darussalam National Petroleum Company Sendirian Berhad the area ..... having the following co-ordinates —

as a designated area for the purpose of subsection (1) of section 3 of the Brunei Darussalam National Petroleum Company Sendirian Berhad Order, 2002, and to publish this decision in the *Gazette*.

Made this ..... day of ..... 14 ..... Hijriah corresponding to the ..... day of ..... 20 .... at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**CLERK TO THE COUNCIL OF MINISTERS.**

**SECOND SCHEDULE**

(section 12(5))

**BODIES CORPORATE SUBJECT TO SECTION 12(5)**

Brunei Gas Carriers Sendirian Berhad  
Brunei LNG Sendirian Berhad  
Brunei Shell Marketing Company Sendirian Berhad  
Brunei Shell Petroleum Company Sendirian Berhad  
Brunei Shell Tankers Sendirian Berhad

Made this 30th. day of Syawal, 1422 Hijriah corresponding to the 14th. day of January, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM**

No. S 7

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**MISUSE OF DRUGS ACT (AMENDMENT) ORDER, 2002**

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**Citation.**

1. This Order may be cited as the Misuse of Drugs Act (Amendment) Order, 2002.

**Amendment of Second Schedule to Chapter 27.**

2. The Second Schedule to the Misuse of Drugs Act is amended —
  - (a) by deleting, against section 3 in the first column, the item in the second column relating to "Unauthorised traffic in methylamphetamine" and by substituting the following item therefor —

"Unauthorised traffic in methylamphetamine, where the quantity is —

    - (a) not less than 20 grammes and not more than 50 grammes
    - (b) more than 50 grammes";
  - (b) by deleting, against section 3A in the first column, the item in the second column relating to "Unauthorised possession of controlled drugs for the purpose of trafficking therein, containing such quantity of methylamphetamine" and by substituting the following item therefor —

"Unauthorised possession of controlled drugs for the purpose of trafficking therein, containing such quantity of methylamphetamine being —

    - (a) not less than 40 grammes and not more than 100 grammes
    - (b) more than 100 grammes";
  - (c) by deleting, against section 5 in the first column, the item in the second column relating to "Unauthorised import or export of methylamphetamine" and by substituting the following item therefor —

"Unauthorised import or export of methylamphetamine, where the quantity is —



BRUNEI DARUSSALAM GOVERNMENT GAZETTE

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- (a) not less than 20 grammes and not more than 50 grammes
- (b) more than 50 grammes".

Made this 19th. day of Zulkaedah, 1422 Hijriah corresponding to the 2nd. day of February, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM

No. S 8

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3) and 5))**

**SUPPLEMENTARY SUPPLY (2001) (NO. 2) ORDER, 2001**

WHEREAS His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam by a Proclamation of Emergency dated the 20th. day of May, 2000 has declared a state of emergency in the whole State;

AND WHEREAS it is provided by subsection (3) of section 83 of the Constitution of Brunei Darussalam, that when a Proclamation of Emergency has been made and for so long as such Proclamation is in force, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam may make any Orders whatsoever which he considers desirable in the public interest;

AND WHEREAS it is provided by subsection (5) of section 83 of the Constitution of Brunei Darussalam, that such powers shall include the power to make such financial provisions as may be necessary during the period of the emergency including provision for the public service;

AND WHEREAS the sum of four thousand, ninety two million, five hundred and sixteen thousand, one hundred and ninety dollars (\$4,092,516,190.00) has been provided by the Supply (2001) Order, 2000;

AND WHEREAS the sum of eight million, eight hundred and sixty four thousand, seven hundred eighty two dollars and forty six cents (\$8,864,782.46) has been provided by the Supplementary Supply (2001) (No. 1) Order, 2001;

AND WHEREAS it is now requisite to make a further provision of twenty two million, nine hundred and sixty eight thousand, nine hundred and twenty one dollars and fifty eight cents (\$22,968,921.58);

NOW, THEREFORE, in the exercise of the powers conferred on him by subsections (3) and (5) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam has made the following Order —

**Citation.**

1. This Order may be cited as the Supplementary Supply (2001) (No. 2) Order, 2001.

**Further expenditure for the year 2001, appropriation and replacement of amount advanced from Contingencies Fund.**

2. (1) The issue of the sum not exceeding twenty two million, nine hundred and sixty eight thousand, nine hundred and twenty one dollars and fifty eight cents (\$22,968,921.58)

BRUNEI DARUSSALAM GOVERNMENT GAZETTE

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out of the Consolidated Fund for expenditure on the various services specified in the Schedule for the year 2001, not provided or not fully provided for by the Supply (2001) Order, 2001 and Supplementary Supply (2001) (No. 1) Order, 2001 is hereby authorised.

(2) The said sum is appropriated for the purposes specified in the Schedule.

(3) The replacement out of the amount shown in the third column of the amount shown in the fourth column of the Schedule being the amount advanced from the Contingencies Fund created under subsection (1) of section 10 of the Constitution (Financial Procedure) Order, 1959, is hereby authorised.

**SCHEDULE**

[1]	[2]	[3]	[4]
Head	Title	Total Appropriation to Head	Replacement of Advances from Contingencies Fund
		\$	\$
	PRIME MINISTER'S DEPARTMENT		
S.A12	Royal Brunei Police	\$2,694,500.00	\$2,694,500.00
	MINISTRY OF FINANCE		
S.D1	Ministry of Finance	\$1,055,192.00	\$1,055,192.00
S.D52	Miscellaneous Services	\$834,280.00	\$834,280.00
	MINISTRY OF HOME AFFAIRS		
S.E10	Immigration and National Registration	\$148,000.00	\$148,000.00
S.E11	Prisons Department	\$281,378.94	\$281,378.94

**SCHEDULE (Continued)**

[1]	[2]	[3]	[4]
<b>Head</b>	<b>Title</b>	<b>Total Appropriation to Head</b>	<b>Replacement of Advances from Contingencies Fund</b>
		\$	\$
	MINISTRY OF HEALTH		
S.M2	Medical Services Department	\$16,143,840.34	\$16,143,840.34
	MINISTRY OF COMMUNICATIONS		
S.N7	Telecommunications Depart- ment	\$1,811,730.30	\$1,811,730.30
		<u>\$22,968,921.58</u>	<u>\$22,968,921.58</u>

Made this 30th. day of Syawal, 1422 Hijriah corresponding to the 14th. day of January, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM

No. S 10

**LAW REVISION ACT  
(CHAPTER 1)**

**LAW REVISION ORDER NO. 1 OF 2002**

In exercise of the powers conferred by subsections (1) and (2) of section 5 of the Law Revision Act, the Attorney General hereby makes the following Order —

**Citation and commencement.**

1. This Order may be cited as the Law Revision Order No. 1 of 2002 and shall commence on the 15th. March, 2002.

**Substitution of pages.**

2. The removal from the Laws of the pages specified in the third column of Part A of the Schedule bearing on the face thereof or overleaf the legend specified in the fourth column thereof with reference to the written laws specified in the first and second columns thereof is hereby directed, and the inclusion in the Laws, in respective substitution of the pages so directed to be removed, of the pages specified in the third column of Part B of the Schedule bearing on the face thereof or overleaf the legend specified in the fourth column thereof with reference to those written laws is hereby authorised.

**SCHEDULE**

(paragraph 2)

**PART A**

Chapter	Title	Pages	Legend
17	Immigration Act	1 to 50	B.L.R.O. 1/1986
	Immigration Act, subsidiary legislation	51 to 118	B.L.R.O. 1/1984
46	Forest Act	1 to 54	B.L.R.O. 1/1984
108	Evidence Act	1 to 94	B.L.R.O. 1/1984

**PART B**

Chapter	Title	Pages	Legend
17	Immigration Act	1 to 48	B.L.R.O. 1/2002
	Immigration Regulations	1 to 60	B.L.R.O. 1/2002
	Immigration (Residence Permit) Regulations	1 to 6	B.L.R.O. 1/2002
	Immigration (Prohibition of Entry) Order	1 to 6	B.L.R.O. 1/2002
	Immigration (Exemption) Order	1 to 4	B.L.R.O. 1/2002
	Immigration Control Posts (No. 1) Notification	1 to 4	B.L.R.O. 1/2002
	Immigration Control Post (No. 2) Notification	1 to 4	B.L.R.O. 1/2002
	Immigration Control Post (No. 3) Notification	1 to 4	B.L.R.O. 1/2002
	Immigration Control Post (No. 4) Notification	1 to 4	B.L.R.O. 1/2002
46	Forest Act	1 to 28	B.L.R.O. 1/2002
	Forest Rules	1 to 26	B.L.R.O. 1/2002
108	Evidence Act	1 to 102	B.L.R.O. 1/2002

Made this 19th. day of Zulhijjah, 1422 Hijriah corresponding to the 4th. day of March, 2002.

DATO PADUKA AWANG HAJI KIFRAWI BIN  
DATO PADUKA HAJI KIFLI  
ATTORNEY GENERAL,  
BRUNEI DARUSSALAM.

No. S 11

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3) and 5))**

**SUPPLEMENTARY SUPPLY (2001) (NO. 3) ORDER, 2002**

WHEREAS His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam by a Proclamation of Emergency dated the 20th. day of May, 2000 has declared a state of emergency in the whole State;

AND WHEREAS it is provided by subsection (3) of section 83 of the Constitution of Brunei Darussalam, that when a Proclamation of Emergency has been made and for so long as such Proclamation is in force, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam may make any Orders whatsoever which he considers desirable in the public interest;

AND WHEREAS it is provided by subsection (5) of section 83 of the Constitution of Brunei Darussalam, that such powers shall include the power to make such financial provisions as may be necessary during the period of the emergency including provision for the public service;

AND WHEREAS the sum of four thousand, ninety two million, five hundred and sixteen thousand, one hundred and ninety dollars (\$4,092,516,190.00) has been provided by the Supply (2001) Order, 2000;

AND WHEREAS the sum of eight million, eight hundred and sixty four thousand, seven hundred eighty two dollars and forty six cents (\$8,864,782.46) has been provided by the Supplementary Supply (2001) (No. 1) Order, 2001;

AND WHEREAS the sum of twenty two million, nine hundred and sixty eight thousand, nine hundred and twenty one dollars and fifty eight cents (\$22,968,921.58) has been provided by the Supplementary Supply (2001) (No. 2) Order, 2001;

AND WHEREAS it is now requisite to make a further provision of one million, nine hundred and nine thousand, seven hundred and four dollars and twenty six cents (\$1,909,704.26);

NOW, THEREFORE, in the exercise of the powers conferred on him by subsections (3) and (5) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam has made the following Order —

**Citation.**

1. This Order may be cited as the Supplementary Supply (2001) (No. 3) Order, 2002.

**Further expenditure for the year 2001, appropriation and replacement of amount advanced from Contingencies Fund.**

2. (1) The issue of the sum not exceeding one million, nine hundred and nine thousand, seven hundred and four dollars and twenty six cents (\$1,909,704.26) out of the Consolidated Fund for expenditure on the various services specified in the Schedule for the year 2001, not provided or not fully provided for by the Supply (2001) Order, 2001, Supplementary Supply (2001) (No. 1) Order, 2001 and Supplementary Supply (2001) (No. 2) Order, 2001 is hereby authorised.

(2) The said sum is appropriated for the purposes specified in the Schedule.

(3) The replacement out of the amount shown in the third column of the amount shown in the fourth column of the Schedule being the amount advanced from the Contingencies Fund created under subsection (1) of section 10 of the Constitution (Financial Procedure) Order, 1959, is hereby authorised.

**SCHEDULE**

[1]	[2]	[3]	[4]
Head	Title	Total Appropriation to Head	Replacement of Advances from Contingencies Fund
		\$	\$
	MINISTRY OF FOREIGN AFFAIRS		
S.C1	Ministry of Foreign Affairs Department	\$1,105,012.00	\$1,105,012.00
	MINISTRY OF FINANCE		
S.D52	Miscellaneous Services	\$300,000.00	\$300,000.00



1st. APRIL, 2002

[1]	[2]	[3]	[4]
Head	Title	Total Appropriation to Head	Replacement of Advances from Contingencies Fund
		\$	\$
	MINISTRY OF COMMUNICATIONS		
S.N7	Telecommunications Department	\$504,692.26	\$504,692.26
		<u>\$1,909,704.26</u>	<u>\$1,909,704.26</u>

Made this 5th. day of Muharam, 1423 Hijriah corresponding to the 19th. day of March, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM

**No. S 16**

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**BANKING (AMENDMENT) ORDER, 2002**

**ARRANGEMENT OF SECTIONS**

**Section**

- 1.** Citation.
- 2.** Amendment of section 2 of Chapter 95.
- 3.** Insertion of new sections 13A, 13B, 13C, 13D and 13E.
- 4.** Substitution of section 14.
- 5.** Insertion of new sections 14A to 14N.
- 6.** Amendment of section 15.

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**BANKING (AMENDMENT) ORDER, 2002**

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**Citation.**

1. This Order may be cited as the Banking (Amendment) Order, 2002.

**Amendment of section 2 of Chapter 95.**

2. Section 2 of the Banking Act, in this Order referred to as the Act, is amended, in subsection (1), by inserting the following definitions in the appropriate alphabetical order —

“advertisement” means the disseminating or conveying of information, invitation or solicitation by any means or in any form, including by means of —

- (a) publication in a newspaper, magazine, journal or other periodical;
- (b) display of a poster or notice;
- (c) a circular, handbill, brochure, pamphlet, book or other document;
- (d) a letter addressed to an individual or a body;
- (e) a photograph or cinematograph film; and
- (f) sound broadcasting, television, the Internet or other electronic media;”;

“deposit” means a sum of money or any precious metal, any precious stone or any article which is comprised, in part or in whole, of any precious metal or precious stone, and any other article or thing as may be prescribed by the Minister, received, paid or delivered on terms —

(a) under which it will be repaid or returned, with or without interest or at a premium or discount; or

(b) under which it is repayable or returnable, either wholly or in part, with any consideration in money or money’s worth,

and such repayment or return being either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment or delivery and the person receiving it, regardless whether the transaction is described as a loan, an advance, an

investment, a saving, a sale or a sale and repurchase, but does not include money paid *bona fide* —

- (i) by way of an advance or part payment or delivery under a contract for the sale, hire or other provision of property or services, and repayable or returnable only in the event that the property or services is not or are not in fact sold, hired or otherwise provided;
- (ii) by way of security for the performance of a contract or by way of security in respect of any loss which may result from the non-performance of a contract;
- (iii) without prejudice to sub-paragraph (ii), by way of security for the delivery up or return of any property, whether in a particular state of repair or otherwise; or
- (iv) in such other circumstances or to or by such other person as the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, specify by notification published in the *Gazette*;

“document” includes —

(a) any letter, figure, mark, symbol, signal, inscription, writing, sign, caricature, picture, drawing or other representation in any form; and

(b) any visual recording (whether of still or moving images), any sound recording, or any electronic, magnetic, mechanical or other recording, whatsoever and howsoever made,

on any substance, material, thing or article;”;

“investigating officer” means a person appointed under subsection (1) of section 14;”.

#### **Insertion of new sections 13A, 13B, 13C, 13D and 13E.**

3. The Act is amended by inserting the following 5 new sections immediately after section 13 —

**“Receiving, taking or acceptance of deposits prohibited, except under and in accordance with a licence granted under section 4(1).**

**13A.** (1) Subject to section 13D, no person shall receive, take or accept deposits except under and in accordance with a licence granted under sub-section (1) of section 4 to carry on banking business.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000,000, imprisonment for a term not

exceeding 10 years or both, and in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day during which the offence continues after conviction.

**Unsolicited calls.**

**13B.** (1) Subject to section 13D, no person shall, without the written consent of the Minister, make an unsolicited call —

(a) to solicit or procure the making of any deposit; or

(b) to enter into or offer to enter into, any agreement with a view to the acceptance of any deposit,

from any person in Brunei Darussalam or outside Brunei Darussalam.

(2) The consent of the Minister under subsection (1) may be given to such person or such classes, categories or descriptions of persons, and be made subject to such terms and conditions, including a condition requiring the disclosure of such information to the persons on whom unsolicited calls are made, as may be set out in the consent.

(3) In this section —

“Minister” includes the Deputy Minister responsible for finance;

“unsolicited call” includes a personal visit or verbal communication made without express invitation.

(4) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000,000, imprisonment for a term not exceeding 10 years or both.

**Advertisements for deposits.**

**13C.** (1) Subject to section 13D and to subsection (2), no person other than a licensed bank shall issue, publish or otherwise facilitate any person to issue or publish an advertisement containing —

(a) any invitation to make a deposit or to enter into or offer to enter into any agreement to make a deposit; or

(b) any information which is intended or might reasonably be presumed to be intended to lead directly or indirectly to the making of a deposit.

(2) Subsection (1) does not apply to the publication by any person of any such advertisement for or on behalf of a licensed bank.

(3) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 5 years or both.

**Non-application of sections 13A, 13B and 13C.**

**13D.** Sections 13A, 13B and 13C do not apply to —

- (a) the Government;
- (b) any person licensed to carry on the business of a moneylender under the Moneylenders Act (Chapter 62);
- (c) any person licensed to carry on the business of a pawnbroker under the Pawnbrokers Act (Chapter 63);
- (d) any co-operative society registered under the Co-operative Societies Act (Chapter 84);
- (e) any finance company licensed under the Finance Companies Act (Chapter 89);
- (f) the Tabung Amanah Islam Brunei Corporation established under the Perbadanan Tabung Amanah Islam Brunei Act (Chapter 163);
- (g) any Islamic bank licensed under the Islamic Banking Act (Chapter 168);
- (h) any person carrying on the business of insurance with the approval of the Minister;
- (i) a statutory body which is authorised under any written law to accept, receive or take deposit; and
- (j) any person related or associated with any person referred to in paragraphs (a) to (i).

**Fraudulent inducement in relation to deposits.**

**13E.** Any person who —

- (a) makes, publishes or facilitates the making or publication of, any statement, promise or forecast which he knows to be misleading, false or deceptive;
- (b) dishonestly conceals any material fact; or

(c) recklessly makes or publishes (dishonestly or otherwise), or recklessly facilitates the making or publication (dishonestly or otherwise) of, a statement, promise or forecast which is misleading, false or deceptive,

when he makes, publishes or facilitates the making or publication of such statement, promise or forecast or conceals such material fact, for the purpose of inducing, or who is reckless as to whether the same may induce, another person (whether or not it is the person to whom the statement, promise or forecast is made or from whom such material fact is concealed) —

- (i) to make or refrain from making a deposit; or
- (ii) to enter or refrain from entering into an agreement for the purpose of making a deposit, with him or any other person,

is guilty of an offence and liable on conviction to a fine not exceeding \$10,000,000, imprisonment for a term not exceeding 10 years or both.”.

**Substitution of section 14.**

4. The Act is amended by repealing section 14 and by substituting the following new section therefor —

**“Investigating officers.**

14. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint such number of investigating officers as he may consider necessary for the purpose of this Act.

(2) The Permanent Secretary of the Ministry of Finance and any public officer authorised by him to act on his behalf shall have all the powers and duties of an investigating officer for the purposes of this Act.

(3) An investigating officer conducting any examination of any person under this Act shall have the power to administer an oath to the person who is being examined.

(4) An investigating officer shall be deemed to be a public servant for the purposes of the Penal Code (Chapter 22).”.

**Insertion of new sections 14A to 14N.**

5. The Act is amended by inserting the following 14 new sections immediately after section 14 —

**“Powers of entry, search and seizure.**

**14A.** (1) Where an investigating officer or a police officer is satisfied or has any reason to believe that any person has committed an offence under this Act, he may without warrant, if in his opinion it is necessary to do so for the purposes of investigating such offence —

(a) enter any premises and therein search for, seize and detain any property, book or other document, article or thing;

(b) inspect, make copies of or take extracts from, any book or other document so seized and detained;

(c) take possession of and remove from the premises, any property, book or other document, article or thing so seized and detained;

(d) search any person who is in or on such premises and for the purpose of such search, detain such person and remove him to such place as may be necessary to facilitate such search, and seize and detain any property, book or other document, article or thing found on such person;

(e) break open, examine and search, any article, container or receptacle; and

(f) stop, detain or search any conveyance.

(2) An investigating officer or a police officer may if it is necessary to do so —

(a) break open any outer or inner door of such premises and enter therein;

(b) forcibly enter such premises and every part thereof;

(c) remove by force any obstruction to such entry, search, seizure, detention or removal as he is empowered to effect; and

(d) detain all or any person found on any premises or in any conveyance searched under subsection (1) until the search has been completed.

(3) A list of all things seized in the course of a search made under this section and of the premises or conveyance in which they are found shall be prepared by the investigating officer or the police officer conducting the search, and shall be signed by him.

(4) The occupant of the premises entered under subsection (1) or some person on his behalf shall in every instance be permitted to attend during the search and a copy



of the list prepared and signed under subsection (3) shall be delivered to such occupant or person at his request.

(5) No female person shall be searched under this section except by another female.

**Search of person.**

**14B.** (1) An investigating officer or a police officer may search any person whom he has reason to believe has on such person any property, book or other document, article or thing whatsoever, if in his opinion is necessary for the purpose of investigation into any offence under this Act.

(2) An investigating officer or a police officer making a search of any person under subsection (1) may seize, detain or take possession of any property, book or other document, article or thing found upon such person for the purpose of carrying out the investigation.

(3) No female person shall be searched under this section except by another female.

**Power to examine persons.**

**14C.** (1) Where an investigating officer or a police officer suspects any person to have committed an offence under this Act, he may, if in his opinion it is necessary to do so for the purpose of investigation into such offence —

(a) order any person verbally or in writing to attend before him for the purpose of being examined verbally by the investigating officer or the police officer in relation to any matter which may, in the opinion of the investigating officer or the police officer, assist in the investigation into the offence;

(b) order any person verbally or in writing to produce before the investigating officer or the police officer any property, book or other document, article or thing which may, in the opinion of the investigating officer or the police officer, assist in the investigation into the offence; or

(c) by written notice, require any person to furnish a statement in writing made on oath setting out all such information which may be required under such notice, being information which may, in the opinion of the investigating officer or the police officer, assist in the investigation into the offence.

(2) A person to whom an order under paragraph (a) or (b) of subsection (1) or a written notice under paragraph (c) of subsection (1), has been given shall comply with the terms of such order or written notice, and in particular —

(a) a person to whom an order has been given under paragraph (a) of subsection (1) shall attend in accordance with the terms of the order to be examined, and shall continue to attend from day to day as directed by the investigating officer or the police officer until the examination is completed, and shall during such examination disclose all information which is within his knowledge or which is available to him or which is capable of being obtained by him, in respect of the matter in relation to which he is being examined, whether or not any question is put to him with regard thereto, and where any question is put to him he shall answer the same truthfully and to the best of his knowledge and belief, and shall not refuse to answer any question on the ground that it tends to incriminate him or his spouse;

(b) a person to whom an order has been given under paragraph (b) of subsection (1) shall not conceal, hide, destroy, alter, remove from or send out of Brunei Darussalam, or deal with or dispose of, any property, book or document, article or thing specified in the order, or alter or deface any entry in any such book or other document, or cause the same to be done, or assist or conspire to do the same; and

(c) a person to whom a written notice has been given under paragraph (c) of subsection (1) shall, in his statement made on oath, furnish and disclose truthfully all information required under the notice which is within his knowledge or which is available to him or which is capable of being obtained by him, and shall not fail to furnish or disclose the same on the ground that it tends to incriminate him or his spouse.

(3) A person to whom an order or a written notice is given under subsection (1) shall comply with such order or written notice and with the provisions of subsection (2) in relation thereto, notwithstanding the provisions of any other written law, whether enacted or made before or after the commencement of the Banking (Amendment) Order, 2002, or of any oath, undertaking or requirement of secrecy (including bank secrecy) to the contrary, or any obligation under any contract, agreement or arrangement, whether express or implied, to the contrary.

(4) Where any person discloses any information or produces any property, book or other document, article or thing pursuant to subsections (1) or (2), neither that person nor any other person on whose behalf or direction or as whose agent or employee, the first-mentioned person may be acting shall, on account of such disclosure or production, be liable to any prosecution for any offence under or by virtue of any law, or to any proceeding or claim in any form or any description by any person under or by virtue of any agreement, arrangement or otherwise howsoever.

(5) An investigating officer or a police officer may seize, take possession of and retain for such duration as he thinks necessary, any property, book or other document, article or thing produced before him in the course of an investigation under subsection (1), or search the person who is being examined by him under paragraph (a) of subsection (1) or who is producing anything to him under paragraph (b) of

subsection (1), for ascertaining whether anything relevant to the investigation is concealed or is otherwise, upon such person.

(6) An examination under paragraph (a) of subsection (1) shall be reduced into writing by the investigating officer or the police officer and shall be read to and signed by the person being examined, and where such person refuses to sign the record, the investigating officer or the police officer shall endorse thereon under his hand the fact of such refusal and the reasons thereof, if any, stated by the person examined.

(7) The record of an examination under paragraph (a) of subsection (1), a written statement on oath made pursuant to paragraph (c) of subsection (1), any property, book or other document, article or thing produced under paragraph (b) of subsection (1), or otherwise in the course of an examination under paragraph (a) of subsection (1) or under a written statement on oath or affirmation made pursuant to paragraph (c) of subsection (1) shall, notwithstanding any written law or rule of law to the contrary, be admissible in evidence in any proceedings in any court —

- (a) for or in relation to, an offence under this Act;
- (b) for or in relation to, any other matter under this Act; or
- (c) for or in relation to, any offence under any other written law,

regardless whether such proceedings are against the person who was examined or who produced the property, book or other document, article or thing or who made the written statement on oath, or against any other person.

**Requirement to provide translation.**

**14D.** (1) Where an investigating officer or a police officer finds, seizes, detains or takes possession of, any book or other document in exercise of any power under this Act, and such book or other document or any part thereof is in a language other than the Malay or English languages, or in any sign or code, the investigating officer or the police officer may verbally or in writing require the person who had the possession, custody or control of such book or other document, to furnish to the investigating officer or the police officer a translation into the Malay or English languages of such book or other document within such period as, in the opinion of the investigating officer or the police officer, would be reasonable having regard to the length of the book or other document or other circumstances relating to it.

(2) Any person who knowingly furnishes a translation under sub-section (1) which is not an accurate, a faithful and true translation or who knowingly makes a translation under that subsection which is not accurate, faithful and true is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000, and in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day during which the offence continues after conviction.

**Powers of arrest.**

**14E.** An investigating officer or a police officer may arrest without warrant any person who has committed or whom he reasonably suspects to have committed an offence under this Act.

**Powers of investigation.**

**14F.** In any case relating to the offence mentioned in section 14E, an investigating officer shall have all the powers of a police officer under the Criminal Procedure Code (Chapter 7).

**Restriction on disposal of property etc.**

**14G.** (1) The Public Prosecutor may, by written notice to a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed under this Act or against whom a prosecution for such offence has been instituted, direct that such person shall not dispose of or otherwise deal with any property specified in such notice without the consent of the Public Prosecutor.

(2) Where any property specified in a notice under subsection (1) includes any debt or obligation due by a licensed bank or any other person to the person to whom the notice is given, the Public Prosecutor may serve on that bank or other person a copy of that notice, which shall have the effect of directing that bank or other person not to pay any money to the person specified in the notice without the consent of the Public Prosecutor.

(3) A notice under subsection (1) —

(a) may be served by delivering it personally to the person to whom it is addressed or may, where a Court of a Magistrate is satisfied that such person cannot be found or is not in Brunei Darussalam, be served in such other manner as the court may direct on application *ex parte* by or on behalf of the Public Prosecutor;

(b) shall have effect from the time of service and shall continue in force for a period of 12 months or until cancelled by the Public Prosecutor, whichever is the earlier.

(4) Nothing in subsection (3) shall prevent the Public Prosecutor from giving a further notice in respect of the same property.

(5) The Public Prosecutor may impose such terms and conditions as he thinks fit to a consent to the disposal of or other dealing with any property specified in a notice under subsection (1).

(6) A person who disposes of or otherwise deals with any property specified in a notice under subsection (1) or any licensed bank or other person who pays any money to a person specified in the notice served on that bank or other person under subsection (2) other than in accordance with the consent of the Public Prosecutor is guilty of an offence and liable on conviction to a fine of not exceeding \$50,000 or the value of the property disposed of or otherwise dealt with, whichever is the greater, imprisonment for a term not exceeding 3 years or both.

**Surrender of travel documents.**

**14H.** (1) A magistrate may, on the application of a police officer not below the rank of Assistant Superintendent, by written notice require any person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by him under this Act to surrender to the Commissioner of Police any travel documents in his possession.

(2) A notice under subsection (1) shall be served by delivering it personally to the person to whom it is addressed.

(3) A person on whom a notice under subsection (1) is served shall comply with such notice forthwith.

(4) If a person on whom a notice under subsection (1) has been served fails to comply with the notice forthwith, he may thereupon be arrested and taken before a magistrate.

(5) Where a person is taken before a magistrate under subsection (4), the magistrate shall, unless such person thereupon complies with the notice under subsection (1) or satisfies the magistrate that he does not possess a travel document, by warrant commit him to prison to be safely kept —

(a) until the expiry of the period of 28 days from the date of his committal to prison; or

(b) until such person complies with the notice under subsection (1) and a magistrate, by order in that behalf, orders and directs the Director of Prisons to discharge such person from prison (which order shall be sufficient warrant for the Director of Prisons to do so),

whichever occurs first.

(6) A travel document which is surrendered to the Commissioner of Police under this section may be detained for 6 months from the date on which it was surrendered and may be detained for a further 3 months if a magistrate, on application by a police officer not below the rank of Assistant Superintendent, is satisfied that the investigation could not reasonably have been completed before the date of such application and authorises such further detention.

(7) All proceedings before a magistrate under this section shall be conducted in chambers.

(8) In this section, “travel document” means a passport or other document establishing the identity or nationality of the holder.

**Obstruction to exercise of powers by investigating officer or police officer.**

**14I.** (1) No person shall —

(a) refuse any investigating officer or any police officer exercising his power under sections 14A or 14B access to any premises or conveyance or part thereof, or fail to submit to a search of himself;

(b) assault, obstruct, hinder or delay such investigating officer or police officer in effecting any entrance which he is entitled to effect;

(c) fail to comply with any lawful demands of any investigating officer or police officer in the execution of his duties under sections 14A, 14B or 14C;

(d) refuse to give to an investigating officer or a police officer any information which may reasonably be required of him and which he has in his power to give;

(e) fail to produce to or conceal or attempt to conceal from, an investigating officer or a police officer, any property, book or other document, article or thing in relation to which the investigating officer or the police officer has reasonable grounds for suspecting that an offence has been or is being committed under this Act;

(f) retrieve or endeavour to retrieve any book or other document, article or thing which has been duly seized;

(g) furnish to an investigating officer or a police officer as true, information which he knows or has reason to believe to be false; or

(h) before or after any seizure, break or otherwise destroy any book or other document, article or thing to prevent the seizure thereof or the securing of the same.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 5 years or both, and in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day during which the offence continues after conviction.

**Attempts, preparations, abetments and conspiracies punishable as offences.**

- 14J.** (1) Any person who —
- (a) attempts to commit any offence under this Act;
  - (b) does any act preparatory to or in furtherance of the commission of any offence under this Act; or
  - (c) abets or is engaged in a criminal conspiracy to commit (as defined in section 120A of the Penal Code (Chapter 22)) any offence under this Act, whether or not the offence is committed in consequence thereof,

shall be guilty of such offence and liable to the penalty provided for such offence.

- (2) Any provision of this Act which contains a reference to an offence under any specific provisions of this Act shall be read as including a reference to an offence under subsection (1) in relation to the offence under that specific provision.

**Service of notice etc.**

**14K.** Without prejudice to subsection (3) of section 14G and to subsection (2) of section 14H, any notice or order given to any person under this Act may —

- (a) be delivered to that person personally;
- (b) be left at the place of abode or the place of business of that person; or
- (c) be sent by registered post to the last known place of abode or place of business of that person.

**Offences committed by partnerships and companies.**

**14L.** (1) Where a partnership is guilty of an offence under this Act, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, is also guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where an offence under this Act is committed by a company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of that company, or of a person purporting to act in any such capacity, he, as well as the company, is also guilty of the offence and liable to be proceeded against and punished accordingly.

(3) In relation to a company whose affairs are managed by its members, “director”, in subsection (2), means any member of that company.

**Offences to be seizable offences.**

**14M.** Every offence under this Act shall be a seizable offence for the purposes of the law relating to criminal procedure.

**Exemption.**

**14N.** The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, exempt any person or classes, categories or descriptions of persons from any of the provisions of this Act.”.

**Amendment of section 15.**

**6.** Section 15 of the Act is amended by deleting “imprisonment for 3 years and to a fine of \$80,000” from the last line and by substituting “a fine of not exceeding \$10,000,000, imprisonment for a term not exceeding 10 years or both” therefor.

Made this 13th. day of Muharam, 1423 Hijriah corresponding to the 27th. day of March, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM



No. S 17

**LAW REVISION ACT  
(CHAPTER 1)**

**LAW REVISION ORDER NO. 2 OF 2002**

In exercise of the powers conferred by subsections (1) and (2) of section 5 of the Law Revision Act, the Attorney General hereby makes the following Order —

**Citation and commencement.**

1. This Order may be cited as the Law Revision Order No. 2 of 2002 and shall commence on the 15th. April, 2002.

**Substitution of pages.**

2. The removal from the Laws of the pages specified in the third column of Part A of the Schedule bearing on the face thereof or overleaf the legend specified in the fourth column thereof with reference to the written laws specified in the first and second columns thereof is hereby directed, and the inclusion in the Laws, in respective substitution of the pages so directed to be removed, of the pages specified in the third column of Part B of the Schedule bearing on the face thereof or overleaf the legend specified in the fourth column thereof with reference to those written laws is hereby authorised.

**SCHEDULE**

(paragraph 2)

**PART A**

Chapter	Title	Pages	Legend
13	Powers of Attorney Act	1 to 10	B.L.R.O. 1/1984
28	Common Gaming Houses Act	1 to 14	B.L.R.O. 1/1984
82	Fire Service Act	1 to 18	B.L.R.O. 1/1984
93	Labour Act	1 to 94	B.L.R.O. 1/1984
137	Brunei Investment Agency Act	1 to 18	B.L.R.O. 1/1984

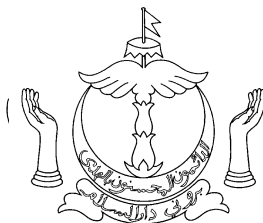
**PART B**

Chapter	Title	Pages	Legend
13	Powers of Attorney Act	1 to 8	B.L.R.O. 2/2002
	Powers of Attorney (Fees) Regulations	1 to 4	B.L.R.O. 2/2002
28	Common Gaming Houses Act	1 to 14	B.L.R.O. 2/2002
82	Fire Service Act	1 to 22	B.L.R.O. 2/2002
93	Labour Act	1 to 74	B.L.R.O. 2/2002
	Labour (Limitation of Duties and Powers) Rules	1 to 4	B.L.R.O. 2/2002
	Labour (Domestic Servants) Rules	1 to 4	B.L.R.O. 2/2002
	Labour (Maternity Benefits) Rules	1 to 4	B.L.R.O. 2/2002
	Labour (Public Holidays) Rules	1 to 2	B.L.R.O. 2/2002
	Labour (Public Contracts) Rules	1 to 6	B.L.R.O. 2/2002
	Labour (Immigrant Workers' Employment Licences) Rules	1 to 6	B.L.R.O. 2/2002
	Labour (Payment of Wages by Cheque) Rules	1 to 4	B.L.R.O. 2/2002
	Labour (Special Places of Employment) Notification	1 to 4	B.L.R.O. 2/2002
	Labour (Restriction on Employment of Children) Notification	1 to 4	B.L.R.O. 2/2002
137	Brunei Investment Agency Act	1 to 18	B.L.R.O. 2/2002

Made this 9th. day of Safar, 1423 Hijriah corresponding to the 22nd. day of April, 2002.

DATO PADUKA AWANG HAJI KIFRAWI BIN  
DATO PADUKA HAJI KIFLI  
ATTORNEY GENERAL,  
BRUNEI DARUSSALAM.

**No. S 18**



**CONSTITUTION OF BRUNEI DARUSSALAM**  
**PROCLAMATION OF EMERGENCY**



**HIS MAJESTY THE SULTAN  
AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM**

In the name of Allah, the Compassionate, the Merciful, PRAISE be to ALLAH, the Lord of the Universe, and may the benediction and peace of ALLAH be upon Our Leader Muhammad and upon all his Relations and Friends.

WHEREAS it is provided under section 83 of the Constitution of Brunei Darussalam, that whenever it appears to His Majesty the Sultan and Yang Di-Pertuan that an occasion of public danger exists whereby the security or economic life of the State, or any part thereof, is threatened, whether by war of external aggression or internal disturbance, actual or threatened, he may by Proclamation declare a state of emergency either in the whole State or in such part of the State as may be specified in the Proclamation;

AND WHEREAS on the 16th. day of Safar, the Hijriah of the Prophet (on Whom be the benediction and peace of ALLAH) one thousand four hundred and twenty-one corresponding to the 20th. day of May, year two thousand of the Christian era, we did DECLARE AND PROCLAIM a state of emergency in the whole State of Brunei Darussalam;

AND WHEREAS it is provided under section 83 of the Constitution of Brunei Darussalam that no Proclamation of Emergency shall be in force for more than two years,

BRUNEI DARUSSALAM GOVERNMENT GAZETTE

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without prejudice, however, to the issue by His Majesty the Sultan and Yang Di-Pertuan of another such proclamation at or before the end of that period;

AND WHEREAS it appears to us that an occasion of public danger exists whereby the security of the State is threatened;

NOW, THEREFORE, WE, SULTAN HAJI HASSANAL BOLKIAH MU'IZZADDIN WADDAULAH IBNI AL-MARHUM SULTAN HAJI OMAR 'ALI SAIFUDDIEN SA'ADUL KHAIRI WADDIEN, SOVEREIGN AND CHIEF OF THE FAMILY ORDER OF THE CROWN OF BRUNEI, Sultan and Yang Di-Pertuan of the State and Territory of Brunei Darussalam and all its Dependencies;

Do hereby DECLARE AND PROCLAIM as of this day a state of emergency in the whole State;

AND do hereby REVOKE our said recited Proclamation of Emergency done on the 16th. day of Safar, the Hijriah of the Prophet (on Whom be the benediction and peace of ALLAH) one thousand four hundred and twenty-one corresponding to the 20th. day of May, year two thousand of the Christian era.

So be it. Such is the Proclamation of Emergency.

May ALLAH, to Whom be praise and Whose name be exalted the King of Kings, vouchsafe His grace and may the Prophet Muhammad (on Whom be the benediction and peace of ALLAH) grant His Blessings to this Proclamation. Amen! O Lord of the Universe.

Done at the Istana Nurul Iman, Brunei Darussalam, this 9th. day of Safar, the Hijriah of the Prophet (on Whom be the benediction and peace of ALLAH) one thousand four hundred and twenty-three corresponding to the 22nd. day of April, year two thousand and two of the Christian Era, being the thirty-fifth year of Our Reign.

BY COMMAND

DATO PADUKA HAJI HAZAIR BIN HAJI ABDULLAH  
Permanent Secretary  
Prime Minister's Office,  
Brunei Darussalam.



No. S 19

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**EMERGENCY (CONTINUATION AND VALIDATION OF  
EMERGENCY PROVISIONS) ORDER, 2002**

In exercise of the powers conferred by section 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam hereby makes the following Order —

**Citation.**

1. This Order may be cited as the Emergency (Continuation and Validation of Emergency Provisions) Order, 2002.

**Interpretation.**

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

"amendment" includes repeal, addition or variation and the effecting of all or two or more of such things simultaneously or by the same emergency provisions;

"emergency Order" means an emergency Order expressed to be made under section 83(3) of the Constitution at any time before the Proclamation date;

"emergency provision" means any emergency Order and any emergency subordinate instrument;

"emergency subordinate instrument" means any subordinate instrument expressed to be made at any time before the Proclamation date by virtue of any power expressed to be conferred by —

(a) any emergency Order; or

(b) any other subordinate instrument to be made by virtue of any power expressed to be conferred by any emergency Order;

"former Proclamation" means any Proclamation made before the Proclamation date under section 83(1) of the Constitution declaring a state of emergency in the State;

"Proclamation date" means 22nd. day of April, 2002, being the date of the Proclamation made by His Majesty the Sultan and Yang Di-Pertuan under section 83(1) of the Constitution declaring a state of emergency in the State;

"repeal" includes rescission, revocation, cancellation or replacement;

"subordinate instrument" means any regulation, rule, order or other instrument, whether or not having legislative effect.

**Continuation and validation of Emergency provisions.**

3. Every emergency provision shall —

(a) notwithstanding any provision of the Constitution or of any written law;

(b) notwithstanding any expiration, revocation or invalidity of any former Proclamation or any emergency provision;

(c) notwithstanding any failure to lay such emergency provision before the Legislative Council as soon as may be after it was made by reason of inadvertence; or by reason of the abolition, dissolution, suspension or reconstitution effective or purported of the Legislative Council; or by any reason whatsoever,

by virtue of this Order be deemed to have been validly and properly made and duly laid before the Legislative Council and shall have, and be deemed to have had, effect from the commencement of such emergency provision as if such emergency provision were embodied in this Order, save that any amendment expressed to have been made to such emergency provision by any other emergency provision shall have, and be deemed to have had, effect from the commencement of such amendment.

**Validation to affect pending proceedings.**

4. In so far as paragraph 3 validates any emergency provision as respects any period before the date of this Order, a court shall (without prejudice to the operation of paragraph 3 after the date of this Order) give effect to such validated provision as respects such period in any proceedings pending at the date of this Order.

Made this 9th. day of Safar, 1423 corresponding to the 22nd. day of April, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM



**No. S 20**

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**FISHERIES ACT (AMENDMENT) ORDER, 2002**

**ARRANGEMENT OF SECTIONS**

**Section**

- 1.** Citation.
- 2.** Amendment of long title of Chapter 61.
- 3.** Amendment of section 2.
- 4.** Amendment of section 5.
- 5.** Amendment of Act.

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**FISHERIES ACT (AMENDMENT) ORDER, 2002**

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**Citation.**

1. This Order may be cited as the Fisheries Act (Amendment) Order, 2002.

**Amendment of long title of Chapter 61.**

2. The long title of the Fisheries Act, in this Order referred to as the Act, is amended by inserting “and fish processing” immediately after “fisheries” in the first line.

**Amendment of section 2.**

3. Section 2 of the Act is amended by inserting immediately after the definition of “other fishing appliance” the following —

“processed fish” means fish that has been cured, cooked, frozen or preserved in any manner and includes any product derived or manufactured wholly or partly from fish;”.

**Amendment of section 5.**

4. Section 5 of the Act is amended —
  - (i) by inserting “(1)” immediately before “The” in the first line;
  - (ii) by deleting “fishing and fisheries” from the first two lines and by substituting “fisheries, fishing and fish processing” therefor;
  - (iii) by inserting immediately after paragraph (s) the following three new paragraphs —
    - “(sa) to regulate any place used for processing, packing or storage of fish, the inspection thereof and the equipment therein, and to control by licensing any place used for any of those purposes;
    - “(sb) to control the methods of processing fish;
    - “(sc) to regulate the inspection and examination of processed fish and fish to be processed and the standards for the control of the quality of such fish;”;

(iv) by adding the following new subsection —

“(2) Provision may be made in any regulations made under paragraph (sa) of subsection (1) that any place to which that paragraph refers shall not be subject to the provisions of any other written law.”.

**Amendment of Act.**

5. The Act is amendment by adding the following new section —

**“Limitation of liability and compensation.**

**19.** (1) No action shall be brought against the Director or any Authorised Officer in respect of anything done or omitted to be done by him in good faith and in the exercise, performance or purported exercise or performance, of any powers or duties under this Act or any regulations made thereunder.

(2) No person shall be entitled to any compensation for any expense incurred or damage occasioned by anything done or omitted to be done as mentioned in subsection (1), unless such damage was occasioned by negligence or malice and without reasonable cause.”.

Made this 12th. day of Safar, 1423 Hijriah corresponding to the 25th. day of April, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM

No. S 21

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**ROAD TRAFFIC ACT (AMENDMENT) ORDER, 2002**

**ARRANGEMENT OF SECTIONS**

**Section**

1. Citation.
2. Amendment of section 2 of Chapter 68.
3. Amendment of section 7.
4. Amendment of section 26.
5. Insertion of new sections 26A to 26G.
6. Amendment of section 27.
7. Amendment of section 28.
8. Amendment of section 29.
9. Insertion of new section 29A.
10. Amendment of section 33.
11. Amendment of section 36.
12. Insertion of new sections 37A and 37B.
13. Amendment of section 39.
14. Amendment of section 44.
15. Insertion of new section 78A.
16. Insertion of new section 81A.
17. Amendment of section 82.
18. Substitution of section 83.

19. Insertion of new sections 84A to 84E.
20. Amendment of section 91.

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**ROAD TRAFFIC ACT (AMENDMENT) ORDER, 2002**

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**Citation.**

1. This Order may be cited as the Road Traffic Act (Amendment) Order, 2002.

**Amendment of section 2 of Chapter 68.**

2. Section 2 of the Road Traffic Act, in this Order referred to as the Act, is amended —
  - (a) by inserting "(1)" immediately before "In" in the first line;
  - (b) by inserting in their appropriate alphabetical positions the following three new definitions —

"authorised analyst", in sections 26F and 26G, means a medical practitioner, scientific officer or chemist, who is employed in a hospital or laboratory to carry out analyses of blood;

"breath test", in sections 26C to 26E, means a test for the purpose of obtaining, by means of a breath-analyser or any other device approved by the Commissioner of Police, an indication whether the proportion of alcohol in a person's breath or blood is likely to exceed the prescribed limit;

"intoxicating substance", in sections 26B, 26C, 26D, 26F and 26G, means any substance having the property of releasing toxic vapours or fumes which contain toluene and which when inhaled induces or causes a state of intoxication;

"police station", in sections 26C and 26D, includes any place or conveyance authorised by the Commissioner of Police to be used as a police station;

"prescribed limit", in sections 26A, 26B, 26C and 26F, means —

- (a) 35 microgrammes of alcohol in 100 millilitres of breath; or
- (b) 80 milligrammes of alcohol in 100 millilitres of blood.
- (c) by adding the following new subsection —

"(2) For the purposes of sections 26C to 26G —

(a) a person does not provide a specimen of breath for a breath test for analysis unless the specimen is sufficient to enable the test or the analysis to be carried out and is provided in such a way as to enable the objective of the test or analysis to be satisfactorily achieved;

(b) subject to section 26G, a person provides a specimen of blood only if he consents to it being taken by a medical practitioner and it is so taken."

**Amendment of section 7.**

3. Section 7 of the Act is amended by adding the following two new sub-sections —

"(5) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may make regulations for the examination, by any person authorised by the Minister, of any vehicle and for purposes connected therewith, and for the issue, where the vehicle is found on such examination to comply with any prescribed requirements relating to its construction and condition, of a certificate that at the date of such examination those requirements had been complied with.

(6) Regulations made under subsection (5) may make different provision in respect of different vehicles or classes of vehicles".

**Amendment of section 26.**

4. Section 26 of the Act is amended —

(a) in subsection (1), by deleting everything after the colon in the fifth line and by substituting the following therefor —

"Penalty, a fine of \$10,000 and imprisonment for 2 years and, in the case of a second or subsequent conviction, a fine of \$20,000 and imprisonment for 4 years.";

(b) in subsection (2), in paragraph (b) —

(i) by deleting "12 months" from the third line and by substituting "3 years" therefor;

(ii) by deleting "for" from the fifth line and by substituting "having regard to the lapse of time since the date of the previous or last conviction or for any other" therefor.

**Insertion of new sections 26A to 26G.**

5. The Act is amended by inserting the following seven new sections immediately after section 26 —

**"Immediate suspension of driving licence.**

**26A.** (1) Where a person drives or is in charge of a motor vehicle on a road or other public place —

(a) whilst under the influence of drink or a drug in contravention of subsection (1) of section 26;

(b) whilst he has so much alcohol in his body that the proportion of it in his breath or blood exceeds the prescribed limit; or

(c) without a policy of insurance or other security in respect of third party risks in contravention of subsection (1) of section 3 of the Motor Vehicles Insurance (Third Party Risks) Act (Chapter 90),

and whilst so driving or being in charge causes death or serious injury to any other person, a licensing officer may, where the first-mentioned person has been charged for that offence, suspend his driving licence from the date he was charged, and such suspension shall remain in force until the offence has been tried and determined by the Court.

(2) A licensing officer shall, when suspending a driving licence of a person under subsection (1), give to him a notice in writing informing him that it has been suspended until the charge has been tried and determined by the Court and requiring him forthwith to surrender his driving licence.

(3) A person who without reasonable cause or excuse refuses or fails to surrender his driving licence to a licensing officer under subsection (2) shall be guilty of an offence: Penalty, a fine of \$5,000, imprisonment for 12 months or both, and in the case of a second or subsequent conviction, a fine of \$10,000, imprisonment for 2 years or both.

(4) Any person whose driving licence has been suspended under this section shall not during the period of suspension drive or be in charge of a motor vehicle on a road or other public place under any other driving licence granted by any authority or otherwise.

(5) Any person who drives or is in charge of a motor vehicle on a road or other public place when his driving licence has been suspended under this section shall be guilty of an offence: Penalty, a fine of \$5,000, imprisonment for 12 months or both, and in the case of a second or subsequent conviction, a fine of \$10,000, imprisonment for 3 years or both.



(6) A person to whom a notice has been given under subsection (2) may appeal against the notice to the Minister whose decision shall be final.

(7) In subsection (1), "serious injury" means any injury which causes or caused a person to be, for a period of at least 7 days, in severe bodily pain or unable to follow his ordinary pursuits.

**Being in charge of motor vehicle while under influence of drink or drugs.**

**26B.** (1) Any person who, when in charge of a motor vehicle which is on a road or other public place but not driving the vehicle —

(a) whilst under the influence of drink, a drug or an intoxicating substance, to such an extent as to be incapable of having proper control of such vehicle; or

(b) has so much alcohol in his body that the proportion of it in his breath or blood exceeds the prescribed limit,

shall be guilty of an offence: Penalty, a fine of not less than \$500 and not more than \$2,000 or imprisonment for 3 months, and in the case of a second or subsequent conviction, a fine of not less than \$1,000 and not more than \$5,000 and imprisonment for 6 months.

(2) For the purpose of subsection (1), a person shall be deemed not to have been in charge of a motor vehicle if he proves —

(a) that at the material time the circumstances were such that there was no likelihood of his driving the vehicle so long as he remained so under the influence or so long as the proportion of alcohol in his breath or blood remained in excess of the prescribed limit; and

(b) that between his becoming so under the influence and the material time, or between the time when the proportion of alcohol in his breath or blood first exceeded the prescribed limit and the material time, he had not driven the vehicle on a road or other public place.

(3) On a second or subsequent conviction for an offence under this section the Court shall order that such person be disqualified from holding or obtaining a licence to drive any motor vehicle for a period of 12 months from the last day of his imprisonment unless the Court, for special reasons (which shall be set out in the order of the Court) thinks fit to order otherwise.

(4) Where a person convicted of an offence under this section has been previously convicted of an offence under section 26, he shall be treated for the purpose of this section as having been previously convicted under this section.

(5) Any police officer may without a warrant arrest any person committing an offence under this section.

**Breath tests.**

**26C.** (1) Where a police officer has reasonable cause to suspect that —

(a) a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has so much alcohol in his body that the proportion of it in his breath or blood exceeds the prescribed limit, or has committed a traffic offence whilst the vehicle was in motion;

(b) a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place with alcohol in his body and that that person still has alcohol in his body;

(c) a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place and has committed a traffic offence whilst the vehicle was in motion; or

(d) a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place when an accident occurred —

(i) between that motor vehicle and one or more other motor vehicles; or

(ii) causing any injury or death to another person,

he may, subject to section 26E, require that person forthwith to provide a specimen of his breath for a breath test.

(2) A person may be required under subsection (1) to provide a specimen of his breath either at or near the place where the requirement was made or, if the requirement was made under paragraph (d) of that subsection and the police officer making the requirement thinks fit, at a police station specified by the police officer.

(3) A breath test required under subsection (1) shall be conducted by a police officer.

(4) A person who, without reasonable excuse, fails to provide a specimen of his breath when required to do so in pursuance of this section shall be guilty of an offence: Penalty, a fine of not less than \$1,000 and not more than \$5,000 or imprisonment for 6 months, and in the case of a second or subsequent conviction, a fine of \$3,000 and not more than \$10,000 and imprisonment for 12 months.

(5) A police officer may arrest any person without warrant if —

(a) as a result of a breath test he has reasonable cause to suspect that the proportion of alcohol in that person's breath or blood exceeds the prescribed limit;

(b) that person has failed to provide a specimen of his breath for a breath test when required to do so in pursuance of this section and the police officer has reasonable cause to suspect that he has alcohol in his body; or

(c) he has reasonable cause to suspect that that person is under the influence of a drug or an intoxicating substance.

A person shall not be arrested by virtue of this subsection when he is at a hospital as a patient.

**Provision of specimen for analysis.**

**26D.** (1) In the course of an investigation whether a person arrested under subsection (5) of section 26C has committed an offence under sections 26 or 26B, a police officer may, subject to this section and to section 26E, require him —

(a) to provide a specimen of his breath for a breath test, for analysis; or

(b) to provide at a hospital a specimen of his blood for a laboratory test,

notwithstanding that he has already been required to provide a specimen of his breath for a breath test under section 26C.

(2) A breath test required under this section shall be conducted by a police officer at a police station.

(3) A requirement under this section to provide a specimen of blood shall not be made unless —

(a) the police officer making the requirement has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required;

(b) at the time the requirement is made, the breath-analyser or other device is not available at the police station or it is for any other reason not practicable to use it; or

(c) the police officer making the requirement has reasonable cause to suspect that the person required to provide the specimen is under the influence of a drug or an intoxicating substance,

and may be made notwithstanding that the person required to provide the specimen has already provided or been required to provide a specimen of his breath.

(4) A person who, without reasonable excuse, fails to provide a specimen when required to do so in pursuance of this section shall be guilty of an offence and if it is shown that at the time of any accident referred to in paragraph (d) of subsection (1) of section 26C or of his arrest under subsection (5) of section 26C —

(a) he was driving or attempting to drive a motor vehicle on a road or any other public place, he shall be liable on conviction to be punished as if the offence charged were an offence under section 26; or

(b) he was in charge of a motor vehicle on a road or other public place, he shall be liable on conviction to be punished as if the offence charged were an offence under section 26B.

(5) A police officer shall, on requiring any person under this section to provide a specimen for a laboratory test, warn him that failure to provide a specimen of blood may make him liable to imprisonment, a fine and disqualification, and, if the police officer fails to do so, the Court before which that person is charged with an offence under subsection (4) may dismiss the charge.

**Protection of hospital patients.**

**26E.** (1) A person who is at a hospital as a patient shall not be required to provide a specimen for a breath test or to provide a specimen for a laboratory test unless the medical practitioner in immediate charge of his case authorises it and the specimen is to be provided at the hospital.

(2) The medical practitioner referred to in subsection (1) shall not authorise a specimen to be taken where it would be prejudicial to the proper care and treatment of the patient.

**Evidence in proceedings for offences under sections 26 and 26B.**

**26F.** (1) In proceedings for an offence under section 26 or 26B, evidence of the proportion of alcohol or of any drug or intoxicating substance in a specimen of breath or blood (as the case may be) provided by the accused shall be taken into account and, subject to subsection (2), it shall be assumed that the proportion of alcohol in the accused's breath or blood at the time of the alleged offence was not less than in the specimen.

(2) Where the proceedings are for an offence under subsection (1) of section 26 or paragraph (a) of subsection (1) of section 26B and it is alleged that, at the time of the offence, the accused was unfit to drive in that he was under the influence of drink, or for an offence under subsection (1) of section 26 or paragraph (b) of subsection (1) of section 26B, the assumption referred to in subsection (1) shall not be made if the accused proves —

(a) that he consumed alcohol after he had ceased to drive, attempt to drive or be in charge of the motor vehicle on the road or other public place and before he provided the specimen; and

(b) that had he not done so the proportion of alcohol in his breath or blood —

(i) would not have been such as to make him unfit to drive a motor vehicle in the case of proceedings for an offence under subsection (1) of section 26 or paragraph (a) of subsection (1) of section 26B; or

(ii) would not have exceeded the prescribed limit in the case of proceedings for an offence under subsection (1) of section 26 or paragraph (b) of subsection (1) of section 26B.

(3) Subject to subsection (5) —

(a) evidence of the proportion of alcohol in a specimen of breath may be given by the production of a document or documents purporting to be either a statement automatically produced by the breath-analyser or other device and a certificate signed by a police officer (which may but need not be contained in the same document as the statement) to the effect that the statement relates to a specimen provided by the accused at the date and time shown in the statement; and

(b) evidence of the proportion of alcohol or of any drug or intoxicating substance in a specimen of blood may be given by the production of a document purporting to be a certificate signed by an authorised analyst as to the proportion of alcohol, drug or intoxicating substance found in a specimen of blood identified in the certificate.

(4) A specimen of blood shall be disregarded unless it was taken from the accused with his consent by a medical practitioner; and evidence that a specimen of blood was so taken may be given by the production of a document purporting to certify that fact and to be signed by the medical practitioner.

(5) A document purporting to be such a statement or such a certificate, or both, as is mentioned in subsection (3) is admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it has been handed to the accused when the document was produced or has been served on him not later than 7 days before the hearing, and any other document is so admissible only if a copy of it has been served on the accused not later than 7 days before the hearing.

(6) A document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused, not later than 3 days before the hearing or within such further time as the Court may in special circumstances

allow, has served notice on the prosecution requiring the attendance at the hearing of the person by whom the document purports to be signed.

(7) A copy of a certificate required by this section to be served on the accused or a notice required by this section to be served on the prosecution may be served personally or sent by registered post.

**Commissioner of Police may require blood specimen sent for laboratory test.**

**26G.** (1) Notwithstanding anything in sections 26C or 26F, where a person —

(a) was the driver of, had attempted to drive or was in charge of a motor vehicle on a road or other public place when an accident occurred —

(i) between that motor vehicle and one or more other motor vehicles; or

(ii) causing any injury or death to another person; and

(b) is, for any reason, unable to provide a specimen of his breath under section 26C or to give his consent to a specimen of blood being taken from him for analysis,

any medical practitioner treating such person for his injury shall, if so directed by the Commissioner of Police, cause any specimen of blood taken by the medical practitioner from such person in connection with his treatment to be sent for a laboratory test to determine the proportion of alcohol or of any drug or intoxicating substance in the specimen.

(2) In proceedings for an offence under sections 26 or 26B, evidence of the proportion of alcohol or of any drug or intoxicating substance in a specimen of blood analysed in pursuance of this section shall be taken into account.

(3) Evidence of the proportion of alcohol or of any drug or intoxicating substance in a specimen of blood analysed under this section may, subject to subsection (4), be given by the production of a document purporting to be a certificate signed by an authorised analyst as to the proportion of alcohol, drug or intoxicating substance found in the specimen of blood identified in the certificate.

(4) The provisions of subsections (5), (6) and (7) of section 26F shall apply, with any necessary modifications, to a certificate referred to in subsection (3) of this section as they apply to a document or certificate referred to subsection (3) of section 26F."

**Amendment of section 27.**

**6.** Section 27 of the Act is amended —

(a) in subsection (1), by deleting everything after the colon in the second line and by substituting the following therefor —

"Penalty, a fine of \$20,000 and imprisonment for 7 years and, in the case of a second or subsequent conviction, the same fine and imprisonment.";

(b) in subsection (3), by deleting everything after "shall" in the second line and by substituting the following therefor —

"order that such person be disqualified for life from holding or obtaining a licence to drive any motor vehicle from the date of such conviction, unless the Court, for special reasons (which shall be set out in the order of the Court) thinks fit to order otherwise."

**Amendment of section 28.**

7. Section 28 of the Act is amended —

(a) in subsection (1), by deleting everything after the colon in the seventh line and by substituting the following therefor —

"Penalty, a fine of \$10,000 and imprisonment for 2 years, and in the case of a second or subsequent conviction, a fine of \$20,000 and imprisonment for 4 years.";

(b) in subsection (2), by deleting "12 months" from the fourth line of paragraph (b) and by substituting "3 years" therefor.

**Amendment of section 29.**

8. Section 29 of the Act is amended —

(a) in subsection (1), by deleting "6 months and a fine of \$4,000" from the last two lines and by substituting "12 months and a fine of \$5,000" therefor;

(b) in subsection (2), in paragraph (b) —

(i) by deleting "6" from the third line and by substituting "18" therefor;

(ii) by deleting "for" from the fifth line and by substituting "having regard to the lapse of time since the date of the previous or last conviction of for any other" therefor.

**Insertion of new section 29A.**

9. The Act is amended by inserting the following new section immediately after section 29 —

**"Use of mobile telephone while driving.**

**29A.** (1) Any person who, being the driver of a motor vehicle on a road, uses a mobile telephone while the motor vehicle is in motion shall be guilty of an offence: Penalty, a fine of \$1,000 and imprisonment for 6 months or both, and in the case of a second or subsequent conviction, a fine of \$2,000 and imprisonment for 12 months or both.

(2) In this section —

"mobile telephone" includes any hand-held equipment which is designed or capable of being used for telecommunication;

"use", in relation to a mobile telephone, means to hold it in one hand while using it to communicate with any person."

**Amendment of section 33.**

10. Section 33 of the Act is amended by adding the following four new subsections —

"(5) When owing to the presence of a vehicle on a road an accident occurs whereby any person is killed or seriously injured or serious damage is caused to any property or vehicle, no person shall, except with the authority of a police officer, move or otherwise interfere with any vehicle involved in the accident or any part of such vehicle or do any other act so as to destroy or alter any evidence of the accident, except that —

(a) a vehicle or any part thereof may be moved so far as may be necessary to extricate persons or animals involved, prevent fire or prevent damage or obstruction to the public; and

(b) goods and passengers' baggage may be removed from a vehicle under the supervision of a police officer:

Provided that this subsection shall not apply where it is immediately necessary to remove any seriously injured person to hospital or for medical attention and no suitable means of conveyance other than a vehicle involved in the accident is at hand.

(6) If in any case owing to the presence of a motor vehicle on a road an accident occurs whereby any person is killed or any damage or injury is caused to any person, vehicle, structure or animal, the driver of the motor vehicle shall render such assistance as may be reasonably required by any police officer or in the absence of any



police officer such assistance as it may reasonably be in the power of the driver to render.

(7) Any person who is guilty of an offence under subsection (6) shall, if he had in driving or attempting to drive a motor vehicle at the time of the accident caused any serious injury or death to another person, be liable on conviction —

(a) to a fine of \$3,000 or imprisonment for 12 months; and

(b) in the case of a second or subsequent conviction, to a fine of \$5,000 or imprisonment for 2 years.

(8) Where at one trial the driver of a motor vehicle is convicted and sentenced to imprisonment for —

(a) an offence involving the use of the motor vehicle by him whereby any serious injury (as defined in subsection (7) of section 26A) or death is caused to another person; and

(b) an offence under subsection (6),

the Court before which he is convicted shall order that the sentences for those offences shall run consecutively."

**Amendment of section 36.**

**11.** Section 36 of the Act is amended —

(a) in subsection (1), by deleting everything after the colon in the fourth line and by substituting the following therefor —

"Penalty, a fine of \$8,000 and imprisonment for 18 months.";

(b) in subsection (2), by deleting "Penalty, imprisonment for 12 months and a fine of \$8,000." from the fourth and fifth lines and by substituting the following therefor —

"Penalty, a fine of \$10,000 and imprisonment for 3 years:".

**Insertion of new sections 37A and 37B.**

**12.** The Act is amended by inserting the following two new sections immediately after section 37 —

**"Competitions and speed trials.**

**37A.** (1) No competition or trial of speed involving the use of any vehicle shall take place on a road or other public place without the written approval of the Commissioner of Police.

(2) Any such written approval may be made subject to such conditions to be specified therein as the Commissioner of Police may think fit to impose.

(3) For the purpose of any duly approved competition or trial of speed, the Commissioner of Police may, by order published in the *Gazette*, regulate, restrict or prohibit to such extent and subject to such conditions or exceptions as may be specified therein the use of a road or public place, or part thereof.

(4) No such order shall be made, unless not less than 7 days before the making thereof, a notice of intention to make the order, specifying its general nature and describing alternative routes, if any, available for traffic, animals and pedestrians, has been published by the Commissioner of Police in one or more newspapers circulating in Brunei.

(5) So long as any order made under subsection (3) remains in force, a notice stating the effect of the order and describing any alternative routes available for traffic, animals and pedestrians shall be kept posted in a conspicuous manner at each end of the part of the road or public place to which the order relates and at the points at which it will be necessary for traffic, animals and pedestrians to diverge from the road or public place.

(6) The cost of every such notice and publication shall be paid in advance to the Commissioner of Police by the person promoting the competition or trial of speed.

(7) Any person who promotes or takes part in any competition or trial of speed without the written approval of the Commissioner of Police and any driver or person in charge of any vehicle used in or taking part in any such competition or trial of speed shall be guilty of an offence: Penalty, a fine of not less than \$1,000 and not more than \$2,000 and imprisonment for 6 months, and in the case of a second or subsequent conviction, a fine of not less than \$2,000 and not more than \$3,000 and imprisonment for 12 months.

(8) Any police officer may arrest without a warrant any person committing an offence under subsection (7) and may seize and detain for the purpose of proceedings under this Act any vehicle used in or taking part in any competition or trial of speed without the written approval of the Commissioner of Police.

(9) On a conviction under subsection (7), the Court shall order that the person convicted be disqualified from holding or obtaining a licence to drive any motor vehicle for such period not being less than 12 months from the date of such conviction as the Court may think proper, unless the Court, for special reasons (which shall be set out in the order of the Court) thinks fit to order otherwise.

**Forfeiture of vehicles used in competitions etc.**

**37B.** (1) Where it is proved to the satisfaction of a Court that a vehicle has been used in the commission of an offence under subsection (7) of section 37A, and that the vehicle has been seized by the police, the Court shall, on the written application of the Public Prosecutor, make an order for the forfeiture of the vehicle notwithstanding that no person may have been convicted of that offence.

(2) An order for forfeiture or for the release of a vehicle liable to forfeiture under this section may be made by the Court before which the prosecution with regard to an offence under subsection (7) of section 37A has been or will be held.

(3) If there is no prosecution with regard to an offence under subsection (7) of section 37A, the vehicle seized under subsection (8) of that section shall be forfeited at the expiry of one month from the date of the seizure unless a claim thereto is made before that date. Any person asserting that he is the owner of the vehicle may give written notice to the Commissioner of Police that he claims the vehicle.

(4) Upon receipt of a notice under subsection (7), the Commissioner of Police may direct that the vehicle be released or may refer the matter by information to a magistrate.

(5) The magistrate shall, on receipt of an information under subsection (4), or on the written application of the Public Prosecutor, hold an inquiry and proceed to determine the matter and shall, on proof that the vehicle was used in the commission of an offence under subsection (7) of section 37A, order it to be forfeited, or may in the absence of such proof order its release.

(6) No person shall, in any proceedings in any Court in respect of the seizure of any vehicle seized in exercise or the purported exercise of any power conferred by this section, be entitled to the costs of such proceedings or to damages or any other relief, other than an order for the return of the vehicle, unless the seizure was made without reasonable or probable cause."

**Amendment of section 39.**

**13.** Section 39 of the Act is amended, in subsection (1), by deleting "\$1,000 and imprisonment for one month" from the last two lines and by substituting "\$3,000 and imprisonment for 6 months" therefor.

**Amendment of section 44.**

**14.** Section 44 of the Act is amended, in subsection (1), by deleting "Part" from the second line and by substituting "Act" therefor.

**Insertion of new section 78A.**

**15.** The Act is amended by inserting the following new section immediately after section 78 —

**"Power to control traffic at assemblies and public resorts.**

**78A.** (1) The Commissioner of Police may issue orders, prescribing the routes, entrances and exits by which traffic shall approach or leave any place of assembly or public resort, and prescribing where and the order in which vehicles shall park while waiting at such places.

(2) An order issued under this section may prescribe a parking place upon land in private ownership if the owner or occupier of such land consents.

(3) The Commissioner of Police may, with the consent of the owner or occupier of any place of assembly or public resort, authorise any police officer in uniform to regulate the movement of traffic in such place.

(4) Any person who —

(a) contravenes or fails to comply with an order made under this section;  
or

(b) neglects or refuses to stop his vehicle or to make it proceed in or keep to a particular line of traffic or neglects or refuses himself to proceed in or keep to a particular line of traffic when directed to do so by a police officer authorised under this section to regulate traffic,

shall be guilty of an offence.

(5) Orders issued under this section shall be published in the *Gazette* and may be published in such other manner as the Commissioner of Police may think fit."

**Insertion of new section 81A.**

**16.** The Act is amended by inserting the following new section immediately after section 81 —

**"Pedestrian crossings.**

**81A.** (1) Crossings for pedestrians may be established on roads, on subways constructed under roads, or on bridges constructed over roads, in accordance with this section.

(2) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may make regulations with respect to the precedence of vehicles and pedestrians respectively and generally with respect to the movement of traffic (including pedestrians) at and in the vicinity of crossings.

(3) Without prejudice to the generality of subsection (2), regulations made thereunder may be made prohibiting pedestrian traffic on the roadway within 100 metres of a crossing, and with respect to the indication of the limits of a crossing, by marks or devices on or near the roadway or otherwise, and generally with respect to the erection of traffic signs in connection with a crossing.

(4) Different regulations may be made under this section in relation to different conditions and, in particular, different regulations may be made in relation to crossings in the vicinity of, and at a distance from, a junction of roads, and to traffic which is controlled by a police officer or by traffic signals or different kinds of traffic signals, and which is not controlled.

(5) Regulations may be made under this section applying only to a particular crossing or particular crossings specified in the regulations.

(6) Any person who contravenes any of the regulations made under this section shall be guilty of an offence and liable on conviction —

(a) if the offence was committed by him in his capacity as the driver of a vehicle, to a fine of \$1,000 or to imprisonment for 3 months and, in the case of a second and subsequent offence, to a fine of \$2,000 or to imprisonment for 6 months;

(b) in any other case, to a fine of \$500.

(7) In this section, "crossings" means crossings for pedestrians referred to in subsection (1)."

**Amendment of section 82.**

17. Section 82 of the Act is amended, in subsection (2), by deleting "\$500" from the last line and by substituting "\$2,500" therefor.

**Substitution of section 83.**

18. Section 83 of the Act is repealed and the following new section substituted therefor —

**"Powers of arrest, stoppage and detention.**

83. (1) A police officer in uniform, having reasonable grounds for believing that any person, not being the driver of a motor vehicle, has committed an offence under this

Act or any regulations made thereunder, may stop and arrest such person without a warrant:

Provided that such person shall not be arrested unless the police officer has reasonable grounds for believing that he is unlikely to attend the Court in answer to any summons served on him.

(2) A police officer may detain any bicycle or tricycle in respect of which an offence has been committed within his view.

(3) A police officer in uniform may stop any motor vehicle the driver of which has committed or is suspected of having committed an offence under this Act or any regulations made thereunder.

(4) Any person driving a motor vehicle shall stop the motor vehicle on being so required by a police officer in uniform, and if he fails to do so he shall be guilty of an offence.

(5) A police officer in uniform may, except as hereinafter provided in this section, arrest without a warrant any person in charge of or driving a motor vehicle who has committed or is suspected of having committed an offence under this Act or any regulations made thereunder.

(6) The power of arrest under subsection (5) shall not be exercised if —

(a) such person on the demand of the police officer produces his driving licence to enable the police officer to ascertain his name and address, the date of issue and the authority by which it was issued; or

(b) such person, not being a paid driver, or the driver of a motor vehicle used for the carriage of passengers for hire or reward or for the carriage of goods, gives the police officer his name and address within Brunei:

Provided that if the police officer has reason to suspect that a name or address so ascertained or given is false, he may, notwithstanding anything to the contrary in this subsection, exercise the power of arrest under subsection (5).

(7) The Director or any person authorised in writing by him in that behalf on production of such authority, and any police officer, may stop any vehicle other than a motor vehicle, and any police officer in uniform may stop any motor vehicle, for the purpose of examining the licence of any such vehicle and the person driving the vehicle shall stop it on being so required by the Director or such officer or police officer, and if he fails to do so he shall be guilty of an offence.

(8) Any police officer in uniform may, when exercising any of the powers conferred by subsection (3), (5) or (7), require any person, who appears to him to be or to have been a passenger in the motor vehicle in relation to which he is exercising those powers, to furnish to him his name and address.

(9) When any person referred to in subsection (8) refuses to furnish his name and address, he may be arrested by the police officer in order that his name and address may be ascertained, and he shall, within 24 hours of the arrest, be taken before a Court, unless before that time his name and address have been ascertained, in which case he shall forthwith be released on his executing a bond with or without a surety for his appearance before a Court, if so required.

(10) When any person is taken before a Court under subsection (9), the Court shall require him to execute a bond with or without a surety for his appearance before it, if so required."

**Insertion of new sections 84A to 84E.**

**19.** The Act is amended by inserting the following five new sections immediately after section 84 —

**"Power to inspect premises.**

**84A.** (1) A police officer may, for the purpose of examining any vehicle in respect of which he has reason to believe that an offence under this Act has been committed, enter at any time any place in which he suspects that such vehicle is kept.

(2) Any police officer in conducting an investigation into any seizable offence in connection with which a vehicle is suspected to be concerned may enter any place to search for and examine such vehicle.

(3) If any person obstructs a police officer in the exercise of his powers under this section, that person shall be guilty of an offence.

**Power to examine vehicles.**

**84B.** Any police officer in uniform may at any time examine any vehicle which is being used and the licence thereof to see if it complies with the provisions of this Act or any subsidiary legislation made thereunder, and if any person obstructs any such officer in the exercise of his power under this section, that person shall be guilty of an offence.

**Weighing of vehicles.**

**84C.** (1) Subject to this Act, it shall be lawful for any police officer authorised in writing in that behalf by the Commissioner of Police to require the person in charge of any motor vehicle to allow it or any trailer drawn thereby to be weighed either laden or unladen and the weight transmitted to the road by any part of the motor vehicle laden or unladen in contact with the road to be tested and for that purpose forthwith to proceed to a weighbridge or other machine for weighing vehicles, and if any person in charge of a motor vehicle refuses or neglects to comply with any such requirement, he shall be guilty of an offence.

(2) Subject to this Act, it shall be lawful for any police officer so authorised to require the person in charge of a motor vehicle to unload it or any trailer drawn thereby for the purpose of being weighed unladen.

(3) Where a motor vehicle or trailer is weighed under this section, a certificate of weight shall be given to the person in charge of the motor vehicle by the officer who required it to be weighed.

**Power to seize vehicles.**

**84D.** (1) When a person is found or is reasonably believed to be using a vehicle in contravention of any provision of this Act or of any subsidiary legislation, order or prohibition made thereunder, or in contravention of the terms of the licence for the vehicle, any police officer, the Director, and any person authorised in writing by the Director on production of his authority, may, whenever it appears that the vehicle or its driver cannot be sufficiently identified or that such action is necessary to cause a discontinuance of the offence, take or cause to be taken, or require the person in charge of the motor vehicle to take it and any trailer attached thereto to a place directed by him to be kept there until released by order of a magistrate, the Commissioner of Police or the Director, and if any person refuses or neglects to comply with any such requirement, he shall be guilty of an offence.

(2) Any unauthorised person removing or causing any such vehicle to be removed from that place pending the order of a magistrate, the Commissioner of Police or the Director shall be guilty of an offence.

(3) If the owner of the vehicle is convicted of or has been permitted to compound an offence under this Act or under any subsidiary legislation made thereunder, the expenses incurred by the Commissioner of Police, police officer, Director or other authorised person in carrying out the provisions of this section shall be recoverable by or on behalf of the Commissioner of Police and, in case of dispute or neglect to pay, be summarily ascertained by any Court of a Magistrate and may be recovered in the same manner as if they were fines imposed by that Court.

(4) When any vehicle is detained under this section, the Commissioner of Police shall forthwith give notice in writing to the owner (if his name and address are known to him) of the seizure and if it is not claimed by such owner within one month of the date of its detention, the Commissioner of Police, after giving one month's notice in the *Gazette* of his intention to do so, may sell it by public auction or otherwise dispose of it.

(5) The proceeds, if any, from such sale or disposal shall be applied in payment of any licence fees which may be due in respect of the vehicle and of any charges incurred in carrying out the provisions of this section and thereafter shall be applied in any damage caused to property of the Government by the unlawful use of the vehicle, and the surplus, if any, shall be paid to the owner of the vehicle, or if not



claimed by him within 12 months after the date of the sale or disposal, shall be forfeited to the Government.

**Police officer not in uniform to produce identification card.**

**84E.** (1) Every police officer when acting against any person under this Act or any regulations made thereunder shall, if not in uniform, declare his office and produce to the person against whom he is acting such identification card as the Commissioner of Police may direct to be carried by police officers.

(2) Any person who refuses to comply with any request, demand or order made by a police officer not in uniform who had declared his office and produced his identification card on any demand being made by him shall be guilty of an offence."

**Amendment of section 91.**

**20.** Section 91 of the Act is amended, in subsection (1), by deleting "\$50" from the last line and by substituting "\$500" therefor.

Made this 10th. day of Safar, 1423 Hijriah corresponding to the 23rd. day of April, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM

No. S 22

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Regulations under section 75)**

**PUBLIC OFFICERS (APPOINTMENT AND PROMOTIONS) (AMENDMENT)  
REGULATIONS, 2002**

ARRANGEMENT OF REGULATIONS

**Regulation**

1. Citation.
2. Amendment of regulation 18.

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Regulations under section 75)**

**PUBLIC OFFICERS (APPOINTMENT AND PROMOTIONS) (AMENDMENT)  
REGULATIONS, 2002**

In exercise of the power conferred by section 75 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan in Council hereby makes the following Regulations —

**Citation.**

**1.** These Regulations may be cited as the Public Officers (Appointment and Promotions) (Amendment) Regulations, 2002.

**Amendment of regulation 18.**

**2.** Regulation 18 of the Public Officers (Appointment and Promotions) Regulations is amended, in sub-paragraph (iii) of paragraph (b), by deleting "Director of Medical Services" and by substituting "Director-General of Medical Services or the Director-General of Health Services, as the case may be" therefor.

Made this 27th. day of Muharam, 1423 Hijriah corresponding to the 10th. day of April, 2002.

PEHIN ORANG KAYA LAILA WIJAYA DATO SERI SETIA  
HAJI AWANG ABDUL AZIZ BIN BEGAWAN PEHIN UDANA KHATIB  
DATO SERI PADUKA HAJI AWANG UMAR  
Acting Minister of Health,  
Brunei Darussalam.

No. S 23

**NURSES REGISTRATION ACT  
(CHAPTER 140)**

**NURSES REGISTRATION  
(NURSING BOARD FOR BRUNEI) REGULATIONS, 2002**

**ARRANGEMENT OF REGULATIONS**

**Regulation**

1. Citation.
2. Constitution of Board.
3. Membership of Board.
4. Meetings of Board.

**NURSES REGISTRATION ACT  
(CHAPTER 140)**

**NURSES REGISTRATION  
(NURSING BOARD FOR BRUNEI) REGULATIONS, 2002**

In exercise of the power conferred by section 4(1)(e) of the Nurses Registration Act, His Majesty the Sultan and Yang Di-Pertuan in Council hereby makes the following Regulations —

**Citation.**

1. These Regulations may be cited as the Nurses Registration (Nursing Board for Brunei) Regulations, 2002.

**Constitution of Board.**

2. The Nursing Board for Brunei is hereby constituted.

**Membership of Board.**

3. (1) The Board shall consist of the following members —

(a) the Director of Nursing Services, who shall be the chairman;

(b) 3 Principal Nursing Officers;

(c) the Principal of the Pengiran Anak Puteri Rashidah Sa'adatul Bolkiah College of Nursing;

(d) 3 Senior Nursing Officers;

(e) a nursing officer from the Panaga Hospital;

(f) a senior administrative officer from the Ministry of Health;

(g) a medical officer;

(h) a former nurse.

(2) The members of the Board shall be appointed by the Minister for such period as he may think fit and shall be eligible for re-appointment.

(3) The Minister shall appoint one of the members of the Board referred to in paragraph (d) of sub-regulation (1) to be the secretary.

- (4) Notice of appointments under sub-regulation (1) shall be published in the *Gazette*.
- (5) In this regulation, "Minister" means the Minister of Health.

**Meetings of Board.**

4. (1) In the absence of the chairman from any meeting of the Board, the members present shall elect from amongst themselves a person to be the chairman for that meeting.
- (2) 8 members present shall form the quorum of a meeting.
  - (3) Subject to these Regulations, the Board may determine its own procedure.

Made this 27th. day of Muharam, 1423 Hijriah corresponding to the 10th. day of April, 2002.

PEHIN ORANG KAYA LAILA WIJAYA DATO SERI SETIA  
HAJI AWANG ABDUL AZIZ BIN BEGAWAN PEHIN UDANA KHATIB  
DATO SERI PADUKA HAJI AWANG UMAR  
Acting Minister of Health,  
Brunei Darussalam.

No. S 24

**ROYAL BRUNEI POLICE FORCE ACT  
(CHAPTER 50)**

**ROYAL BRUNEI POLICE FORCE (POLICE COMMISSION)  
REGULATIONS, 2002**

ARRANGEMENT OF REGULATIONS

**Regulation**

1. Citation and commencement.
2. Application.
3. Functions of the Commission.
4. Meetings of the Commission.
5. Power to regulate own proceedings.
6. Notice of commencement of proceedings.
7. Non-applicability of regulation 6.
8. Investigations may be carried out.
9. Decisions of the Commission.
10. Appeals.

**ROYAL BRUNEI POLICE FORCE ACT  
(CHAPTER 50)**

**ROYAL BRUNEI POLICE FORCE (POLICE COMMISSION)  
REGULATIONS, 2002**

In exercise of the power conferred by section 44 of the Royal Brunei Police Force Act, His Majesty in Council hereby makes the following Regulations —

**Citation and commencement.**

1. These Regulations may be cited as the Royal Brunei Police Force (Police Commission) Regulations, 2002 and shall commence on 21st. March, 2002.

**Application.**

2. These Regulations shall give effect to section 44 of the Act so as to enable the Commission to exercise its functions in respect of senior police officers.

**Functions of the Commission.**

3. Subject to the provisions of the Act and any other regulations made thereunder, the Commission shall be responsible for determining matters relating to the appointment, promotion, transfer, dismissal, interdiction, suspension and disciplinary control of all senior police officers as provided for under section 8 of the Act.

**Meetings of the Commission.**

4. (1) For the purpose of exercising its functions under the Act and any regulations made thereunder, the Commission shall meet on such dates and times and at such places as the Chairman of the Commission may determine.

(2) Subject to sub-regulation (1) and regulation 5, the secretary to the Commission shall keep records of all meetings and proceedings of the Commission.

**Power to regulate own proceedings.**

5. Subject to Part IV of the Act and any regulations made under that Part, the Commission shall have the power to regulate its own proceedings.

**Notice of commencement of proceedings.**

6. (1) Where the Commission intends to commence disciplinary proceedings against a senior police officer, such officer shall be given notice of that intention together with the grounds upon which he is intended to be disciplined.



(2) Within 3 weeks of notice given under sub-regulation (1), the officer shall be given an opportunity to be heard by the Commission.

**Non-applicability of regulation 6.**

7. Regulation 6 does not apply —

(a) where a senior police officer has been convicted of a criminal charge;

(b) where the Commission is satisfied that it is not reasonably practical to carry out the provisions of these Regulations; or

(c) where His Majesty the Sultan and Yang Di-Pertuan is satisfied that in the interest of national security it is not expedient to carry out the provisions of these Regulations.

**Investigations may be carried out.**

8. (1) Where the Commission considers it necessary, it may direct any investigation as it shall consider necessary to be carried out in respect of any allegations made against a senior police officer under the Act or any regulations made thereunder.

(2) For the purpose of sub-regulation (1), the Commission may appoint a body of police officers to conduct the investigation and to submit a report thereon.

**Decisions of the Commission.**

9. A senior police officer against whom action has been commenced under the Act or any regulations made thereunder shall be informed within 7 days of any decision made by the Commission in respect of such action.

**Appeals.**

10. A senior police officer may appeal to His Majesty the Sultan and Yang Di-Pertuan against any decision of the Commission within 30 days of being informed of the decision and such appeal shall be forwarded to the Commission for onward transmission to His Majesty the Sultan and Yang Di-Pertuan.

Made this 9th. day of Safar, 1423 Hijriah corresponding to the 22nd. day of April, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM

**No. S 26**

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**PORTS ACT (AMENDMENT) ORDER, 2002**

**ARRANGEMENT OF SECTIONS**

**Section**

1. Citation and commencement.
2. Amendment of section 2 of Chapter 144.
3. Repeal of section 4.
4. Amendment of section 5.
5. Repeal of section 21.
6. Amendment of section 22.
7. Repeal of section 30.
8. Repeal of section 51.
9. Repeal of section 52.
10. Repeal of section 53.

**CONSTITUTION OF BRUNEI DARUSSALA  
(Order under section 83(3))**

**PORTS ACT (AMENDMENT) ORDER, 2002**

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**Citation and commencement.**

1. This Order may be cited as the Ports Act (Amendment) Order, 2002 and shall commence on the same date as the Merchant Shipping Order, 2002.

**Amendment of section 2 of Chapter 144.**

2. Section 2 of the Ports Act, in this Order referred to as the Act, is amended, in subsection (1) —

(a) in the definition of "competent Marine officer", by inserting "appointed under section 4(1) of the Merchant Shipping Order, 2002" immediately after "Department"; and

(b) by deleting the definition of "Director" and by substituting the following therefor —

" "Director" means the Director of Marine appointed under section 4(1) of the Merchant Shipping Order, 2002, and includes the Deputy Director of Marine;"

**Repeal of section 4.**

3. Section 4 of the Act is repealed.

**Amendment of section 5.**

4. Section 5 of the Act is amended —

(a) in paragraph (b), by deleting "to regulate and control navigation within the waters of Brunei and";

(b) by deleting paragraph (c);

(c) by deleting paragraph (e); and

(d) by deleting paragraph (f).

**Repeal of section 21.**

5. Section 21 of the Act is repealed.

**Amendment of section 22.**

6. Section 22 of the Act is amended, in subsection (1) —
- (a) by deleting paragraph (m);
  - (b) by deleting paragraph (w); and
  - (c) by deleting paragraph (x).

**Repeal of section 30.**

7. Section 30 of the Act is repealed.

**Repeal of section 51.**

8. Section 51 of the Act is repealed.

**Repeal of section 52.**

9. Section 52 of the Act is repealed.

**Repeal of section 53.**

10. Section 53 of the Act is repealed.

Made this 3rd. day of Rabiulawal, 1423 Hijriah corresponding to the 16th. day of May, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM

No. S 27

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**MERCHANT SHIPPING ORDER, 2002**

**ARRANGEMENT OF SECTIONS**

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**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**MERCHANT SHIPPING ORDER, 2002**

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**PART I**

**PRELIMINARY**

**Citation and long title.**

1. (1) This Order may be cited as the Merchant Shipping Order, 2002.
- (2) The long title of this Order is "An Order relating to merchant shipping and for matters connected therewith or incidental thereto".

**Interpretation.**

2. (1) In this Order, unless the context otherwise requires —
  - "alteration" includes deterioration;
  - "bankruptcy" includes insolvency;
  - "beneficial interest" includes interests arising under contract and other equitable interests;
  - "Brunei Darussalam licensed ship" means a ship licensed under Part VI;
  - "Brunei Darussalam ship" means a ship registered provisionally or otherwise, under Part II and its registry is not closed or deemed to be closed or suspended under that Part;
  - "cargo ship" means any ship which is not a passenger ship;
  - "certificated officer" means any officer holding a certificate issued or deemed to have been issued in accordance with regulations made under section 47;
  - "collision regulations" means regulations made under section 109;
  - "consular officer" includes —



(a) a consul, ambassador, high commissioner, commissioner or other head of a diplomatic mission;

(b) a Minister;

(c) a charge d'affairs; and

(d) a counselor, secretary or attaché of an embassy or other mission;

"court" in relation to any proceedings, includes any court, judge or magistrate having jurisdiction in the matter to which the proceedings relates;

"crew agreement" means an agreement made pursuant to section 57;

"Director" means the Director of Marine appointed under section 4 and includes the Deputy Director of Marine;

"effects" includes clothes and documents;

"equipment", in relation to a ship, includes every fitting, thing or article belonging to, on or in the ship used or to be used in connection with, or necessary for the navigation or safety of, the ship or persons on board or the prevention of pollution, whether or not the fitting, thing or article is prescribed by this Order and, in particular, includes machinery, boilers, cargo handling gear and any fitting, thing or article prescribed by this Order;

"functions" include powers and duties;

"harbour craft" means any ship that is used solely within the limits of the port declared under the Ports Act (Chapter 144);

"load line" means a line indicating the maximum depth to which a ship, other than a passenger ship, may be loaded in circumstances prescribed by regulations made under section 109 and determined in accordance with those regulations;

"master" includes every person, except a pilot, having command or charge of any ship;

"Minister" means the Minister of Communications;

"name" includes a surname;

"officer" includes a master, a mate, an engineer, a helmsman and an engine driver of any ship;

"officers of the Marine Department" means the officers for the time being appointed to be officers of the Marine Department under section 4;

"passenger" means a person carried on board a ship with the knowledge or consent of the owner, manager, charterer, operator, agent or master of the ship, not being —

(a) a person employed or engaged in any capacity on board the ship on the business of the ship;

(b) a person on board the ship in pursuance of an obligation imposed on the master by any law (including a law of a country or territory other than Brunei Darussalam) to convey persons left behind in any country or territory on being shipwrecked, distressed or by reason of circumstances that could not have been prevented or forestalled by the owner, manager, charterer, operator, agent or master of the ship;

(c) a person temporarily employed on the ship in port; or

(d) a child below one year of age;

"passenger ship" means a ship which carries more than 12 passengers;

"pilot" means any person who does not belong to, but has the conduct of, a ship;

"pleasure craft" means any ship used exclusively for owner's pleasure and not offered or used for hire or reward;

"port" means any area in Brunei Darussalam declared to be a port under the Ports Act (Chapter 144);

"Port Health Officer" means any person appointed under the Quarantine and Prevention of Disease Act (Chapter 47);

"port of return" means such port as is agreed upon by the master or seaman and his employer in the crew agreement or otherwise or, in the absence of agreement —

(a) Muara or Kuala Belait, in the case of a master or seaman who is resident in Brunei Darussalam; or

(b) the port where the master or seaman was employed or joined the ship, in any other case;

"premises" includes messuages, houses, buildings, lands, tenements, easements and hereditaments of any tenure, whether opened or enclosed, whether permanently built on or not, whether public or private, whether on land or on water, and whether maintained or not under statutory authority;

"prescribed" means prescribed by regulations made by the Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan;

"Registrar" means the Registrar of Brunei Darussalam ships;

"repealed Act" means the Merchant Shipping Act (Chapter 145) repealed by this Order;

"representation" means probate, administration, confirmation, or other instrument constituting a person the executor, administrator or other representative of a deceased person, and "legal personal representative" means the person so constituted executor, administrator or other representative of a deceased person;

"salvor", in relation to salvage services rendered by the officers or crew or part of the crew of any naval ship, means the person in command of that ship;

"seaman" includes every person employed or engaged in any capacity on board a ship on the business of the ship, other than —

- (a) the master of the ship;
- (b) a pilot; or
- (c) a person temporarily employed on the ship in port;

"ship" means any kind of vessel used in navigation by water, however propelled or moved and includes —

- (a) a barge, lighter or other floating vessel; and
- (b) an air cushion vehicle, or other similar craft, used wholly or primarily in navigation by water;

"subdivision load line" means a line indicating the maximum depth to which a passenger ship may be loaded having regard to the extent to which it is subdivided and to the space for the time being allotted to passengers as determined in accordance with regulations made under section 109;

"surveyor" means a surveyor appointed under section 5;

"tons" means gross tonnage;

"voyage", in relation to a ship, means the whole time and the whole distance when the ship is at sea between the ship's port of departure and its port of arrival;

"wages" includes emoluments;

"young person" means any person who has not attained the age of 18 years.

(2) References in this Order —

(a) to a failure to do any act or thing include references to a refusal or neglect to do that act or thing;

(b) to going to sea include, in the case of a Brunei Darussalam ship, references to going to sea from any country or territory outside Brunei Darussalam;

(c) to dying in a ship include references to dying in a ship's boat or life raft and to being lost from a ship, ship's boat or life raft;

(d) to the date of commencement of this Order are to the date of commencement of the main substantive provisions of this Order; and

(e) to this Order include references to regulations made under this Order.

(3) For the purposes of this Order —

(a) a seaman is discharged from a ship when his employment on that ship is terminated;

(b) a seaman is discharged from a ship in any country or territory and left there shall be deemed to be left behind in that country or territory notwithstanding that the ship also remains there; and

(c) a ship shall be deemed to have gone to sea if it has got under way for any purpose except for the purpose of moving the ship from one berth or place in a port to another berth or place in the port.

**Exemption of naval ships etc.**

3. This Order shall not apply to or in relation to any ship belonging to the naval, military or air forces of Brunei Darussalam or any other country or territory.

**Appointment of Director of Marine and other officers.**

4. (1) His Majesty the Sultan and Yang Di-Pertuan may appoint a Director of Marine and a Deputy Director of Marine, and appoint such number of officers of the Marine Department under such official designations as His Majesty the Sultan and Yang Di-Pertuan may deem expedient for the purpose of carrying out all or any of the functions conferred on the Director by this Order.

(2) Subject to subsection (1), the officers performing the functions of the Director of Marine and the Deputy Director of Marine under section 4 of the Ports Act (Chapter 144) immediately before the date of commencement of this Order and all other officers of the Marine Department immediately before that date shall be deemed to be appointed under this section and shall have, enjoy and perform all powers, privileges and duties respectively conferred, granted and imposed upon the holders of their respective offices under this Order or any other written law.

(3) If the Director is temporarily absent from Brunei Darussalam or temporarily incapacitated by reason of illness or for any reason temporarily unable to perform his duties, a person may be appointed by the Minister to act in the place of the Director during any such period of absence from duty.

(4) The Director may delegate to any officer appointed under this section all or any of the powers conferred on the Director by this Order, except the powers conferred by section 122.

**Appointment of surveyors.**

5. (1) His Majesty the Sultan and Yang Di-Pertuan may appoint, either generally or for special purposes or on special occasions, any person to be surveyor of ships or a radio surveyor for the purposes of this Order.

(2) Every surveyor of ships and every radio surveyor shall have and perform the powers, functions and duties prescribed by this Order.

**PART II**

**BRUNEI DARUSSALAM REGISTRY**

**Application of this Part.**

6. (1) This Part shall not apply to any fishing vessel, that is to say, any ship which is for the time being used for fishing or processing fish and pleasure craft.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations prescribing the conditions to the manner in which ships, or classes of ships, belonging to the Government, except those ships, or classes of ships belonging to the army, navy, air force and the police, may be registered under this Part.

**Conditions for registration of ships.**

7. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations prescribing the conditions for the registration of a ship as a Brunei Darussalam ship.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may make provision —

(a) describing the persons qualified to own Brunei Darussalam ships or any share therein (referred to in this Part as persons qualified to own Brunei Darussalam ships);

(b) requiring a corporation having a share capital to have a minimum amount of paid-up capital;

(c) limiting the age and tonnage of a ship;

(d) requiring a corporate owner to disclose to the Registrar such particulars and in such manner as may be specified before making an application to register a ship;

(e) requiring persons qualified to own Brunei Darussalam ships or the bareboat charterer to appoint representatives in relation to the ships; and

(f) empowering the Registrar to close the registry of a Brunei Darussalam ship and cancel its certificate of registry for any contravention of the regulations.

(3) The Registrar may refuse to register any ship as a Brunei Darussalam ship without assigning any reason.

**Registrar of Brunei Darussalam ships.**

8. (1) The Director shall be the Registrar of Brunei Darussalam ships.

(2) The Registrar shall keep a register of ships registered as Brunei Darussalam ships under this Part in accordance with the following provisions —

(a) the property in a ship may be divided into any number of shares and such number shall not be changed unless the ship is registered anew;

(b) a person shall not be entitled to be registered as an owner of a fractional part of a share in the ship;

(c) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose of in severalty any interest in a ship or in any share therein in respect of which they are registered; and

(d) a corporation may be registered as an owner by its corporate name.

**Marking of ship.**

9. (1) Every ship shall, before registry, be marked permanently and conspicuously to the satisfaction of the Registrar as follows —

(a) its name shall be marked on each of its bows, and its name and the name of its port of registry shall be marked on its stern, on a dark ground in white or yellow letters or on a light ground in black letters, such letters to be of a length not less than one decimeter and of proportionate breadth;

(b) its official number shall be cut in on its main beam; and

(c) a scale of decimeters, or of metres and decimeters, denoting its draught of water shall be marked on each side of its stem and of its stern post —

(i) in figures at 2-decimetre intervals, if the scale is in decimeters;

(ii) in figures at each metre interval and at intervening 2-decimetre intervals, if the scale is in metres and decimeters; and

(iii) the capital letter "M" being placed after each metre figure; the top figure of scale showing both the metre and (except where it marks a full metre interval) the decimeter figure; the lower line of the figures, or figures and letters (as the case may be), coinciding with the draught line denoted thereby, the figures and letters being not less than one decimeter in length and being marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Registrar may approve.

(2) The Registrar may exempt any ship or class of ships from all or any of the requirements of this section.

(3) If the scale showing a ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

**Application for initial registry.**

**10.** (1) An application for the registry of a ship shall be —

(a) made in writing by the person applying to be registered as owner or by some other person on his behalf; and

(b) submitted together with the declaration of ownership, the document of title to the ship, evidence of the cancellation of any foreign registry, the ship's tonnage certificate, a certificate specifying the ship's build and such other particulars as the Registrar may require, such evidence of seaworthiness as may be specified in the regulations made under section 45 and such other document relating to the ship as the Registrar may require.

(2) A person shall not be entitled to be registered as owner of a ship or of any share therein until he or, in the case of a corporation, the person authorised under this Order to make declaration on behalf of the corporation, has made and signed a declaration of ownership in the prescribed form and containing the following particulars —

(a) the name of the ship and its gross and net tonnages and such other particulars as may be prescribed;

(b) a statement of his qualification to own a Brunei Darussalam ship or, in the case of a corporation, such circumstances of the constitution and business thereof as prove it to be qualified to own a Brunei Darussalam ship;

(c) a statement of the time when and the place where the ship was built or, if the time and the place of building are unknown, a statement that the declarant does not know the time and place of its building;

(d) a statement as to the owner of the ship and his citizenship and, if the ship is owned by more than one person, the number of shares each of them is entitled to; and

(e) a declaration that, to the best of his knowledge and belief, no unqualified person is entitled as owner to any legal or beneficial interest in the ship or any share therein.

**Provisional registry.**

11. (1) The Registrar may provisionally register a ship and grant a provisional certificate of registry if the application under section 10 is not accompanied by the document of title, evidence of cancellation of any foreign registry, the tonnage certificate or such other document as the Registrar may determine.

(2) The provisional registry of a ship shall be valid for a maximum period of one year from the date of issue and the provisions of this Order and any other written law shall apply to a ship provisionally registered under this section, its owner and provisional certificate of registry as they apply to a Brunei Darussalam ship, its owner and certificate of registry.

**Entry of particulars in register.**

12. (1) The Registrar shall, if he is satisfied that the requirements preliminary to registry, whether provisional or otherwise, have been complied with by the applicant for the registry of a ship and, upon payment of the fees specified in section 13, enter in the register the following particulars of the ship —

(a) the name of the ship and the port to which it belongs;

(b) the ship's build and other particulars descriptive of the identity of the ship;

(c) the particulars respecting its origin stated in the declaration of ownership;  
and

(d) the name and description of its owner and, if there are more owners than one, the proportions in which they are interested in the ship.

(2) The Registrar may, at any time, make any other entries in the register as he considers necessary.



**Fees and tonnage taxes on registration.**

13. (1) The fee for the initial registration or registration anew of a ship registered under this Part shall be \$2.50 per net ton of the ship, subject to a minimum of \$1,250 and a maximum of \$100,000.

(2) An annual tonnage tax of 20 cents per net ton, subject to a minimum of \$100, shall be payable in respect of every Brunei Darussalam ship.

(3) The annual tonnage tax shall be paid at the time of initial registration or registration anew of the ship and thereafter annually on or before the anniversary date of the initial registration or registration anew, as the case may be.

(4) An international business company or a foreign international company incorporated, converted or registered under the International Business Companies Order, 2000 (S 56/2000) shall be exempted from paying the annual tonnage tax.

(5) All unpaid fees and tonnage taxes in respect of any ship due to the Registrar shall constitute a maritime lien on the ship, subject only to liens for wages.

(6) The Minister may, either generally or on specific occasions, reduce the fee or annual tonnage tax prescribed under this section or consider rewarding a rebate.

**Documents to be retained by Registrar.**

14. On the registry of a ship, the Registrar shall retain in his possession all the documents submitted under section 10, except the document of title.

**Port of Registry.**

15. (1) Ships registered under this Part shall be registered at the port of Muara.

(2) Any Brunei Darussalam ships registered at the port of Bandar Seri Begawan, under the repealed Act, so far as it is not inconsistent with this Order and except as otherwise expressly provided in this Order, shall be deemed to be registered under this Part, and shall maintain its port of registry as Bandar Seri Begawan, unless the owner requests to transfer the port of registry to Muara. Such application shall comply with the requirements of section 35.

**Certificate of registry.**

16. (1) On completion of the registry of a ship, the Registrar shall grant a certificate of registry which shall state the particulars entered in the register.

(2) Where a ship has been provisionally registered under section 11 without the tonnage certificate, the fees paid under section 13 shall be adjusted according to the tonnage established in the tonnage certificate.

(3) The provisional certificate of registry, if any, shall be delivered up to the Registrar for cancellation.

(4) Where a ship has been provisionally registered under section 11 and its registry is not completed within the period specified in that section, the registry of the ship shall be deemed to be closed (except in relation to any unsatisfied mortgages entered therein) and the Registrar shall make an entry thereof in the register.

(5) In the event of the certificate of registry of a Brunei Darussalam ship being mislaid, lost or destroyed, the owner shall make a report to the police and such a report shall be attested by the magistrate. Upon satisfaction, the Registrar shall grant a new certificate in lieu of the ship's original certificate.

**Use, custody and delivery up of certificate.**

**17.** (1) The certificate of registry of a ship shall be used only for the lawful navigation of the ship and shall not be subject to detention by reason of any title, lien, charge or interest whatsoever had or claimed by any owner, mortgagee or other person to, on or in the ship.

(2) If any person, whether interested in the ship or not, refuses, without reasonable cause, on request to deliver up the certificate of registry when in his possession or under his control to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to the Registrar; or to any person entitled by law to require such delivery, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

(3) Where the registry of a ship is closed or deemed to be closed under this Part (except under section 43), the registered owner of the ship at the time of the closure shall deliver up the certificate of registry to the Registrar for cancellation within 60 days of the closure and if he fails, without reasonable cause, to deliver up the certificate of registry within that period, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

(4) If any person uses or attempts to use for the navigation of a ship a certificate of registry which is not legally granted in respect of the ship or the registry of which has been closed or deemed to be closed, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

**Transfer of ship and registration of bill of sale.**

**18.** (1) A Brunei Darussalam ship or any share therein shall be transferred by a bill of sale.

(2) The bill of sale for the transfer of a ship or any share therein to a person qualified to own a Brunei Darussalam ship shall be in the prescribed form and shall contain such description of the ship as is contained in the register and shall be executed by the transferor in the presence of, and be attested by, a witness or witnesses.

(3) Every bill of sale shall be produced to the Registrar and the Registrar shall thereupon enter in the register the name of the transferee and shall endorse on the bill of sale the fact of that entry having been made with the date and time thereof.

(4) Bills of sale shall be entered in the register in the order of their production to the Registrar.

(5) The Registrar shall not make an entry under this section in respect of any ship if there is —

(a) any unsatisfied mortgage entered in its register, unless, where the ship or any share therein is transferred to a person qualified to own a Brunei Darussalam ship, the mortgagee has given his consent in writing;

(b) any subsisting entry made under section 24 prohibiting any dealing with the ship;

(c) any unpaid fees within the meaning of subsection (4) of section 210 with respect to the ship; and

(d) any outstanding claims of the master or seamen of the ship in respect of wages which have been notified to the Director.

(6) Subsection (5) shall not apply in respect of a bill of sale executed pursuant to an order of the High Court for the sale of a Brunei Darussalam ship or any share therein.

**Transfer to person qualified to own Brunei Darussalam ship.**

**19.** (1) Where a Brunei Darussalam ship or any share therein is transferred to a person qualified to own a Brunei Darussalam ship and the bill of sale is registered under section 18, the ship shall, subject to section 42, be registered anew.

(2) If the ship is not registered anew or its registry is not closed within 60 days of the date on which the bill of sale (or the first bill of sale if there are more than one bill of sale) is registered, the registry of the ship shall be deemed to be closed (except in relation to any unsatisfied mortgages entered therein) and the Registrar shall make an entry thereof in the register.

**Transfer to person not qualified to own Brunei Darussalam ship.**

**20.** (1) A Brunei Darussalam ship or any share therein shall not be transferred to a person not qualified to own a Brunei Darussalam ship if there is —

(a) any unsatisfied mortgage entered in the register;

(b) any subsisting entry made under section 24 prohibiting any dealing with the ship;

(c) any unpaid fees within the meaning of subsection (4) of section 210 with respect to the ship; and

(d) any outstanding claims of the master or seamen of the ship in respect of wages which have been notified to the Director.

(2) Where a Brunei Darussalam ship or any share therein is transferred to a person not qualified to own a Brunei Darussalam ship and the bill of sale is registered under section 18, the registry of the ship shall be deemed to be closed and the Registrar shall make an entry thereof in the register.

(3) This section, except subsection (2), shall not apply to a Brunei Darussalam ship or any share therein sold pursuant to an order of the High Court.

**Transmission of property in ship on marriage, bankruptcy, death etc.**

**21.** (1) Where the property in a Brunei Darussalam ship or any share therein is transmitted to a person on the marriage, bankruptcy or death of any registered owner, or by any lawful means other than by a transfer under this Part —

(a) that person shall authenticate the transmission by making and signing a declaration of transmission identifying the ship and containing the particulars specified in paragraphs (b) and (e) of subsection (2) of section 10, or as near thereto as circumstances permit, or if that person is not qualified to own a Brunei Darussalam ship, a statement to that effect, and also a statement of the manner in which and the person to whom the property has been transmitted;

(b) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in courts of law as proof of the title of persons claiming under a bankruptcy; and

(c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation, or an official extract therefrom.

(2) The declaration of transmission and the evidence under subsection (1) shall be produced to the Registrar and the Registrar shall make an entry thereof in the register.

**Order for sale on transmission to unqualified person.**

**22.** (1) Where the property in a Brunei Darussalam ship or any share therein is transmitted on death or bankruptcy to a person not qualified to own a Brunei Darussalam ship, the High Court may, on the application by or on behalf of the unqualified person or any other person having an interest in the ship, order a sale of the property so transmitted and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under such transmission or as the High Court otherwise directs.

(2) The High Court may require any evidence in support of the application it thinks requisite, and may make the order on any terms and conditions or may refuse to make the order, and generally may act in such manner as the High Court thinks just.

(3) Every such application for sale shall be made within 60 days after the occurrence of the event on which the transmission has taken place, or within such longer period not exceeding in aggregate one year as the High Court may allow.

(4) If such an application is not made within the period specified or allowed under subsection (3), or if the High Court refuses an order for sale, the registry of the ship shall be deemed to be closed (except in relation to any unsatisfied mortgages entered therein) and the Registrar shall make an entry thereof in the register.

**Transfer of ship or sale by order of court.**

**23.** Where any court, whether under the preceding sections of this Order or otherwise, orders the sale of a ship or any share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer the ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof; and the Registrar shall accept the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

**Power of High Court to prohibit transfer.**

**24.** (1) The High Court may, if it thinks fit (without prejudice to the exercise of any other power of the High Court), on the application of any interested person make an order prohibiting for a specified time any dealing with a ship or any share therein, and the High Court may make the order on any terms or conditions it thinks just, or may refuse to make the order or may discharge the order when made, with or without costs, and generally may act in such manner as the High Court thinks just.

(2) The Registrar, without being made a party to the proceedings, shall, on being served with the order or an official copy thereof, accept the same and make an entry thereof in the register.

**Mortgage of ship or share.**

**25.** (1) A Brunei Darussalam ship or any share therein may be made a security for a loan or other valuable consideration, and the instrument creating the security (referred to in this Part as a mortgage) shall be in the prescribed form or as near thereto as circumstances permit, and on the production of that instrument the Registrar shall record it in the register.

(2) Mortgages shall be recorded by the Registrar in the order in time in which they are produced to him for that purpose, and the Registrar shall endorse and sign a memorandum on each mortgage stating the date and time of that record.

**Obligation of mortgagor before execution and registration of mortgage.**

26. (1) Before executing any mortgage to be registered under this Order, the mortgagor shall disclose in writing to the mortgagee the existence of any maritime lien, prior mortgage, or other liability in respect of the ship to be mortgaged, which is known to the mortgagor.

(2) Where the mortgagor has failed to comply with this section, the mortgage debt shall, at the election of the mortgagee, become immediately due and payable, notwithstanding anything to the contrary in the mortgage.

**Entry of discharge of mortgage.**

27. Where a registered mortgage is discharged, the Registrar shall, on production of the mortgage, with the discharge duly signed and attested, make an entry in the register to the effect that the mortgage has been discharged, and on the entry being made, the estate, if any, which passed to the mortgagee shall vest in the person in whom (having regard to any intervening acts and circumstances) it would have vested, if the mortgage had not been made.

**Priority of mortgages.**

28. If there are more mortgages than one registered in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied or constructive notice, be entitled in priority, one over the other, according to the date and time of the record of each mortgage in the register and not according to the date of each mortgage itself.

**Mortgagee not deemed to be owner.**

29. Except as far as may be necessary for making a mortgaged ship or any share therein available as a security for the mortgage debt, the mortgagee shall not, by reason of the mortgage, be deemed to be the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be the owner thereof.

**Powers of mortgagee.**

30. (1) Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of the High Court, sell the ship or share without the concurrence of every prior mortgagee.

(2) Every registered mortgagee shall be entitled to enforce his mortgage by an action in rem in admiralty whenever any sum secured by the mortgage is unpaid when due or otherwise in accordance with the terms of any deed or instrument collateral to the mortgage.

**Transfer of mortgages.**

**31.** (1) A registered mortgage of a ship or any share therein may be transferred to any person and the instrument effecting the transfer shall be in the prescribed form or as near thereto as circumstances permit, and on production of such instrument, the Registrar shall record the transfer by entering in the register the name of the transferee as mortgagee of the ship or share and shall endorse and sign on the instrument of transfer a memorandum that the transfer has been recorded by him stating the date and time of the record.

(2) The person to whom any registered mortgage has been transferred shall enjoy the same right of preference as was enjoyed by the transferor.

**Transmission of interest in mortgage in certain circumstances.**

**32.** (1) Where the interest of a mortgagee in a Brunei Darussalam ship or any share therein is transmitted on the death or bankruptcy of the mortgagee, or by any lawful means other than by a transfer under this Order, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted.

(2) A declaration made under this section shall contain a statement of the manner in which, and the person to whom, the property has been transmitted, and shall be accompanied by the like evidence as is by this Order required in the case of a corresponding transmission of the ownership of a Brunei Darussalam ship or any share therein.

(3) The Registrar shall, on receipt of the declaration and production of the evidence as mentioned in subsection (2), enter the name of the person entitled under the transmission in the register as mortgagee of the ship or share.

**Notice of trusts not received and equities not excluded.**

**33.** (1) No notice of any trust, express, implied or constructive, shall be entered in the register or be receivable by the Registrar and, subject to any rights and powers appearing on the register to be vested in any other person, the registered owner of a ship or any share therein shall have power absolutely to dispose, in the manner provided in this Part, of the ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

(2) Subject to this section and sections 7 and 30, interests arising under contract or other equitable interests may be enforced by or against the owners and mortgagees of ships in respect of their interests therein in the same manner as in respect of any other personal property.

**Alteration of ship.**

34. (1) When a Brunei Darussalam ship is so altered as not to correspond with the particulars relating to its tonnage or description contained in the register, the owner shall apply for the ship to be registered anew.

(2) If the owner of a Brunei Darussalam ship fails without reasonable cause to register anew the ship so altered, he shall be guilty of an offence and liable on conviction for each offence to a fine not exceeding \$5,000 and to a further fine not exceeding \$200 for every day during which the offence continues after conviction.

**Procedure for registry anew.**

35. (1) Where a ship is to be registered anew, the Registrar shall proceed as in the case of initial registry and on the requisites to registry, or such of them as the Registrar considers material, being duly complied with, shall make such registry anew and grant a new certificate of registry.

(2) Where a ship has been registered anew under subsection (1), the former certificate of registry shall be delivered up to the Registrar for cancellation and the Registrar shall make an entry thereof in the former register.

(3) Where a ship is registered anew, its former register shall be deemed to be closed (except in relation to any unsatisfied mortgages entered therein) but the names of all persons appearing on the former register to be interested in the ship as owners or mortgagees shall be entered on the new register, and the registry anew shall not in any way affect the rights of any of those persons.

**National colours for Brunei Darussalam ships.**

36. (1) The Minister shall prescribe an ensign, which shall be the proper national colours for a Brunei Darussalam ship.

(2) If any distinctive national colours other than the prescribed ensign are hoisted on board any Brunei Darussalam ship without the consent of the Minister, the master of the ship or the owner thereof if on board the ship, and every other person hoisting the colours shall be guilty of an offence and liable on conviction to a fine not exceeding \$1,000.

**Penalty for not showing colours.**

37. (1) A Brunei Darussalam ship shall hoist the proper national colours on entering or leaving any port.

(2) If the master of a Brunei Darussalam ship fails without reasonable cause to comply with this section, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$1,000.



**Certified copy or transcript of register.**

38. (1) Any person may, on payment of the prescribed fee, on application to the Registrar at a reasonable time, inspect any register of Brunei Darussalam ships or apply for a certified copy or transcript thereof.

(2) If the register of a Brunei Darussalam ship is free of registered encumbrances, the Registrar may, at the request of the applicant, certify that fact in the copy or transcript of the register.

**Correction of errors in register.**

39. (1) The Registrar may correct any clerical error or obvious mistake in the register of a Brunei Darussalam ship.

(2) Any error relating to the particulars descriptive of a ship in the register may be corrected by entry (but so that the original entry remains legible) by the Registrar on the production to him, by the owner requiring such error to be corrected, of a declaration setting forth the nature of the error and the facts of the case and made by the owner or some other person having knowledge of the facts of the case.

**Rectification of register by High Court.**

40. (1) Any person who is aggrieved by any incorrect entry or omission in the register of a Brunei Darussalam ship may apply to the High Court for rectification of the register and the High Court may make such order as it thinks fit directing the rectification of the register.

(2) The High Court may, in proceedings under this section, decide any question that is necessary or expedient to decide in connection with the rectification of the register.

(3) Notice of an application under this section by a person aggrieved shall be served on the Registrar, who may appear and be heard, and shall appear if so directed by the High Court.

(4) An official copy of an order under this section shall be served on the Registrar who shall, upon receipt of the order, rectify the register accordingly.

**Delivery up of certificate on loss etc. of ship.**

41. (1) Where a Brunei Darussalam ship is actually or constructively lost, taken by the enemy, burnt or broken up, every owner of the ship or any share therein shall, immediately on having knowledge of the event, if no notice thereof has already been given to the Registrar, give notice thereof to the Registrar, and the Registrar shall make an entry thereof in the register and the registry of the ship shall be deemed to be closed except in relation to any unsatisfied mortgages entered therein.

(2) In any such case, except where the ship's certificate of registry is lost or destroyed, the owner or the master of the ship shall, within 30 days of the event, deliver the certificate to the Registrar.

(3) Any owner or master of a ship who fails, without reasonable cause, to comply with subsection (1) or (2) shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

**Voluntary closure of registry.**

**42.** (1) The owner of a Brunei Darussalam ship may make a written application to close its registry if there is no —

(a) unsatisfied mortgage entered in its register;

(b) subsisting entry made under section 24 prohibiting any dealing with the ship;

(c) unpaid fees within the meaning of subsection (4) of section 210 with respect to the ship; and

(d) outstanding claims of the master or seamen of the ship in respect of wages which have been notified to the Director.

(2) The application shall specify the name of the ship, the intended port and country or territory of registry (if applicable) or otherwise the reason for the closure and shall be submitted to the Registrar together with the certificate of registry of the ship.

(3) On receipt of the application and the certificate of registry, the Registrar shall, if he is satisfied of the matters mentioned in subsection (1), close the registry of the ship, make an entry thereof in the register and issue a certification of deletion to the owner in the specified form certifying that the ship's registry is closed and the date of such closure.

(4) For the purposes of this section, "owner" includes any transferee of, or any person entitled under a transmission to the property in, a Brunei Darussalam ship.

**Power of Registrar to close registry and cancel certificate of registry.**

**43.** (1) The Registrar may close the registry of a Brunei Darussalam ship (except in relation to any unsatisfied mortgages entered therein) and cancel its certificate of registry for any contravention of any of the provisions of this Order or any international convention applicable to Brunei Darussalam.

(2) The Registrar may close the registry of a Brunei Darussalam ship (except in relation to any unsatisfied mortgages entered therein) and cancel its certificate of registry if the Registrar is satisfied that it is not in the public interest for the ship to continue to be registered as a Brunei Darussalam ship.

(3) Where the registry of a ship is closed under this section, the registered owner of the ship at the time of the closure shall, within 30 days of the closure, deliver up the certificate of registry to the Registrar for cancellation and if he fails to deliver up the certificate of registry within the specified period, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

**Rules as to name of ship.**

**44.** (1) A ship shall not be registered under any name except a name which is approved by the Registrar and a Brunei Darussalam ship shall not be described by any name other than that by which it is for the time being registered.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for the approval of a ship's name and the changes thereto.

(3) Without prejudice to the generality of subsection (2), the Registrar may, with the approval of the Minister, in the regulations —

(a) require an existing ship to be registered under its existing name unless a change thereof has been approved in accordance with the regulations; and

(b) require an existing ship to change its name if it is the same as or similar to the name of a Brunei Darussalam ship.

**Regulations on evidence of seaworthiness etc.**

**45.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as the Minister considers necessary or expedient to implement the provisions of this Part.

(2) Without prejudice to the generality of subsection (1), the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations —

(a) specifying the documents which may be accepted as evidence of seaworthiness of a ship for the purposes of section 10;

(b) providing for the submission of such documents to the Registrar at any time after the registry of a ship;

(c) providing for the registration of ships which are bareboat chartered by persons qualified to own Brunei Darussalam ships;

(d) providing for the suspension of the registry of a Brunei Darussalam ship which is bareboat chartered out and registered in another state;

(e) specifying the provisions of this Order which shall be applied, with such modifications as may be specified, to a ship which is bareboat chartered by persons qualified to own Brunei Darussalam ships; and

(f) specifying the provisions of this Order which shall continue to apply, with such modifications as may be specified, notwithstanding the suspension of the registry of a Brunei Darussalam ship and its registration in another country or territory.

### **PART III**

#### **MANNING AND CERTIFICATION**

##### **Application of this Part.**

46. (1) This Part shall not apply to —

(a) any ship employed exclusively in the fishing industry;

(b) any pleasure craft;

(c) any harbour craft; and

(d) any ship which is not propelled by mechanical means.

(2) Subject to subsection (1), this Part shall apply to every Brunei Darussalam ship and to any ship that enters or leaves any port in Brunei Darussalam.

##### **Manning and certification.**

47. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations —

(a) requiring ships to carry such number of qualified officers of any description, qualified doctors and such number of qualified or other seamen of any description as may be specified in the regulations; and

(b) prescribing standards of competence to be attained and other conditions to be satisfied (subject to any exemptions allowed by or under the regulations) by officers and other seamen of any description in order to be qualified for the purposes of this section.

(2) Without prejudice to the generality of paragraph (b) of subsection (1), the conditions prescribed or specified under that paragraph may include conditions as to nationality and regulations made for the purposes of that paragraph may make provisions for —

(a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;

(b) the conduct of any examination, the conditions for admission to the examination and the appointment and remuneration of examiners; and

(c) the issue, surrender, replacement, form and recording of certificates and other documents.

**Prohibition of going to sea undermanned.**

**48.** Subject to any exemption under section 212, if a ship goes to sea or attempts to go to sea without carrying such number of officers, doctors and other seamen as it is required to carry under section 47, the owner or the master of the ship shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000 and the ship may be detained.

**Unqualified persons going to sea as qualified officers.**

**49.** (1) If a person goes to sea as a qualified officer, doctor or seaman of any description without being such a qualified officer, doctor or seaman, that person shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

(2) In this section, "qualified" means qualified for the purposes of section 47.

**Production of certificates and other documents of qualification.**

**50.** Any person serving or engaged to serve in any ship and holding any certificate or other document which is evidence that he is qualified for the purposes of section 47 shall on demand produce it to the Director or a surveyor of ships or any person authorised by the Director and (if he is not himself the master) to the master of the ship; and if he fails to do so without reasonable cause he shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

**Certificate obtained by fraud.**

**51.** (1) Any person who fraudulently obtains a certificate under this Part shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or both.

(2) The Director may cancel any certificate issued under this Part which is fraudulently obtained and the person to whom the certificate has been issued shall, upon being notified by the Director of its cancellation, forthwith deliver it or cause it to be delivered to the Director.

**PART IV**

**EMPLOYMENT OF SEAMEN**

**Employment of seamen.**

**52.** (1) No person other than an employer shall engage a seaman.

(2) No employer shall engage a seaman and no seaman shall accept employment on board any ship except in accordance with regulations made under section 54.

(3) No employer shall enter into arrangements with any seaman to transport him outside Brunei Darussalam for the purpose of engagement in contravention of regulations made under section 54.

(4) For the purposes of this Part, "employer" includes the shipowner, charterer or operator, the agent of the shipowner, charterer or operator and the master of the ship.

**Penalty for employment of seamen in contravention of section 52 or regulations made under section 54.**

**53.** (1) Any person or employer who —

(a) contravenes section 52; or

(b) selects or engages a seaman otherwise than in accordance with regulations made under section 54,

shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding 6 months or both.

(2) Any person or seaman who accepts employment or works in a ship as a seaman otherwise than in accordance with regulations made under section 54 shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding 6 months or both.

**Regulations relating to seamen.**

**54.** The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for the purposes of this Part, and in particular, may make regulations for the following purposes —

(a) to prescribe the age and other qualifications of applicants for registration as seamen;

(b) to prescribe the manner in which seamen may apply or be required to register;

(c) to make provisions for the medical examination of applicants for registration as seamen;

(d) to prescribe the procedures for dealing with the discipline of seamen;

(e) to prescribe the fee to be paid upon the issue of registration cards, and the fee for replacement of such cards when lost, destroyed or otherwise rendered unserviceable;

(f) to prescribe the conditions under which the Director may cancel, suspend or alter the registration of seamen; and

(g) to prescribe the fee to be paid on selection in respect of seamen selected in accordance with this Part.

**Percentage of seamen of citizens of Brunei Darussalam to be maintained on board Brunei Darussalam ships.**

55. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations requiring Brunei Darussalam ships, to which Part II applies, to maintain in their crew lists such percentage of seamen who are of citizens of Brunei Darussalam as may be specified in the regulations.

(2) Regulations under this section shall specify the ships or description of ships to which this section is to apply and may make different provisions for different descriptions of ship or for ships of the same description in different circumstances.

**PART V**

**CREW MATTERS**

**Application of this Part and interpretation.**

56. (1) This Part shall not apply to —

(a) any ship employed exclusively in the fishing industry;

(b) any pleasure craft;

(c) any harbour craft; and

(d) any ship which is not propelled by mechanical means.

(2) Subject to subsection (1) and to any extension to foreign ships under section 100, this Part shall apply only to Brunei Darussalam ships.

(3) For the purposes of this Part, except sections 74, 75, 79, 80, 81, 83, 84 and 86, "seaman" (notwithstanding the definition in section 2) includes the master of a ship.

**Crew agreements.**

**57.** (1) Except as provided under subsection (4), an agreement in writing shall be made between each person employed as a seaman on a ship and the person employing him and shall be signed both by him and by or on behalf of the person employing him.

(2) The agreements made under this section with the several persons employed on a ship shall be contained in one document (referred to in this Order as a crew agreement) except in such cases as the Director may approve —

(a) the agreements to be made under this section with the persons employed on a ship may be contained in more than one crew agreement; and

(b) one crew agreement may relate to more than one ship.

(3) Subject to this section, a crew agreement shall be carried in the ship to which the agreement relates whenever the ship goes to sea.

(4) This section shall not apply to any ship of less than 25 tons exclusively employed in trading within such limits as are prescribed by regulations.

(5) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section, the master or the person employing the crew of the ship shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000, and the ship may be detained.

**Regulations relating to crew agreements, engagement and discharge of seamen.**

**58.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations prescribing the particulars to be entered in a crew agreement and the procedure to be followed in connection with the engagement and discharge of seamen from ships.

(2) Without prejudice to the generality of subsection (1), the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, in the regulations, make provision —

(a) regarding the period of validity of a crew agreement and the circumstances under which it may be extended;



(b) requiring the engagement and discharge to be recorded, whether by entries in the crew agreement and discharge book or otherwise, and requiring copies of any such entry to be given to the Director;

(c) requiring the posting in ships of copies of or extracts from crew agreements;

(d) for cases where a seaman employed on a ship is left behind otherwise than on being discharged from the ship; and

(e) requiring the crew agreement to be produced to the Director when the ship is in Brunei Darussalam.

**Discharge of seamen when ship ceases to be registered in Brunei Darussalam.**

**59.** Where a ship registered in Brunei Darussalam ceases to be so registered, any seaman employed on the ship shall be discharged from the ship unless he consents in writing to continue his employment on the ship; and sections 60 to 63 shall apply in relation to his wages as if the ship had remained registered in Brunei Darussalam.

**Payment of seaman's wages.**

**60.** (1) Except as provided by this Order or any other written law, the wages due to a seaman under a crew agreement relating to a ship shall be paid to him in full at the time when he leaves the ship on being discharged therefrom (referred to in this section and in section 61 as the time of discharge).

(2) If the amount shown in the account delivered to a seaman under subsection (1) of section 61 as being the amount payable to him under subsection (1) is replaced by an increased amount shown in a further account delivered to him under subsection (3) of section 61, the balance shall be paid to him within 7 days of the time of discharge.

(3) If any amount which, under subsection (2), is payable to a seaman is not paid at the time at which it is so payable, the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid until the full amount is paid.

(4) Subsection (3) shall not apply if the failure to pay was due to any reasonable dispute as to liability or to the act or default of the seaman or to any other cause, not being the wrongful act or default of the person liable to pay his wages or of his employee or agent.

(5) Where a seaman is employed under a crew agreement relating to more than one ship, this section shall have effect, in relation to wages due to him under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his employment under the crew agreement.

(6) Where a seaman is discharged under section 59, from a ship outside his port of return but returns to that port under arrangement made by the person who employed him, this section shall have effect, in relation to the wages due to him under a crew agreement relating to the ship, as if for the references in subsections (1) to (3) to the time of discharge there were substituted references to the time of his return to that port and subsection (5) were omitted.

**Account of seaman's wages.**

**61.** (1) Subject to subsection (4) and to regulations made under section 62 or 88, the master of every ship shall deliver to every seaman employed on the ship under a crew agreement an account of wages due to him under that crew agreement and of the deductions subject to which the wages are payable.

(2) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than 24 hours before the time of discharge or, if the seaman is discharged without notice or at less than 24 hours' notice, at the time of discharge.

(3) If the amounts stated in the account require adjustment, the person who employed the seaman shall deliver to him a further account stating the adjusted amounts; and that account shall be delivered to him not later than the time at which the balance of his wages is payable to the seaman.

(4) Where a seaman is employed under a crew agreement relating to more than one ship any account which under this section would be required to be delivered to him by the master of the ship shall instead be delivered to him by the person employing him and shall be so delivered on or before the termination of his employment under the crew agreement.

(5) If a person fails without reasonable cause to comply with any of the provisions of this section, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

**Regulations relating to wages and accounts.**

**62.** The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations —

(a) authorising deductions to be made from the wages due to a seaman under a crew agreement (in addition to any deduction authorised by any of the provisions of this Order or any other written law) in cases where a breach of his obligations under the crew agreement is alleged against him and such condition, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;

(b) regulating the manner in which the amounts deducted under the regulations are to be dealt with;

(c) prescribing the manner in which such wages due to a seaman under a crew agreement are to be or may be paid;

(d) regulating the manner in which such wages are to be dealt with and accounted for in circumstances where a seaman leaves his ship otherwise than on being discharged therefrom; and

(e) prescribing the form and manner in which any account required to be delivered under section 61 is to be prepared and the particulars to be contained therein (which may include estimated amounts).

**Settlement of disputes.**

**63.** (1) Any dispute, of whatever nature, between a seaman and the person employing the seaman, the master or the owner of a ship may be submitted by any party to the Director for decision or, in the case of a dispute relating to the amount payable to a seaman under a crew agreement and the amount exceeds \$5,000, by all the parties involved except that if the Director is of opinion that the dispute is one which ought to be decided by a court of law, the Director may refuse to decide it.

(2) The decision of the Director on a dispute submitted to him under this section shall be final.

(3) An award made by the Director upon the submission shall be conclusive as to the rights of the parties, and the submission or award shall not require a stamp; and a document purporting to be the submission or award shall be admissible as evidence thereof.

**Restriction on attachment or assignment of and charge upon seaman's wages.**

**64.** (1) Subject to this section, the following provisions shall have effect with respect to the wages due or accruing to a seaman employed on a ship —

(a) the wages shall not be subject to attachment;

(b) an assignment thereof before they have accrued shall not bind the seaman and the payment of the wages to the seaman shall be valid notwithstanding any previous assignment or charge; and

(c) a power of attorney or authority for the receipt of the wages shall not be irrevocable.

(2) Nothing in this section shall affect the provisions of this Order with respect to allotment notes.

(3) Nothing in this section shall apply to any disposition relating to the application of wages —

(a) in the payment of contributions to a fund declared by regulations to be a fund to which this section applies; or

(b) in the payment of contributions in respect of the membership of a body declared by regulations to be a body to which this section applies,

or to anything done or to be done for giving effect to such a disposition.

**Assignment or sale of salvage invalid.**

**65.** Subject to this Order, an assignment or sale of salvage payable to a seaman made prior to the accruing thereof shall not bind the person making the assignment or sale of salvage; and a power of attorney or authority for the receipt of any such salvage shall not be irrevocable.

**Allotment notes.**

**66.** (1) Subject to this section, a seaman may, by means of an allotment note issued in accordance with regulations, allot to any person part of the wages to which he will become entitled in the course of his employment on a ship.

(2) A seaman's right to make an allotment under this section shall be subject to such limitations as may, by virtue of subsection (3), be imposed by regulations.

(3) Regulations made for the purposes of this section may prescribe the form of allotment notes and may —

(a) limit the circumstances in which allotment notes may be made;

(b) limit (whether by reference to an amount or by reference to a proportion) the part of the wages that may be allotted and the number of persons to whom it may be allotted and may prescribe the method by which that part is to be calculated;

(c) limit the persons whom the allotments may be made by a seaman to persons of such descriptions or persons standing to him in such relationships as may be prescribed by the regulations; and

(d) prescribe the times and the intervals at which payments under allotment notes are to be made.

**Right of person named in allotment note to sue in his own name.**

**67.** (1) Any person to whom any part of a seaman's wages has been allotted by an allotment note issued in accordance with regulations made under section 66 shall have the right to recover that part in his own name and for that purpose shall have the same remedies as the seaman has for the recovery of his wages.

(2) In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seaman's wages has been allotted, it shall be presumed, unless the contrary is proved, that the seaman is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

**Right, or loss of right, to wages in certain circumstances.**

**68.** (1) Where a ship is wrecked or lost, a seaman whose employment on the ship is thereby terminated before the date contemplated in the agreement under which he is so employed shall, subject to this section, be entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the 2 months following that date unless it is proved that he did not make reasonable efforts to save the ship and the persons and property carried in it.

(2) Where a ship is sold or ceases to be registered in Brunei Darussalam and a seaman's employment on the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless otherwise provided in the agreement, the seaman shall, subject to subsection (3), be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the 2 months following that date.

(3) A seaman shall not be entitled to wages by virtue of subsection (1) or (2) for a day on which he was unemployed, if it is shown —

(a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of his employment on the sale of the ship or its ceasing to be registered in Brunei Darussalam; or

(b) that the seaman was able to obtain suitable employment for that day but unreasonably refused to take it.

**Compensation to seaman improperly discharged.**

**69.** If a seaman, having signed an agreement, is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying that discharge, and without his consent, the seaman shall be entitled to receive from the person employing him, in addition to any wages which he has earned, due compensation for the damage caused to him by the discharge, not exceeding one month's wages and may recover that compensation as if it were wages duly earned.

**Protection of certain rights and remedies.**

**70.** (1) A seaman's lien, his remedies for the recovery of his wages, his right to wages in case of the wreck or loss of his ship, and any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.

(2) Subsection (1) does not affect such term of any agreement made with a seaman belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, as provide for the remuneration to be paid to him for salvage services rendered by that ship.

**Remedies of master for remuneration, disbursements etc.**

**71.** The master of a ship shall have the same lien and remedies for his remuneration and all disbursements or liabilities properly made or incurred by him on account of the ship, as a seaman has for his wages.

**Powers of court in case of unreasonable delay in paying seaman's wages.**

**72.** In any action or other legal proceedings by any seaman of a ship for the recovery of any sum due to him on account of wages, the court may, if it appears that the payment of the sum due has been delayed otherwise than owing to the act or default of the seaman or to any reasonable dispute as to liability, or to any other cause not being the wrongful act or default of the person liable to make the payment, order that person to pay, in addition to any sum due on account of wages, such sum as the court thinks just as damages in respect of the delay, without prejudice to any claim which may be made by the seaman on that account.

**Provisions and water.**

**73.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations requiring such provisions and water to be provided for seamen employed on ships.

(2) Regulations made under this section may require a ship to carry such weighing and measuring equipment as may be necessary to ensure that the quantities of provisions and water supplied to seamen employed on the ship are in accordance with the regulations.

(3) If any regulation made under this section is not complied with, the master or the person employing the seamen of the ship shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000 unless he proves that the failure to comply was not due to his neglect or default.

(4) If a person empowered under this Order to inspect the provisions and water to be supplied to the seamen employed on a ship is not satisfied that the provisions and water are in accordance with regulations made under this section, the ship may be detained.

**Complaints about provisions or water.**

**74.** (1) If 3 or more seamen employed on a ship consider that the provisions or water provided for the seamen employed on that ship are not in accordance with the regulations made under section 73 (whether because of bad quality, unfitness for use or deficiency in quantity) they may complain to the master of the ship who shall investigate the complaint.

(2) If the seamen are dissatisfied with the action taken by the master as a result of his investigation or by his failure to take any action, they may state their dissatisfaction to him and may complain to the Director; and thereupon the master shall make adequate arrangements to enable the seamen to do so as soon as the service of the ship permits.

(3) The Director shall, upon receiving the complaint made under subsection (2), investigate the complaint and may examine the provisions or water or cause them to be examined.

(4) If the master of a ship fails without reasonable cause to comply with subsection (2), he shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000 and if he has been notified in writing by the person making any examination under subsection (3) that any provisions or water are found to be unfit for use or not of the quantity required by the regulations, then —

(a) if they are not placed within a reasonable time the master or the owner of the ship shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000 unless he proves that the failure to replace them was not due to his neglect or default; and

(b) if the master of the ship, without reasonable cause, permits them to be used, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

#### **Other complaints.**

**75.** (1) If a seaman employed on a ship considers that he has cause to complain about the master or any other seaman employed on the ship or about the conditions on board the ship, he may complain to the master.

(2) If the seaman is dissatisfied with the action taken by the master on the complaint or by his failure to take any action, he may state his dissatisfaction to the master and may complain to the Director; and thereupon the master shall make adequate arrangements to enable the seaman to do so as soon as the service of the ship permits.

(3) If the master of the ship fails without reasonable cause to comply with this section, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

#### **Medical stores.**

**76.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations requiring ships to carry such medicines and other medical stores (including books containing instructions and advice) as may be specified in the regulations.

(2) If a ship goes to sea or attempts to go to sea without carrying medical stores which it is required to carry by regulations made under this section, the master or the owner

of the ship shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000 unless he proves that the failure to carry the medical stores was not due to his neglect or default.

(3) If a person empowered under this Order to inspect the medical stores carried in a ship is not satisfied that the ship carries the stores which it is required to carry by the regulations made under this section, the ship may be detained.

**Medical treatment on board ship.**

77. Where a ship does not carry a doctor among the seamen employed on it, the master of the ship shall make arrangements for securing that any medical attention on board the ship is given either by him or under his supervision by a person appointed by him for that purpose.

**Expenses of medical treatment etc. during voyage.**

78. (1) If a seaman, while employed on a ship, receives any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the person employing him, and if he dies while so employed and is buried or cremated outside his port of return, the expenses of his burial or cremation or the return of the body to his home shall also be borne by that person.

(2) A compensation shall be payable by the person employing the seaman for the death of or injury to the seaman employed on a Brunei Darussalam ship who is not covered under the Workmen's Compensation Act (Chapter 74) and such compensation shall not be less than that provided under that Act.

**Drunkenness etc. on board ship.**

79. If a seaman employed on a ship is, while on board the ship, under the influence of drink or a drug to such an extent that his capacity to fulfill his responsibility for the ship or to carry out his duties is impaired, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

**Continued or concerted disobedience, neglect of duty etc.**

80. (1) If a seaman employed on a ship —
- (a) persistently and wilfully neglects his duty;
  - (b) persistently and wilfully disobeys lawful commands; or
  - (c) combines with other seamen employed on the ship —



- (i) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;
- (ii) to neglect any duty which is required to be discharged at such time; or
- (iii) to impede, at such a time, the progress of a voyage or the navigation of the ship,

he shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or both.

(2) For the purposes of this section, a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.

**Offences committed by certain other persons.**

**81.** Where a person goes to sea in a ship without the consent of the master of the ship or of any other person authorised to give it or is conveyed in a ship in pursuance of paragraph (a) of subsection (4) of section 88, paragraphs (b) and (c) of subsection (1) of section 80 shall apply as if that person were a seaman employed on the ship.

**Defence of drug taken for medical purposes.**

**82.** In any proceedings for an offence under section 79, it shall be a defence to prove that at the time of the act or omission alleged against the defendant he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice or that he had reason to believe that the drug might not have the influence it had.

**Disciplinary offences.**

**83.** (1) For the purpose of maintaining discipline on board a ship, the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations prescribing any misconduct on board as a disciplinary offence and enabling the master of the ship, or such officer as may under the regulations be required or authorised to exercise the powers of the master, to impose fines on any seaman committing any disciplinary offence.

(2) The regulations made under this section may provide for —

- (a) the fine that may be imposed on a seaman in respect of each disciplinary offence;
- (b) the procedure to be followed in dealing with the disciplinary offence; and
- (c) the circumstances in which the master of a ship may remit the whole or part of any fine imposed thereunder.

**Appeal against fine for disciplinary offences.**

**84.** (1) A seaman on whom a fine has been imposed for a disciplinary offence may, in accordance with the regulations made under this section, appeal against the decision to the Director, and on such an appeal, the Director may confirm or quash the decision and may remit the whole or part of the fine.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations under this section to provide for —

(a) the procedure to be followed on any such appeal;

(b) the time within which notice of an intended appeal is to be given by the appellants to the master and by the master to the Director; and

(c) the place at which the appeal is to be heard.

**Prohibition of double prosecution.**

**85.** Where any conduct is both a disciplinary offence and an offence against any provision of this Order, then if it has been dealt with as a disciplinary offence, it shall not be dealt with as an offence against that provision.

**Payment of fines for disciplinary offences.**

**86.** (1) Except as otherwise provided in subsection (3), the amount of a fine imposed on a seaman for a disciplinary offence, so far as not remitted by the master or on appeal, may be deducted from his wages or otherwise recovered by the person employing him and shall be paid by him (whether or not it has been so deducted or otherwise recovered) to the Director.

(2) Except as otherwise provided in subsection (3) —

(a) if the wages or part thereof are paid by the master of a ship on his behalf or on behalf of the person employing the seaman, as the case may be, the said amount shall be paid at the time when the seaman leaves the ship at the end of his agreement or, if earlier, when his employment on the ship is terminated;

(b) in any other case, the master shall at that time notify the amount to the person employing the seaman, and the person shall pay it when the next payment in respect of the seaman's wages falls to be made by him.

(3) Where an appeal against such a fine is pending at the time mentioned in subsection (2), no amount shall by reason of the fine be deducted, recovered, paid or notified under subsections (1) and (2) until the appeal has been disposed of; but regulations made under section 83 may provide for the amount of the fine to be provisionally deducted from the seaman's wages pending the appeal.

**Civil liability for smuggling.**

**87.** If a seaman employed on a ship is found in civil proceedings before a court in Brunei Darussalam or elsewhere to have committed an act of smuggling, whether in Brunei Darussalam or elsewhere, he shall be liable to make good any loss or expense that the act has caused to any other person.

**Relief and repatriation of seaman left behind.**

**88.** (1) Where a person employed as a seaman on a ship is left behind in any country or territory or is taken to any country or territory on being shipwrecked, the person who last employed him as a seaman shall make such provision for his return and for his relief and maintenance as may be required by regulations.

(2) The regulations to be so made may include the repayment of expenses incurred in bringing a shipwrecked seaman ashore and maintaining him until he is brought ashore and the payment of the expenses of the burial or cremation of a seaman who dies before he can be returned.

(3) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations providing for the manner in which any wages due to any person left behind or taken to any country or territory as mentioned in subsection (1) and any property of his left on board the ship are to be dealt with.

(4) Without prejudice to the generality of subsections (1), (2) and (3), regulations made under this section may make provision —

(a) for requiring the master of any ship to convey a person to a place determined in accordance with the regulations and for enabling the Director to give the master directions for that purpose;

(b) for the making of payments in respect of the conveyance of a person in accordance with the regulations; and

(c) for the keeping of records and the rendering of accounts.

(5) This section shall also apply to a person left behind on being discharged in pursuance of section 59, whether or not at the time he is left behind the ship is still registered in Brunei Darussalam.

**Limit of employer's liability under section 88.**

**89.** Where a person left behind in or taken to any country or territory as mentioned in subsection (1) of section 88 remains there after the end of a period of 3 months, the person who last employed him as a seaman shall not be liable under that section to make provision for his return or for any matter arising after the end of that period, unless he has, before the

end of that period, been under an obligation imposed on him by regulations made under that section to make provision with respect to him.

**Custody etc. of property of deceased seamen.**

**90.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations providing for the custody of and dealing with —

(a) any property left on board a ship by a seaman dying while or after being employed on the ship;

(b) any property left in a country or territory outside Brunei Darussalam by a seaman dying while or within such period as provided for in the regulations after being employed on a ship; and

(c) the recovery by the Director of any wages which, at the time of a seaman's death, were due to him in respect of his employment on a ship.

(2) Regulations made under this section may require the recording of particulars and the rendering of accounts and may enable the Director or any person having custody of any such property to sell it by auction or otherwise and account for the proceeds.

**Disposal of property of deceased seamen.**

**91.** (1) Where, on the death of a seaman, any property comes into the hands of the Director by virtue of section 90, the Director may satisfy out of them any expenses incurred by the Director in respect of the seaman or his property.

(2) If the value of the residue of the property does not exceed \$5,000, the Director may at any time pay or deliver it to any of the persons mentioned in subsection (3) or distribute it among them, unless a grant of representation has been made and the Director knows of it; and the Director shall thereby be discharged from any further liability in respect of the residue.

(3) The persons referred to in subsection (2) are —

(a) any person appearing to the Director to be a person named as the seaman's next of kin in the crew agreement in which the seaman's name last appeared;

(b) any person appearing to the Director to be his widow or his child;

(c) any person appearing to the Director to be beneficially entitled, under a will or on intestacy, to the seaman's estate or any part thereof; or

(d) any person appearing to the Director to be a creditor of the seaman.

(4) Where no claim to the property received by the Director is substantiated within one year after the receipt of the property by the Director, the Director shall pay the property, the proceeds thereof, or the residue thereof, into the Consolidated Fund.

(5) If any subsequent claim is made to such property, or the residue thereof, and is established to the satisfaction of the Director, the amount, or so much as appears to be due to the claimant, shall be paid out of the Consolidated Fund.

(6) If any claim is not established to the satisfaction of the Director, the claimant may apply by summons to the High Court, and the High Court may, after taking evidence orally or on affidavit, make such order on the summons as it thinks just.

(7) After the expiration of 6 years from the receipt of such property or proceeds thereof by the Director, no such claim shall be made without the sanction of the Minister.

(8) If it appears to the Director that any of the persons to whom any property may be paid or delivered under this section is resident in a country or territory outside Brunei Darussalam, the Director may pay or deliver them to him by paying or delivering them to a consular officer of that country or territory for transmission to him.

(9) If the property exceeds \$5,000 in value, the Director shall pay and deliver the residue to the legal personal representative of the deceased.

(10) In this section, "child" includes an adopted child.

#### **Official and other log-books.**

**92.** (1) Except as provided by regulations made under this section, an official log-book and such other log-books as may be prescribed in the regulations shall be kept in every ship.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations prescribing the particulars to be entered in the log-books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and their amendment or cancellation.

(3) Regulations may require the production or delivery of the log-books to such persons, in such circumstances and within such times as may be specified.

(4) Any person who wilfully destroys, mutilates or renders illegible any entry in any log-book shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

#### **Discharge books.**

**93.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations providing —

(a) for the issue of discharge books in such form and containing such particulars with respect to the holders thereof and such other particulars as may be prescribed by the regulations and for requiring such persons to apply for such discharge books;

(b) for requiring the holders of discharge books to produce them to such persons and in such circumstances as may be prescribed by the regulations; and

(c) for the surrender of discharge books in such circumstances as may be prescribed by the regulations.

(2) Any provision of the regulations having effect by virtue of paragraph (a) of subsection (1) may be so framed as to apply to all such persons as are mentioned in that paragraph or any description of such persons and as to have effect subject to any exemptions for which provisions may be made by the regulations.

**Returns of births and deaths in ships etc.**

**94.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations —

(a) requiring the master of any ship to make a return to the Director of any birth or death occurring in the ship;

(b) requiring the master of any ship to conduct an inquiry to determine the nature and cause and make a report to the Director of any death occurring in the ship and, wherever occurring outside Brunei Darussalam, of any person employed on the ship, and to notify any such death to such person (if any) as the deceased may have named as his next of kin; and

(c) requiring the master of any ship not registered in Brunei Darussalam which calls at any port in Brunei Darussalam in the course of or at the end of a voyage to make a return to the Director of any birth or death of a citizen of Brunei Darussalam which has occurred in the ship during the voyage.

(2) Regulations made under this section may require the Director to send a certified copy of any return made thereunder to the Registrar of Births and Deaths.

(3) The Registrar of Births and Deaths to whom any such certified copies are sent —

(a) shall maintain the copies in a register kept by him for the purpose and to be called the marine register; and

(b) may also record in that register such additional information as appears to him desirable for the purpose of ensuring the completeness and correctness of the register,

and the provisions of any written law relating to the registration of births and deaths shall have effect with such modifications as are appropriate and so far as those provisions may be complied with in the circumstances as if the marine register were a register of births (other than still-births) or deaths, except that it shall not be necessary for any person to sign the register as an informant.

(4) Regulations made under this section may contain provisions for authorising the registration of the following births and deaths occurring outside Brunei Darussalam in circumstances where no return is required to be made under subsection (1) —

(a) any birth or death of a citizen of Brunei Darussalam which occurs in a ship not registered in Brunei Darussalam;

(b) any death of a citizen of Brunei Darussalam who has been employed on such a ship which occurs elsewhere than in the ship.

(5) Any person who, being required under the regulations made under this section to make a return of any birth or death or a report on the inquiry into the cause of any death, furnishes as true any information in the return or report which he knows or has reason to believe to be false shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or both.

#### **Handing over of documents on change of master.**

95. If a person ceases to be the master of a ship, he shall deliver to his successor the documents relating to the ship or its crew which are in his custody; and if he fails without reasonable cause to do so, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

#### **Stowaways.**

96. (1) If a person, without the consent of the master of the ship or of any other person authorised to give it, goes to sea or attempts to go to sea in a ship, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding 6 months or both.

(2) Nothing in section 177 shall be taken to limit the jurisdiction of any court in Brunei Darussalam to deal with an offence under this section which has been committed in a country or territory outside Brunei Darussalam by a person who is not a citizen of Brunei Darussalam.

#### **Master's power of arrest.**

97. The master of any ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

**Penalty for receiving remuneration from seamen for engagement.**

**98.** (1) A person shall not demand or receive, directly or indirectly, from a seaman, or from a person seeking employment as a seaman, or from a person on his behalf, any remuneration whatever for providing him with employment.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 6 months or both.

**Restriction on employment of young persons on board ship.**

**99.** (1) No young person shall be employed on any ship except as permitted by regulations made under this section.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations prescribing the circumstances in which and the conditions subject to which young persons who have attained such specified age may be employed on a ship in such capacities as may be specified.

(3) If any person is employed on a ship in contravention of any regulations made under this section or if any condition subject to which a person may be employed under any such regulation is not complied with, the owner or the master of the ship shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

**Extension to foreign ships.**

**100.** The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by regulations extend the application of all or any of the provisions of this Part to foreign ships subject to such modifications as are specified in those regulations.

**PART VI**

**LICENSING OF SHIPS**

**Application to this Part.**

**101.** This Part shall not apply to any ship exceeding 100 tons.

**Conditions for licensing of ships.**

**102.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations to license, regulate and control the use and specify the manning of ships and fees for the licensing thereof.



(2) The Minister may, in making any regulations under this section, provide that any contravention of or failure to comply with any regulations shall be an offence and may prescribe as a penalty in respect of any one offence a fine not exceeding \$2,000 or imprisonment for a term not exceeding 2 years or both and, in the case of a continuing offence, a further fine of not exceeding \$200 for every day or part thereof during which such offence continues after conviction.

**Duration of licence.**

**103.** Every licence shall, unless the contrary is stated in regulations made under section 102 or in the licence, be valid for a period of one year from the date of issue.

**Registered owner and master.**

**104.** Unless the contrary is shown, the persons whose names appear in the register shall, for the purposes of this Part and for all the purposes of the police and prevention of offences, be considered the owner and master respectively.

**Licensed ships registers.**

**105.** The Director shall keep separate registers for each type of ship licensed.

**Issuance and cancellation of licence.**

**106.** (1) The Director shall deliver to the owner of every Brunei Darussalam licensed ship containing the particulars specified in the register of licenses and the owner shall cause such licence or a copy certified by the Director to be kept at all times on board his ship in the custody of the person in charge of the ship, and such person shall exhibit the same to the Director or any police officer who demands to see the same.

(2) The Director may cancel any ship licence issued under this Part.

**PART VII**

**SURVEY AND SAFETY OF SHIPS**

**Application of this Part.**

**107.** This Part shall, unless otherwise provided, apply to all Brunei Darussalam ships wherever they may be and to all ships in Brunei Darussalam except harbour craft.

**Prohibition on going to sea without certificates.**

**108.** (1) Every ship unless exempted shall be surveyed or inspected in the manner provided in this Order.

(2) Subject to any exemption, no ship shall go to sea unless the owner or the master of the ship has been issued with certificates by the Director as to the surveys or inspections under this Order, the certificates being in force and applicable to the ship.

(3) If any ship goes or attempts to go to sea in contravention of this section —

(a) in the case of a passenger ship, the owner or the master of the ship shall be guilty of an offence and liable on conviction to a fine not exceeding \$500 for every passenger on board the ship; and

(b) in the case of any other ship, the owner or the master of the ship shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000,

and the ship may be detained until the certificates are produced to the Director.

**Powers of Minister to make regulations.**

**109.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for carrying out the purposes and provisions of this Part.

(2) Without prejudice to the generality of subsection (1), the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations providing for —

(a) the standards of construction and equipment of ships including the provision of life-saving and fire-fighting appliances and radio installations;

(b) the standards of accommodation for crew and passengers;

(c) the tonnage measurement of ships;

(d) the determination of the load lines;

(e) the loading and carriage of goods, including dangerous goods;

(f) the carriage of livestock;

(g) the safety of navigation;

(h) the prevention of collisions at sea (referred to in this Order as the collision regulations);

(i) the safety, health and welfare of persons employed on ships;

(j) the manner and frequency of the survey or inspection and the issue, suspension, cancellation, extension and period of the validity of certificates or exemption certificates; and

(k) the recognition of certificates or exemption certificates issued by or under the authority of the government of any other country or territory for the purposes of section 108.

(3) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, in the regulations make provisions to give effect to the provisions of any international convention or agreement concerning or relating to ships, ships' safety, ships' equipment, property or goods carried in ships or persons employed on ships and to which Brunei Darussalam is a party.

(4) The owner and the master of any ship to which section 108 applies shall comply with any regulations made under this section and shall ensure that the ship and its equipment and in respect of any matter that is governed by the regulations comply with any such regulations before the ship goes to sea and at all times when the ship is at sea, unless otherwise provided in this Order.

(5) Any owner or master who contravenes subsection (4) shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000 and the ship may be detained.

#### **Overloaded ships.**

**110.** (1) Where a cargo ship is so loaded at any time that, if the ship were floating without a list in still salt water of a specific gravity of 1.025, the load line marked on either side of the ship that is the appropriate load line at the time would be submerged, the ship shall, for the purposes of this Order, be deemed to be overloaded and, subject to subsection (4), to be overloaded to the extent which that load line would be submerged.

(2) Where —

(a) a ship is at any time engaged on, or is about to engage on, a voyage during which, in the ordinary course, a load line marked on either side of the ship (not being a load line that is the appropriate load line at that time) would, at some later time during the voyage, become the appropriate load line; and

(b) the ship is so loaded at that first-mentioned time, that if the ship were floating without a list in still salt water of a specific gravity of 1.025 and there were unloaded from the ship the fuel and other material that would, in the ordinary course, be consumed or discharged before that later time, that load line would be submerged,

the ship shall, for the purposes of this Order, be deemed to be overloaded and, subject to subsection (4), to be overloaded to the extent to which that load line would be so submerged.

(3) Where a passenger ship is so loaded at any time that, if the ship were floating without a list in still salt water of a specific gravity of 1.025, the subdivision load line marked on either side of the ship that is the appropriate subdivision load line at that time would be submerged, the ship shall, for the purposes of this Order, be deemed to be overloaded and, subject to subsection (4), to be overloaded to the extent to which that subdivision load line would be so submerged.

(4) Where —

(a) in any proceedings under this Order, it is proved that a ship is deemed to be overloaded under the provisions of more than one subsection of this section; and

(b) the extent to which, under those subsections, the ship is deemed to be overloaded is not the same in each case,

the ship shall, for the purposes of this Order, be deemed to be overloaded to the greatest extent to which it is deemed to be overloaded under those subsections.

(5) Where a ship is overloaded in contravention of this section, the owner and the master of the ship shall each be liable on conviction to a fine not exceeding \$10,000 and to such additional fine not exceeding the maximum amount which the earning capacity of the ship would have been increased by reason of the contravention.

(6) Without prejudice to any proceedings under this section, any ship which is overloaded in contravention of this section may be detained until it ceases to be so overloaded.

(7) For the purposes of this section, the load line or subdivision load line marked on a ship that is the appropriate load line or subdivision load line at any time shall be determined in accordance with the regulations made under this Part.

**Penalty for carrying passengers in excess.**

**111.** (1) The owner or the master of any passenger ship shall not carry or receive on board thereof, or on or in any part thereof, any number of passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number allowed by the passenger ship's safety certificate, and if he does so, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years or both.

(2) The Director may detain any ship which has contravened subsection (1) for such period until the ship complies with the passenger ship's safety certificate.

**Observance of collision regulations.**

**112.** (1) All owners, masters or persons in charge of the navigation of vessels shall obey the collision regulations and shall not carry, exhibit or use any other lights or use any other signals, than such as are required by those regulations.

(2) Any owner, master or person who does or suffers to be done any act or omission contrary to any of the provisions of the collision regulations shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

(3) In any case before a court in Brunei Darussalam concerning a contravention of the collision regulations arising within Brunei Darussalam, foreign vessels shall be treated as if they were registered in Brunei Darussalam.

(4) For the purposes of this section, "vessel" shall have the meaning assigned to it in the collision regulations.

**Defect or deficiency in ship etc.**

**113.** (1) Where a material defect or deficiency affecting safety is discovered in a Brunei Darussalam ship or its equipment, whether the defect or deficiency is due to wear and tear or to accident or to any other cause, the owner or the master of the ship shall report to the Director the nature and extent of the defect or deficiency and the probable cause thereof within 7 days of its discovery unless it has been reported to the Director under section 116.

(2) Where any material alteration is made to a Brunei Darussalam ship or its equipment or the purpose for which the ship is for the time being used is changed, the owner or the master of the ship shall report the nature and extent of the alteration or change to the Director within 7 days of the alteration or change.

(3) If any owner or master of a ship contravenes subsection (1) or (2), he shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

(4) If any person conceals or attempts to conceal or suffers to be concealed any material defect or deficiency in the ship or its equipment, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

**Cancellation of certificate or exemption certificate.**

**114.** (1) The Director may cancel any certificate or exemption certificate issued by him in respect of any ship if he has reason to believe that the ship or its equipment or any matter to which the certificate or exemption certificate relates no longer complies with the regulations under which the certificate was issued or the conditions (if any) under which the exemption certificate was issued.

(2) Where a certificate or exemption certificate is cancelled by the Director under subsection (1), the owner or the master of the ship to which the certificate or exemption

certificate relates shall deliver the certificate within 14 days upon being notified by the Director, and if he fails to do so without reasonable cause, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

**Duty to render assistance.**

**115.** (1) The master or, in his absence, the person in charge of a Brunei Darussalam ship, in so far he can do without serious danger to the ship, crew and passengers (if any) shall —

(a) render assistance to any person found at sea in danger of being lost; and

(b) proceed with all possible speed to the rescue of persons in distress, if informed of his need of assistance, in so far as such action may reasonably be expected of him.

(2) In every case of collision between 2 ships, it shall be the duty of the master or, in his absence, the person in charge of each ship, if and so far as he can do so without danger to his own ship, crew and passengers (if any) —

(a) to render to the other ship, its master, crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other ship until he has ascertained that it has no need of further assistance; and

(b) to give to the master or person in charge of the other ship the name of his own ship and of the port to which it belongs, and also the names of the ports from which it came and to which it is bound.

(3) If the master fails without reasonable cause to comply with this section, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000 and if he is a certificated officer, an inquiry into his conduct may be held and his certificate may be cancelled or suspended.

**Report of accidents etc. to Director.**

**116.** (1) Where a ship —

(a) has sustained or caused an accident occasioning loss of life or serious injury to a person;

(b) has sustained an accident or received damage, or otherwise sustained a defect or deficiency in the ship or its equipment which has been discovered, and the accident, damage, defect or deficiency has affected, or is likely to affect the seaworthiness of the ship, or the efficiency or completeness of the life-saving appliances or other safety equipment of the ship;

(c) has been in a position of great peril, either from the action of some other ship or from danger of wreck or collision; or

(d) has been stranded or wrecked,

the owner or the master of the ship shall, within 24 hours of the happening, report the happening to the Director.

(2) Any owner or master of a ship who fails without reasonable cause to comply with this section shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

**Appointment of inspector to report on accident etc.**

**117.** The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint any person as an inspector to report to him —

(a) upon the nature and causes of any accident or damage which any ship has sustained or caused or is alleged to have sustained or caused;

(b) whether the provisions of this Order or any other written law have been complied with; or

(c) whether the hull, machinery and equipment of any ship are sufficient and in good condition.

**Notification of loss of ship.**

**118.** (1) If —

(a) the owner, manager or agent of a Brunei Darussalam ship has reason to believe that the ship has been wholly lost; or

(b) the owner, manager or agent of any other ship has reason to believe that the ship has been wholly lost on or near the coast of Brunei Darussalam,

he shall forthwith give notice in writing to the Director stating the name of the ship, its description, official number and the port to which it belongs and shall state to the best of his knowledge, the probable cause of the loss.

(2) Any owner, manager or agent who fails without reasonable cause to comply with this section within a reasonable time shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

**Owner and master liable in respect of unsafe ship.**

**119.** (1) If, having regard to the nature of the service for which it is intended —

- (a) a ship in a port in Brunei Darussalam; or
- (b) a Brunei Darussalam ship which is in any other port,

is an unsafe ship, that is to say, is by reason of any of the matters mentioned in subsection (2) not fit to go to sea without serious danger to human life, then, subject to subsection (3), the master and the owner of the ship shall each be guilty of an offence and liable on conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 2 years or both.

(2) The matters referred to in subsection (1) are —

- (a) the condition, or the suitability for its purpose, of —
  - (i) the ship or its machinery or equipment; or
  - (ii) any part of the ship or its machinery or equipment;
- (b) undermanning;
- (c) overloading or unsafe or improper loading; and
- (d) any other matter relevant to the safety of the ship.

(3) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence —

- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters falling within subsection (2) which are specified in the charge; or
- (b) it was reasonable not to have made such arrangements.

**Master or seaman may claim discharge if ship is unsafe.**

**120.** If a ship is an unsafe ship, the master or seaman belonging to the ship shall not be deemed to have committed a breach of his agreement by reason of his having refused to sail in the ship while it is unsafe; and any master or seaman so refusing may claim his discharge unless the ship is made safe within a reasonable time.



**Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.**

**121.** (1) In every contract of service, express or implied, between the owner of a ship or the person employing the master and seamen and the master or any seaman thereof, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that the owner of the ship and the master and every agent charged with the loading of the ship or the preparing of the ship for sea or the sending of the ship to sea shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep it in a seaworthy condition for the voyage during the voyage.

(2) Nothing in this section —

(a) shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable; or

(b) shall apply to any ship employed exclusively in trading or going from place to place in any river or inland water of which the whole or part thereof is in Brunei Darussalam.

**Detention of unsafe ship.**

**122.** (1) The Director may order any ship, which is an unsafe ship or appears to him to be an unsafe ship, to be provisionally detained.

(2) When any ship has been provisionally detained, a notification of the provisional detention of the ship shall be immediately served on the master of the ship, together with a statement of the grounds of detention.

(3) The Director may appoint a competent person to survey the ship and report to him.

(4) On receipt of the report, the Director may either finally detain the ship or order its release unconditionally or on such conditions as he thinks fit.

(5) Before the order for final detention is issued, the master of the ship shall be furnished with a copy of the report and he may, within 7 days after receipt of the copy, appeal to the Minister.

(6) The Minister may, upon appeal under subsection (5), order the final detention of the ship or order its release unconditionally or subject to such conditions as he thinks fit.

(7) When any order for the final detention of a ship has been made, the ship shall not be released until the Director or the Minister, as the case may be, is satisfied that its further detention is no longer necessary and orders its release.

**Owner liable for unsafe operation of ship.**

**123.** (1) It shall be the duty of the owner of a ship to which this section applies to take all reasonable steps to secure that the ship is operated in a safe manner.

(2) This section shall apply to —

(a) any Brunei Darussalam ship; or

(b) any ship which —

(i) is registered under the law of any country or territory outside Brunei Darussalam; and

(ii) is within the seaward limits of the territorial waters of Brunei Darussalam while proceeding to or from a port in Brunei Darussalam, unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.

(3) If the owner of a ship to which this section applies fails to discharge the duty imposed on him by subsection (1), he shall be guilty of an offence and liable on conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 2 years or both.

**Conduct endangering ships, structures or individuals.**

**124.** (1) This section shall apply to the master of, or any seaman employed on —

(a) a Brunei Darussalam ship; and

(b) a ship which —

(i) is registered under the law of any country or territory outside Brunei Darussalam; and

(ii) is in a port in Brunei Darussalam or within the seaward limits of the territorial waters of Brunei Darussalam while proceeding to or from any such port, unless the ship would not be in that port or, as the case may be, would not be so proceeding but for weather conditions or any other unavoidable circumstances.

(2) If a person to whom this section applies, while on board his ship or in its immediate vicinity —

(a) does any act which causes or is likely to cause —

(i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment;

- (ii) the loss or destruction of or serious damage to any other ship or any structure; or
  - (iii) the death of or serious injury to any person; or
- (b) omits to do anything required —
- (i) to preserve his ship or its machinery, navigational equipment or safety equipment, from loss, destruction or serious damage;
  - (ii) to preserve any person on board his ship from death or serious injury; or
  - (iii) to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,

and either of the conditions specified in subsection (3) is satisfied with respect to that act or omission, he shall, subject to subsections (5) and (6), be guilty of an offence and liable on conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 2 years or both.

- (3) The conditions referred to in subsection (2) are —
- (a) that the act or omission was deliberate or amounted to a breach or neglect of duty; and
  - (b) that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.
- (4) If a person to whom this section applies —
- (a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in paragraph (a) of subsection (2); or
  - (b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,

he shall, subject to subsections (5) and (6), be guilty of an offence and liable on conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 2 years or both.

- (5) In any proceedings for an offence under this section, it shall be a defence to prove —

(a) in the case of an offence under subsection (2), where the act or omission alleged against the defendant constituted a breach or neglect of duty, that the defendant took all reasonable steps to discharge that duty;

(b) in the case of an offence under subsection (4), that the defendant took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or

(c) in the case of an offence under either of those subsections —

(i) that he could have avoided committing the offence only by disobeying a lawful command; or

(ii) that in all the circumstances, the loss, destruction, damage, death or injury in question or, as the case may be, the likelihood of its being caused, either could not reasonably have been foreseen by the defendant or could not reasonably have been avoided by him.

(6) In the application of this section to any person falling within paragraph (b) of subsection (1), subsections (2) and (4) shall have effect as if sub-paragraph (i) of paragraphs (a) and (b) of subsection (2) were omitted.

(7) In this section —

"breach or neglect of duty", except in relation to a master, includes any disobedience to a lawful command;

"duty" —

(a) in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and

(b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment;

"structure" means any fixed or movable structure of whatever description other than a ship.

#### **Regulations for survey of ships and issue of certificates.**

**125.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for the purposes of authorising any organisation for the survey or inspection of Brunei Darussalam ships and the issue of any certificate under this Part.

(2) Without prejudice to the generality of subsection (1), the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, in the regulations —

(a) specify the surveys or inspections and the issue of certificates or endorsements;

(b) provide for the registration of any person belonging to or acting on behalf of any organisation as a surveyor for the purposes of surveying or inspecting Brunei Darussalam ships; and

(c) prescribe the conditions for the registration of any person under paragraph (b) and the cancellation of the registration of any person.

(3) Any certificate issued or endorsement made by any authorised organisation in accordance with any regulations made under this section shall be deemed to be issued or made by the Director for the purposes of this Order.

### PART VIII

#### SAFETY OF NAVIGATION

##### **Provision and maintenance of navigational aids.**

**126.** (1) The Director shall provide and maintain such number of lighthouses, buoys, beacons and other navigational aids as may seem to him to be deemed necessary to assist navigation and levy such dues in respect of them.

(2) Any person who wilfully and without lawful excuse —

(a) injures any lighthouses or lights exhibited therein, or any buoy, beacon or navigational aid, or any cables, wires or other apparatus or structures, either in connection therewith; or

(b) removes, loosens, sets adrift, alters or destroys any buoy, beacon or navigational aid or any cables, wires or other apparatus or structures, either in connection therewith or otherwise; or

(c) rides by, makes fast to, or runs foul of any buoy, beacon or navigational aid,

shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years or both and in addition, payment of the expenses of making good any damage so occasioned.

(3) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations prohibiting or regulating the provision and maintenance of lighthouses, buoys and beacons or other navigational aids not owned or erected by the Government.

**Misconduct of person employed in lighthouse.**

**127.** Any person employed in the operation of a lighthouse who wilfully or negligently omits to do any act proper and requisite to be done by him with respect to the lights or signals exhibited in a lighthouse shall, if such omission is of a nature likely to cause danger to navigation, be guilty of an offence and liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years or both.

**Prevention of false lights.**

**128.** (1) Wherever any fire or light is burnt or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse or in such a manner as to affect the visibility of the light proceeding from a lighthouse, the Director may serve a notice upon the owner of the place where the fire or light is burnt or exhibited, or on the person having the charge of the fire or light, directing that owner or person, within a reasonable time to be specified in the notice, to take effectual means of extinguishing or effectually screening the fire or light and for preventing for the future of any similar fire or light.

(2) Any owner or person, on whom a notice is served under this section, who fails, without reasonable cause, to comply with the directions contained in the notice, shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

(3) If the owner or person on whom a notice under this section is served neglects for a period of 2 days to extinguish or effectually screen the fire or light mentioned in the notice, the Director may, by his officers or employees, enter upon the place where the fire or light is, and forthwith extinguish the same, doing no unnecessary damage, and the expenses incurred by him in so doing shall be paid to him by the owner or person on whom the notice has been served.

**Navigational warning or information.**

**129.** (1) The Director shall disseminate navigational warnings or information as may seem to him to be deemed necessary to assist and to ensure the safety of navigation. Such a warning or information shall be disseminated in the form of a written notice and, if such warning or information is of a grave danger to navigation, by a marine radio broadcast.

(2) The owner, master or person in charge of a ship shall obey the warning or information issued by the Director under subsection (1) and failure to do so shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years or both.

**Hydrographic surveys etc.**

**130.** (1) No person shall carry out or caused to be carried out any hydrographic or hydrologic surveys or other studies of the waters and sea-bed within the waters of Brunei

Darussalam except with the approval of the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years or both.

(3) This section shall not apply to any hydrographic or hydrologic survey or other study carried out —

(a) for or on behalf of the Government; or

(b) pursuant to a licence issued or lease granted under the Mining Act (Chapter 42); or

(c) pursuant to a petroleum mining agreement entered into under the Petroleum Mining Act (Chapter 44).

**Power to regulate and control navigation.**

**131.** (1) The Director shall be charged with the regulation and control of navigation in Brunei Darussalam waters and it shall be his duty to establish control stations at the locations as may seem to him to be necessary to regulate and control navigation.

(2) Such control stations, when established, shall carry out the functions of —

(a) controlling the movement of ships entering and leaving a port area;

(b) receiving distress messages from ships at sea;

(c) performing the functions of at least for sea area A1 as required by the Global Maritime Distress Signal Systems of the International Convention on the Safety of Life at Sea;

(d) assisting in the coordination of a maritime search and rescue;

(e) broadcasting of navigational warnings and information; and

(f) carrying out such other duties as are imposed by the Director or any other written law.

**Control of navigation around artificial islands, installations and structures in Exclusive Economic Zone.**

**132.** (1) Without prejudice to Article 60 of the United Nations Convention on the Law of the Sea, any construction of artificial islands, installations and structures in the Exclusive

Economic Zone shall be communicated to the Director for the purpose of issuing navigational warnings and information as required by section 129.

(2) Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organisation. Such removal shall also have due regard to fishing and the protection of the marine environment. For the purpose of section 129, any removal shall be communicated to the Director, including the depth, position and dimensions of any installations or structures not entirely removed.

(3) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, and where necessary, by regulations, establish reasonable safety zones around artificial islands, installations and structures as measures to ensure the safety of navigation and of the artificial islands, installations and structures.

(4) Without prejudice to the generality of subsection (3), the breadth of such zones shall be designed to ensure that they are reasonably related to the nature and functions of the artificial islands, installations and structures and shall not exceed a distance of 500 metres around them, measured from each point of their outer edge, except as authorised by generally accepted international standards or as recommended by the competent international organisation.

(5) Notice on construction, removal and the extent of every safety zone established shall be published in the *Gazette*.

(6) All ships, except those specified in subsection (7), are prohibited from entering the safety zones established under subsection (3). The owner, master or person in charge of any ship or any person found contravening subsection (3) shall be guilty of an offence and liable on conviction to a fine not exceeding \$100,000 or imprisonment for a term not exceeding 10 years or both and the ship shall be liable to be detained.

(7) The following ships or classes of ships are exempted from the requirements of subsection (6) —

(a) ships engaged in providing services, maintenance and operation of the artificial islands, installations and structures and authorised by the operators of such artificial islands, installations and structures;

(b) ships engaged in search and rescue operation to save life and property;

(c) ships engaged in oil spill clean-up operation;

(d) ships belonging to the Government, and other statutory bodies performing safety, security, customs, fiscal, health and immigration enforcement activities in the zones; and

(e) ships drifted due to mechanical breakdown or due to the stress of weather.



(8) Ships or classes of ships exempted under this section shall observe all the safety requirements enforced by the operator of the artificial islands, installations and structures and any other written laws, while operating in the safety zones.

## PART IX

### INQUIRIES AND INVESTIGATIONS

#### **Inquiry into fitness or conduct of officers.**

**133.** (1) If it appears to the Minister that an officer —

(a) is unfit to discharge his duties, whether by reason of incompetence, misconduct or physical or mental disability or for any other reason;

(b) has been seriously negligent in the discharge of his duties; or

(c) has failed to comply with section 115,

the Minister may cause an inquiry to be held by one or more persons appointed by him and, if he does so, may, if he thinks fit, suspend, pending the outcome of the inquiry, any certificate issued or deemed to be issued to the officer under section 47 and require the officer to deliver it to him.

(2) Where a certificate issued to an officer has been suspended under subsection (1), the suspension may, on the application of the officer, be terminated by the High Court and the decision of the High Court on such an application shall be final.

(3) An inquiry under this section shall be conducted in accordance with the regulations made under section 137.

(4) The persons holding an inquiry under this section into the fitness or conduct of the officer —

(a) may, if satisfied of any of the matters mentioned in paragraphs (a), (b) and (c) of subsection (1), cancel or suspend any certificate issued or deemed to be issued to the officer under section 47 or censure him;

(b) may make such order with regard to the costs of the inquiry as they think just; and

(c) shall make a report on the case to the Minister,

and if the certificate is cancelled or suspended, the officer (unless he has delivered it to the Minister in pursuance of subsection (1)) shall deliver it forthwith to the persons holding the inquiry or to the Director.

(5) Any costs which a person is ordered to pay under paragraph (b) of subsection (4) may be recovered from him by the Director.

**Inquiries and investigations into shipping casualties.**

**134.** (1) Where any of the following casualties has occurred —

(a) the loss or presumed loss, stranding, grounding, abandonment of or damage to a ship;

(b) a loss of life or serious personal injury caused by fire on board or by an accident to a ship or ship's boat, or by an accident occurring on board a ship or ship's boat; or

(c) any damage caused by a ship,

and, at the time it occurred, the ship was registered in Brunei Darussalam or the ship or boat was in Brunei Darussalam —

(i) the Minister may cause a preliminary inquiry into the casualty to be held by a person appointed by him; and

(ii) His Majesty the Sultan and Yang Di-Pertuan may (whether or not a preliminary inquiry into the casualty has been held) cause a formal investigation into the casualty to be held by a judge or magistrate appointed by His Majesty the Sultan and Yang Di-Pertuan.

(2) A person appointed under this section to hold a preliminary inquiry shall for the purpose of the inquiry have the powers conferred on an inspector by section 202.

**Formal investigations into shipping casualties.**

**135.** (1) A judge or magistrate holding a formal investigation into a casualty under section 134 shall conduct it in accordance with the regulations made under section 137, and those regulations shall require the assistance of one or more assessors and, if any question as to the cancellation or suspension of an officer's certificate is likely to arise, the assistance of not less than 2 assessors.

(2) The judge or magistrate holding the formal investigation shall have all the powers of a Court of a Magistrate and shall also have all the powers of an inspector under this Order.

(3) If as a result of the investigation the judge or magistrate is satisfied, with respect to any officer, of any of the matters mentioned in paragraphs (a), (b) and (c) of subsection (1) of section 133 and, if it is a matter mentioned in paragraph (a) or (b) of subsection (1) of that section, is further satisfied that it caused or contributed to the casualty, he may cancel or suspend any certificate issued or deemed to be issued to the officer in accordance with the

regulations made under section 47 or censure him; and if he cancels or suspends the certificate, the officer shall deliver the certificate forthwith to him or the Director.

(4) The judge or magistrate may make such order as to the costs of the investigation as he thinks just and shall make a report on the case to His Majesty the Sultan and Yang Di-Pertuan.

(5) His Majesty the Sultan and Yang Di-Pertuan may, if in any case His Majesty the Sultan and Yang Di-Pertuan thinks fit so to do, order the costs of any such investigation to be paid out of the Consolidated Fund.

**Re-hearing of and appeal from inquiries and investigations.**

**136.** (1) Where an inquiry or formal investigation has been held under section 135, His Majesty the Sultan and Yang Di-Pertuan may order the whole or part of the case to be re-heard, and shall do so —

(a) if new and important evidence which could not be produced at the inquiry or investigation has been discovered; or

(b) if it appears to His Majesty the Sultan and Yang Di-Pertuan that there are other grounds for suspecting that a miscarriage of justice may have occurred.

(2) An order under subsection (1) may provide for the re-hearing to be held by the persons who held the inquiry or investigation or by the High Court.

(3) Any re-hearing under this section which is not held by the High Court shall be conducted in accordance with the regulations made under section 137; and section 135 shall apply in relation to a re-hearing of an investigation by a judge or magistrate as it applies to the holding of an investigation.

(4) Where the persons holding the inquiry or investigation have decided to cancel or suspend the certificate of any person or have found any person at fault, then, if no application for an order under subsection (1) has been made or such application has been refused, that person or any other person who, having an interest in the inquiry or investigation, has appeared at the hearing and is affected by the decision or finding, may appeal to the High Court.

**Regulations as to inquiries, formal investigations and appeals.**

**137.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for the conduct of inquiries under section 133 and of formal investigations under section 135 and for the conduct of any re-hearing under section 136 which is not held by the High Court.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may provide for the appointment and summoning of assessors, the manner in which

any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.

**Failure to deliver cancelled or suspended certificate.**

**138.** If a person fails to deliver a certificate as required under section 133 or 135, he shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

**Power to restore certificate.**

**139.** Where a certificate has been cancelled or suspended under this Part, the Minister may, if he is of the opinion that the justice of the case requires it, order the certificate to be re-issued or, as the case may be, reduce the period of suspension and order the certificate to be returned, or may order a new certificate of the same or lower grade in place of the cancelled or suspended certificate to be granted.

**Payment to persons holding inquiries or investigations and assessors.**

**140.** His Majesty the Sultan and Yang Di-Pertuan may direct such remuneration, if any, to be paid out of the Consolidated Fund to any person appointed to hold an inquiry under section 133 or an investigation under section 135 and to any assessor under this Part.

**PART X**

**LIABILITIES AND LIMITATION OF LIABILITIES**

**Power of Minister to make regulations.**

**141.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations on matters related to liabilities and limitation of liabilities of carriers, shipowners, masters and salvors.

(2) Without prejudice to the generality of subsection (1), the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations on liabilities and limitation of liabilities with regard to —

(a) the carriage of passengers and their luggage by sea and the carriage of goods by sea;

(b) the maritime claims; and

(c) collision.

**PART XI**

**WRECK AND SALVAGE**

**Interpretation of this Part.**

**142.** In this Part, unless the context otherwise requires —

"receiver" means a receiver of wreck;

"salvage" includes all expenses properly incurred by the salvor in the performance of salvage services;

"wreck" includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

**Receiver of wrecks.**

**143.** The Director shall have the general supervision throughout Brunei Darussalam over all matters relating to wrecks and may, by notification in the *Gazette*, appoint any person to be a receiver of wreck and to perform the duties of a receiver under this Part.

**Duty of receiver in respect of ship in distress.**

**144.** (1) Where any ship is wrecked, stranded or in distress at any place on or near the coasts of Brunei Darussalam or any tidal water within the limits of Brunei Darussalam, the receiver shall, upon being made acquainted with the circumstances, forthwith proceed there, and upon his arrival shall take the command of all persons present and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the ship and of the lives of the persons belonging to the ship (referred to in this Part as shipwrecked persons) and of the cargo and apparel of the ship.

(2) Any person who wilfully disobeys any direction of the receiver shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000, but the receiver shall not interfere between the master and the crew of the ship in reference to the management thereof unless he is requested to do so by the master.

**Powers of receiver in case of ships in distress.**

**145.** (1) The receiver may, with a view to the preservation under section 144 of shipwrecked persons or of the ship, cargo or apparel —

(a) require such persons as he thinks necessary to assist him;

(b) require the master or other person having the charge of any ship near at hand to give such aid with his men or ship as is in his power; and

(c) demand the use of any vehicle that may be near at hand.

(2) Any person who refuses without reasonable cause to comply with any such requisition or demand shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

**Power to pass over adjoining lands.**

**146.** (1) Whenever a ship is wrecked, stranded or in distress as mentioned in section 144, all persons may, for the purpose of rendering assistance to the ship, or of saving the lives of the shipwrecked persons, or of saving the cargo or apparel of the ship, unless there is some public road equally convenient, pass and repass, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also on the like condition, deposit on those lands any cargo or other article recovered from the ship.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section shall be a charge on the ship, cargo or articles, in respect of or by which the damage is occasioned, and the amount payable in respect of the damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is under this Part determined or recoverable.

(3) Any owner or occupier of any land who —

(a) impedes or hinders any person in the exercise of the rights given by this section by locking his gates, or refusing upon request to open the same, or otherwise;

(b) impedes or hinders the deposit of any cargo or other article recovered from the ship as mentioned in subsection (1) on the land; or

(c) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until the cargo or article can be removed to a safe place of public deposit,

shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

**Power of receiver to suppress plunder and disorder by force.**

**147.** (1) Whenever a ship is wrecked, stranded or in distress as mentioned in section 144, and any person plunders, creates disorder or obstructs the preservation of the ship or of the shipwrecked persons or of the cargo or apparel of the ship, the receiver may cause that person to be apprehended.

(2) The receiver may use force for the suppression of any such plundering, disorder or obstruction, and may command all persons to assist him in so using force.

**Exercise of powers of receiver in his absence.**

**148.** (1) Where a receiver is not present, the following officers or persons in succession, each in the absence of the other, in the order in which they are named, namely, superintendent or assistant superintendent of police, magistrate, or commissioned officer on full pay in the Royal Brunei Armed Forces, may do anything by this Part authorised to be done by the receiver.

(2) An officer acting under this section for a receiver shall, with respect to any goods or articles belonging to a ship the delivery of which to the receiver is required by this Order, be considered as the agent of the receiver, and shall place the goods or articles in the custody of the receiver, but the officer shall not be entitled to any fees payable to receivers or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

**Examination in respect of ships in distress.**

**149.** (1) Where any ship is or has been in distress on the coasts of Brunei Darussalam, a receiver of wreck or, in his absence, a magistrate shall, as soon as conveniently may be, examine on oath any person belonging to the ship, or any other person who is able to give any account thereof or of the cargo or stores thereof, as to the following matters —

(a) the name and description of the ship;

(b) the names of the master and the owner;

(c) the names of the owners of the cargo;

(d) the ports from and to which the ship was bound;

(e) the occasion of the distress of the ship;

(f) the services rendered; and

(g) such other matters or circumstances relating to the ship or to the cargo on board the ship as the person holding the examination thinks necessary.

(2) The person holding the examination shall take the examination down in writing, and shall send one copy thereof to the Director, where the copy shall be placed in some conspicuous place for the inspection of persons desirous of examining it.

(3) The person holding the examination shall for the purposes thereof have all the powers of an inspector under this Order.

**Rules to be observed by persons finding wreck.**

**150.** (1) Where any person finds or takes possession of any wreck within the limits of Brunei Darussalam or of any wreck found or taken possession of outside the limits of Brunei Darussalam and brought within the limits of Brunei Darussalam, he shall —

(a) if he is the owner thereof, give notice to the receiver stating that he has found or taken possession of the wreck, and describing the marks by which the wreck may be recognised; or

(b) if he is not the owner thereof, as soon as possible deliver the wreck to the receiver.

(2) Any person who fails without reasonable cause to comply with this section shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000, and shall, in addition, if he is not the owner, forfeit any claim to salvage, and shall be liable to pay to the owner of the wreck if it is claimed, or if it is unclaimed to the person entitled to the wreck, double the value thereof, to be recovered in the same way as a fine of a like amount under this Order.

**Penalty for taking wreck at time of casualty.**

**151.** (1) Where a ship is wrecked, stranded or in distress at any place on or near the coasts of Brunei Darussalam, or any tidal water within the limits of Brunei Darussalam, any cargo or other articles belonging to or separated from the ship which are washed on shore or otherwise lost or taken from the ship shall be delivered to the receiver.

(2) Any person, whether the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the cargo or article to the receiver or any person authorised by the receiver to demand the cargo or article, shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

(3) The receiver or any person authorised under subsection (2) may take any such cargo or article by force from the person so refusing to deliver the cargo or article.

**Notice of wreck to be given by receiver.**

**152.** Where a receiver takes possession of any wreck, he shall within 48 hours cause to be posted at the office of the Director and, if he thinks it desirable, he shall send to the secretary of Lloyd's in London, a description thereof and of any marks by which it is distinguished.

**Claims of owners to wreck.**

**153.** (1) The owner of any wreck in the possession of the receiver, upon establishing his claim to the wreck to the satisfaction of the receiver within one month from the time at which



the wreck came into the possession of the receiver, shall, upon paying the salvage fees and expenses due, be entitled to have the wreck or the proceeds thereof delivered up to him.

(2) Where any article belonging to or forming part of a foreign ship which has been wrecked on or near the coasts of Brunei Darussalam, or belonging to and forming part of the cargo, are found on or near those coasts or are brought into any port in Brunei Darussalam, the consular officer of the country or territory to which the ship or, in the case of cargo, to which the owners of the cargo may have belonged shall, in the absence of the owner and the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the articles.

**Immediate sale of wreck by receiver in certain cases.**

**154.** (1) A receiver may at any time sell any wreck in his custody, if in his opinion —

(a) it is under the value of \$1,000;

(b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or

(c) it is not of sufficient value to pay for warehousing.

(2) The proceeds of the sale shall, after defraying the expenses thereof, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

**Right of Government to unclaimed wreck.**

**155.** The Government is entitled to all unclaimed wreck found in any part of Brunei Darussalam except in places where the Government has granted to any person the right to the wreck.

**Unclaimed wreck.**

**156.** (1) Where no owner establishes a claim to any wreck found in Brunei Darussalam or to any wreck found or taken possession of outside Brunei Darussalam and brought within Brunei Darussalam and in the possession of a receiver within one month after it came into his possession, the receiver shall sell the wreck, and shall pay the proceeds of the sale into the Consolidated Fund, after deducting therefrom the expenses of the sale and any other expenses incurred by him and his fees and paying there out to the salvors such amount of salvage as the Minister in each case or by any general rule determines.

(2) Nothing in this section shall alter the application of any droits of admiralty or droits of the Government.

**Delivery of unclaimed wreck by receiver not to prejudice title.**

**157.** Upon delivery of the wreck or payment of the proceeds of sale of the wreck by a receiver under this Part, the receiver shall be discharged from all liability in respect thereof, but the delivery thereof shall not prejudice or affect any question which is raised by third parties concerning the right or title to the wreck.

**Removal of wreck by receiver.**

**158.** (1) Where any ship is sunk, stranded or abandoned within the territorial waters of Brunei Darussalam but outside the limits of any port in such a manner as, in the opinion of the receiver, to be or to be likely to become an obstruction or danger to navigation, the receiver may —

(a) take possession of, and raise, remove or destroy the whole or any part of, the ship;

(b) light or buoy any such ship or part until the raising, removal or destruction thereof; and

(c) sell, in such manner as the receiver thinks fit, any ship or part so raised or removed, and also any other property recovered in the exercise of his powers under this section, and out of the proceeds of the sale reimburse himself for the expenses incurred by him in relation thereto under this section, and he shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto.

(2) A sale shall not, except in the case of any property which is of a perishable nature, or which would deteriorate in value by delay, be made under this section until at least 7 clear days' notice of the intended sale has been given by advertisement in a newspaper circulating in Brunei Darussalam.

(3) At any time before any property is sold under this section, the owner thereof shall be entitled to have the property delivered to him on payment to the receiver of the fair market value thereof, to be ascertained by agreement between the receiver and the owner, or failing agreement, by some person to be named for the purpose by the Director.

(4) The sum paid to the receiver as the value of any property under this section shall be deemed to be the proceeds of sale of that property.

**Powers of removal extend to tackle, cargo etc.**

**159.** The provisions of this Part relating to removal of wrecks shall apply to every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a ship in the same manner as if it were included in the term "ship", and for the purposes of those provisions any proceeds of sale arising from a ship and from the cargo thereof, or any other property recovered therefrom, shall be regarded as a common fund.

**Taking wreck to foreign port.**

**160.** Any person who takes into any foreign port any ship, stranded, derelict or otherwise in distress found on or near the coasts of Brunei Darussalam, or any tidal water within the limits of Brunei Darussalam, or any part of the cargo or apparel thereof or anything belonging thereto, or any wreck found within those limits, and there sells the same, shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.

**Interfering with wrecked ship or wreck.**

**161.** (1) No person shall, without the leave of the master, board or endeavour to board any ship which is wrecked, stranded or in distress, unless he is, or acts by command of, the receiver or a person lawfully acting as such.

(2) Any person who acts in contravention of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000 and the master of the ship may repel him by force.

(3) No person shall —

(a) impede or hinder, or endeavour in any way to impede or hinder, the saving of any ship stranded or in danger of being stranded, or otherwise in distress on or near any coast or tidal water, or of any part of the cargo or apparel thereof or of any wreck;

(b) secrete any wreck, or deface or obliterate any marks thereon; or

(c) wrongfully carry away or remove any part of a ship stranded or in danger of being stranded, or otherwise in distress on or near any coast or tidal water, or any part of the cargo or apparel thereof or any wreck.

(4) Any person who acts in contravention of subsection (3) shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000, and such fine may be imposed in addition to any punishment to which he may be liable by law under this Order or otherwise.

**Summary procedure for concealment of wreck.**

**162.** (1) Where a receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof or that any wreck is otherwise improperly dealt with, the receiver may apply to a Court of a Magistrate for a search warrant.

(2) The Court of a Magistrate may grant the search warrant, and the receiver, by virtue thereof, may enter any house or other place wherever situate and also any ship and search for, seize and detain any such wreck found therein.

(3) If any such seizure of wreck is made in consequence of information given by any person to the receiver, the informer shall be entitled, by way of salvage, to such sum as the receiver allows.

**Salvage payable for saving life.**

**163.** (1) Where the services are rendered wholly or in part within Brunei Darussalam in saving life from any ship, or elsewhere in saving life from any Brunei Darussalam ship, there shall be payable to the salvor by the owner of the ship, cargo or apparel saved, a reasonable amount of salvage to be determined in case of dispute in the manner mentioned in section 165.

(2) Salvage in respect of the preservation of life when payable by the owners of the ship shall be payable in priority to all other claims for salvage.

(3) Where the ship, cargo and apparel are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life, the Minister may, in his discretion, award to the salvor out of the Consolidated Fund such sum as he thinks fit in whole or part satisfaction of any amount of salvage so left unpaid.

**Salvage of cargo or wreck.**

**164.** Where any ship is wrecked, stranded or in distress at any place on or near the coasts of Brunei Darussalam, or in any tidal water within the limits of Brunei Darussalam, and services are rendered by any person in assisting that ship or saving the cargo or apparel of that ship or any part thereof, and where services are rendered by any person other than a receiver in saving any wreck, there shall be payable to the salvor by the owner of the ship, cargo, apparel or wreck, a reasonable amount of salvage to be determined in case of dispute in the manner mentioned in section 165.

**Determination of salvage disputes.**

**165.** (1) Disputes as to the amount of salvage, whether of life or property and whether rendered within or outside Brunei Darussalam, arising between the salvor and the owners of any ship, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise, be determined summarily by a Court of a Magistrate in any case where —

- (a) the parties to the dispute consent;
- (b) the value of the property saved does not exceed \$50,000; and
- (c) the amount claimed does not exceed \$50,000.

(2) Subject to subsection (1), disputes as to salvage shall be determined by the High Court, but if the claimant does not recover in the High Court more than \$50,000, he shall not

be entitled to recover any costs, charges or expenses incurred by him in the prosecution of his claim unless the High Court certifies that the case is a fit one to be tried by the High Court.

(3) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved or of their respective agents.

**Determination of disputes as to salvage summarily.**

**166.** A Court of a Magistrate may, for the purpose of determining a dispute as to salvage, call in to its assistance any person conversant with maritime affairs as assessor, and there shall be paid as part of the costs of the proceedings to every such assessor in respect of his services such sum as the Director directs.

**Appeal in case of salvage disputes.**

**167.** Where a dispute relating to salvage has been determined by a Court of a Magistrate, any party aggrieved by the decision may appeal therefrom in accordance with the Rules of Court to the Court of Appeal, but no such appeal shall be allowed unless the sum in dispute exceeds \$2,000.

**Valuation of property by receiver.**

**168.** (1) Where any dispute as to salvage arises, the receiver may, on the application of either party, appoint a valuer to value the property, and shall give copies of the valuation to both parties.

(2) Any copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceedings.

(3) Such fee as the Director directs shall be paid in respect of the valuation by the person applying for the valuation.

**Detention of property liable to salvage by receiver.**

**169.** (1) Where salvage is due to any person under this Order, the receiver shall —

(a) if the salvage is due in respect of services rendered in assisting any ship, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the ship and cargo or apparel; and

(b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Order, detain the wreck.

(2) Subject to subsection (3), the receiver shall detain the ship and the cargo and apparel, or the wreck (referred to in this Order as detained property), until payment is made for salvage or process is issued for the arrest or detention thereof by the High Court.

(3) A receiver may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds \$1,000 and any question is raised as to the sufficiency of the security, to the satisfaction of a judge of the High Court.

(4) Any security given for salvage under this section to an amount exceeding \$1,000 may be enforced by the High Court in the same manner as if bail had been given in that Court.

**Sale of detained property.**

**170.** (1) The receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention in the following cases —

(a) where the amount is not disputed and payment of the amount due is not made within 20 days after the amount is due;

(b) where the amount is disputed but no appeal lies, and payment is not made within 20 days after the decision of the High Court; or

(c) where the amount is disputed and an appeal lies from the decision of the High Court to the Court of Appeal, and within 20 days of the decision neither payment of the sum due is made nor have any proceedings been taken for the purpose of appeal.

(2) The proceeds of sale of the detained property shall, after payment of the expenses of the sale, be applied by the receiver in payment of the expenses, fees and salvage and, so far as not required for that purpose, shall be paid to the owners of the property or any other persons entitled to receive the proceeds.

**Apportionment of salvage by receiver.**

**171.** (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Brunei Darussalam has been finally determined, either summarily in the manner provided by this Order or by agreement, and does not exceed \$1,000, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay the amount may apply to the receiver for liberty to pay the amount to him.

(2) The receiver shall, if he thinks fit, receive the amount accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid, and that certificate shall be a full discharge and indemnity to the person by whom the money is paid and to his ship, cargo, apparel and effects against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

(3) The receiver shall, as soon as practicable, distribute any amount received by him under this section among the persons entitled to the money on such evidence and in such shares and proportions as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(4) A distribution made by the receiver under this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

**Apportionment of salvage by High Court.**

**172.** Whenever the aggregate amount of salvage payable in respect of salvage service rendered in Brunei Darussalam has been finally ascertained and exceeds \$1,000 and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever that amount may be, then, if any delay or dispute arises as to the apportionment thereof, the High Court may —

(a) cause the amount to be apportioned amongst the persons entitled thereto in such manner as the High Court thinks just, and may for that purpose, if the High Court thinks fit, appoint any person to carry that apportionment into effect;

(b) compel any person in whose hands or under whose control the amount may be to distribute the amount or to bring the amount into court to be there dealt with as the High Court directs; and

(c) for the purposes of paragraphs (a) and (b), issue such processes as the High Court thinks fit.

**Jurisdiction of High Court in salvage.**

**173.** Subject to this Order and any other written law in force in Brunei Darussalam, the High Court shall have jurisdiction to decide upon all claims whatsoever relating to salvage, whether the services in respect of which salvage is claimed were performed on the high seas or within Brunei Darussalam, or partly on the high seas and partly within Brunei Darussalam, and whether the wreck in respect of which salvage is claimed is found on the sea or on the land or partly on the sea and partly on the land.

**Receiver's fees.**

**174.** (1) There shall be paid to every receiver the expenses properly incurred by him in the performance of his duties, and such fees as may be directed by the Director in respect of such matters as the Director may, by notification in the *Gazette*, specify; but the receiver shall not be entitled to any remuneration other than those payments.

(2) The receiver shall, in addition to all other rights and remedies for the recovery of those expenses or fees, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

(3) Whenever any dispute arises as to the amount payable to any receiver in respect of expenses or fees, that dispute shall be determined by the Minister whose decision shall be final.

(4) All fees received by a receiver in respect of services performed by him as receiver shall be accounted for to the Director and shall form part of the Consolidated Fund.

## **PART XII**

### **LEGAL PROCEEDINGS**

#### **Provision as to jurisdiction in case of offences.**

**175.** For the purpose of giving jurisdiction under this Order, every offence shall be deemed to have been committed and, every cause of complaint to have arisen, either in the place in which the offence actually was committed or arose or in any place in which the offender or person complained against may be.

#### **Jurisdiction over ships lying off coast.**

**176.** Where any place within which any court has jurisdiction either under this Order or any other written law or at common law for any purpose whatever is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river or other navigable water, every such court shall have jurisdiction over any ship being on, or lying or passing off, that coast or being in or near that bay, channel, lake, river or navigable water and over all persons on board that ship or for the time being belonging thereto, in the same manner as if the ship or persons were within the limits of the original jurisdiction of the court.

#### **Jurisdiction in case of offences on board ship.**

**177.** Where any person is charged with having committed any offence on board any Brunei Darussalam ship on the high seas or elsewhere outside Brunei Darussalam or on board any foreign ship to which he does not belong and that person is found within the jurisdiction of any court in Brunei Darussalam which would have had cognisance of the offence if it had been committed on board a Brunei Darussalam ship within the limits of its ordinary jurisdiction, that court shall have jurisdiction to try the offence as if it had been so committed.



**Presumption of jurisdiction.**

**178.** Where, in any legal proceedings under this Order, a question arises whether or not any ship or person is or is not within the provisions of this Order or some part thereof, the ship or person shall be presumed to be within those provisions unless the contrary is proved.

**Court for trial of offences.**

**179.** Unless the context otherwise requires, any offence under this Order may be tried by a Court of a Magistrate and such Court shall, notwithstanding the provisions of the Criminal Procedure Code (Chapter 7) and any other written law, have jurisdiction to impose the maximum penalty provided for by this Order.

**Sums ordered to be paid leviable by distress on ship.**

**180.** Where any court has power to make an order directing payment to be made of any master's or seaman's wages, fines or other sums of money, then, if the party so directed to pay the same is the person employing the master or seaman, or the owner of a ship, and the same is not paid at the time and in the manner prescribed in the order, the court which made the order may, in addition to payment, direct the amount remaining unpaid to be levied by distress and sale of the ship and its equipment.

**Depositions to be received in evidence when witness cannot be produced.**

**181.** (1) Whenever in the course of any legal proceedings instituted before any court, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter of that proceedings, then upon due proof that the witness cannot be found in Brunei Darussalam, any deposition that the witness has previously made on oath in relation to the same subject-matter before any judge, magistrate or any consular officer elsewhere shall be admissible in evidence subject to the following provisions —

(a) if the deposition was made in Brunei Darussalam, it shall not be admissible in any proceedings instituted in Brunei Darussalam; and

(b) if the proceedings is criminal, it shall not be admissible unless it was made in the presence of the person accused.

(2) A deposition so made shall be authenticated by the signature of the judge, magistrate or consular officer before whom it is made; and the judge, magistrate or consular officer shall certify, if the fact is so, that the accused was present at the taking thereof.

(3) A deposition so made shall be deemed to be duly authenticated if it purports to be signed by the judge, magistrate or consular officer before whom it is made.

(4) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition, and in any criminal proceedings a certificate under this section shall, unless the contrary is proved, be sufficient evidence of the accused having been present in the manner thereby certified.

(5) Nothing herein shall affect any case in which depositions taken in any proceedings are rendered admissible in evidence by any written law or interfere with the practice of any court in which depositions not authenticated as hereinbefore mentioned are admissible.

**Admissibility of documents in evidence.**

**182.** (1) The following documents shall be admissible in evidence —

(a) any register under Part II on its production from the custody of the Registrar or other person having lawful custody thereof;

(b) a certificate of registry under Part II purporting to be signed by the Registrar;

(c) any amendment to a certificate of registry purporting to be signed by the Registrar;

(d) every declaration made in pursuance of Part II in respect of a Brunei Darussalam ship;

(e) a certificate issued or deemed to be issued in accordance with regulations made under section 47;

(f) crew agreements and copies of entries given under Part V of additions to or changes in crew agreements;

(g) documents purporting to be submissions to or decisions by the Director under section 63;

(h) the official log-book kept under section 92 and, without prejudice to subsection (3), any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship; and

(i) returns or reports made under section 94.

(2) The documents mentioned in subsection (1) shall, on their production from the proper custody, be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence and, subject to all just exceptions, shall be evidence of the matters stated therein in pursuance of this Order or by any officer in pursuance of his duties as such officer.

(3) A copy of any such document or extract therefrom shall also be so admissible in evidence, if proved to be an examined copy or extract, or if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted, and that officer shall furnish such certified copy or extract to any person applying at a reasonable time for the certified copy or extract, upon payment of such fee as may be prescribed.

**Service of documents.**

**183.** (1) Where, for the purposes of this Order, any document is to be served on any person, that document may be served —

(a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the copy at his last known place of abode;

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the document for him on board that ship with the person being or appearing to be in command or charge of the ship;

(c) if the document is to be served on the master of a ship, where there is no master, and the ship is in Brunei Darussalam, on the operator of the ship, or on some agent of the owner residing in Brunei Darussalam, or by affixing a copy thereof at the means of access to the ship, or in any place on board the ship which appears to be frequented by people; and

(d) if the document is to be served on the owner or bareboat charterer of a ship, on the representative appointed in relation to the ship.

(2) Any person who obstructs the service on the master of a ship of any document under section 122 shall be guilty of an offence and liable on conviction for each offence to a fine not exceeding \$2,000.

(3) Any owner or bareboat charterer, or the representative thereof, or master of the ship who is party or privy to such obstruction shall be guilty of an offence and liable on conviction for each offence to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or both.

**Mode of making declarations.**

**184.** (1) Any declaration required by this Order may be made before the magistrate or any other person authorised to take or receive a declaration by any law in force in Brunei Darussalam.

(2) Any declaration required by this Order may be made on behalf of a corporation by the director, the secretary or any other agent of the corporation authorised by the corporation for that purpose.

**Continuing offences.**

**185.** Where by a provision of this Order an act or thing is required to be done within a particular period or before a particular time, the obligation to do that act or thing continues, notwithstanding that the period has expired or that time has passed, until that act or thing is done.

**Liability of beneficial owners.**

**186.** (1) Where any person has a beneficial interest in any ship or any share therein registered in the name of some other person as owner, the person so interested shall, as well as the registered owner of the ship, be subject to all pecuniary penalties imposed by this Order or any other written law on the owner of the ship or the shares therein and proceedings may be taken for the enforcement of any such penalty against both or either of the aforesaid parties, with or without joining them.

(2) For the purpose of this section, a person who has an interest in any ship or any share therein by way of mortgage, charge or lien, shall not be deemed to have a beneficial interest in the ship unless he is in possession of the ship.

**Offences by body corporate.**

**187.** (1) Where an offence under this Order which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

**Offences under this Order.**

**188.** No person shall be charged with any offence under this Order except on the complaint or with the sanction of the Public Prosecutor, the Director, or a surveyor of ships.

**Forgery etc. of documents and fraudulent use.**

**189.** (1) If any person forges, or fraudulently alters, or assists in forging or fraudulently altering, or procures or suffers to be forged or fraudulently altered any of the following documents —

- (a) any declaration;

(b) any builder's certificate, bill of sale or other document or instrument of title to a ship or any share therein;

(c) any document evidencing the deletion of a ship from its former registry;

(d) any crew agreement, instrument of mortgage, register, certificate, licence, book, instrument or other document prescribed by this Order (including replacement or certified copies thereof or certified extracts therefrom) or any entry or endorsement prescribed by this Order to be made in or on any of those documents; or

(e) any document produced to the Director for the purposes of obtaining for himself or any other person any certificate, licence, book or other document issued under this Order (including replacement or certified copies thereof) or for the purposes of obtaining an entry or endorsement in or on any of those documents,

that person shall be guilty of an offence.

(2) If any person fraudulently uses or allows any other person to fraudulently use —

(a) any of the documents mentioned in subsection (1) which is forged, altered or otherwise false or misleading in any material particular; or

(b) any of the documents mentioned in paragraph (d) of subsection (1) which has expired or has been cancelled or suspended, or has become invalid for any reason,

that person shall be guilty of an offence.

(3) If any person fraudulently uses any document mentioned in paragraph (d) of subsection (1) which is issued to or issued in relation to a person and he is not that person named in the document or to which the document relates, he shall be guilty of an offence.

(4) If any person allows any other person to fraudulently use any of the documents mentioned in paragraph (d) of subsection (1) which is issued to or issued in relation to a person and that other person is not the person named in that document or to which the document relates, he shall be guilty of an offence.

**False declaration etc.**

**190.** If any person knowingly or recklessly, for any purpose prescribed by this Order —

(a) makes a declaration, statement or representation which is false or otherwise misleading in any material particular;

(b) gives false evidence on oath; or

(c) makes in any document produced or delivered to any person authorised to receive it under this Order, any statement or entry which is false or otherwise misleading in any material particular,

he shall be guilty of an offence.

**Interfering with person in carrying out duty etc.**

**191.** Any person who —

(a) by violence, threat or intimidation, hinders or interferes with or otherwise obstructs the master or an officer of a ship in performing his duty; or

(b) resists or wilfully obstructs, assaults, molests or otherwise intimidates a person who is carrying out or exercising any duty, function, right or power imposed on him by this Order,

shall be guilty of an offence.

**Misleading officer, refusal to answer questions, produce documents etc.**

**192.** Any person who —

(a) misleads any other person on whom a duty, function or power is imposed on him under this Order in any material particular which is likely to affect the discharge thereof;

(b) refuses to answer any question lawfully put to him, or to produce documents in his possession or custody lawfully demanded of him;

(c) refuses to give all reasonable assistance to any person who is carrying out any duty, function or power imposed on him under this Order; or

(d) refuses to attend as a witness before an inspector or any person having the powers of an inspector, or to make or subscribe any declaration required by the inspector or person having the powers of an inspector,

shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

**Offences relating to markings of ship.**

**193.** (1) The markings required by this Order to be made on or in a ship shall be permanently continued, and no alteration shall be made, except in the manner provided by this Order.

(2) If —

(a) an owner or the master of a ship, without reasonable cause, neglects to cause the ship to be so marked, or to keep it so marked; or

(b) any person, without reasonable cause, conceals, removes, alters, defaces, obliterates or suffers any person under his control to conceal, remove, alter, deface or obliterate any of the marks,

he shall be guilty of an offence.

**Unauthorised presence on board ship.**

**194.** Where a ship registered in Brunei Darussalam or elsewhere is in Brunei Darussalam and a person who is not authorised by law to do so —

(a) goes on board the ship without the consent of the master or any other person authorised to give it; or

(b) remains on board the ship after being requested to leave by the Director, the master or a police officer or any person authorised by the Director to act in that behalf,

he shall be guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

**Taking person performing duty to sea.**

**195.** If any person performing his duties or functions under this Order is taken to sea in a ship without his consent, the owner and the master of the ship shall be guilty of an offence and liable on conviction to a fine not exceeding \$10,000 and shall both be jointly and severally liable to pay all expenses incidental to the person's return to duty.

**General penalties.**

**196.** (1) Any person guilty of an offence under this Order for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years or both.

(2) Any person who fails to comply with or does or suffers to be done anything contrary to this Order shall, unless otherwise provided, be guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

**Persons appointed or authorised under this Order deemed public servants.**

**197.** Every person appointed or authorised under this Order for any of the purposes of this Order, when acting in pursuance of any such purpose, shall be deemed to be a public servant within the meaning of the Penal Code (Chapter 22).

**Costs of detention of unsafe ships.**

**198.** (1) If it appears that there was no reasonable or probable cause for the provisional detention of a ship under section 122, the Director shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

(2) An action for any costs or compensation payable by the Director under subsection (1) may be brought against the Director by his official title.

(3) If —

(a) a ship is finally detained under section 122;

(b) a ship is provisionally detained under section 122 and the ship was, at the time of detention, an unsafe ship; or

(c) a ship is detained under this Order which provides for the detention of a ship,

the owner of the ship shall be liable to pay to the Director its costs of and incidental to the detention and survey of the ship.

(4) Any costs payable to the Director under this Order may be recovered by the Director and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

**Security for costs of detention of unsafe ships.**

**199.** (1) Where a complaint is made to the Director that a ship is an unsafe ship, the Director may, if he thinks fit, require the complainant to give security to his satisfaction for any costs and compensation which the Director may become liable to pay in consequence of the detention and survey of the ship.

(2) Such security shall not be required where the complaint is made by 3 or more seamen belonging to the ship and is not in the opinion of the Director frivolous or vexatious, and if the complaint is made in sufficient time before the sailing of the ship, the Director shall take proper steps to ascertain whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Director is liable under section 198 to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay the Director all costs incurred and compensation paid by the Director in respect of the detention and survey of the ship.



**Immunity of Government, Director and their employees.**

**200.** No suit or other legal proceedings shall lie against the Government, the Director or any officer or employee of the Government or the Director or any person appointed under this Order or acting under the direction of the Government or the Director for any act done in good faith in the performance, or intended performance, of any duty, or in the exercise of any power under this Order, or for any failure or default in the performance or exercise in good faith of such duty or power.

**PART XIII**

**MISCELLANEOUS**

**Powers of Director etc.**

**201.** (1) The Director, a Port Health Officer, a surveyor of ships or a police officer may, at any time, for the purposes of this Order —

(a) go on board any ship and inspect and examine the ship or any part thereof or its equipment;

(b) enter and inspect any premises;

(c) require and enforce the production of any book, certificate or document relating to any ship or persons on board the ship;

(d) muster the crew and passengers of any ship;

(e) summon any person before him and require him to answer questions; and

(f) require any ship to be taken into a dock for the purpose of surveying the hull.

(2) The Director may, in his discretion, compound any offence under this Order or the regulations which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding \$1,000.

**Powers of inspector.**

**202.** An inspector and any person having the powers of such an inspector —

(a) shall have the powers conferred under subsection (1) of section 201; and

(b) may administer oaths or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe to a declaration of the truth of the statements made by him in his examination.

**Power of arrest.**

**203.** (1) The Director, a Port Health Officer, a surveyor of ships or a police officer may arrest without warrant any person who has committed an offence under this Order and take him before a Court of a Magistrate, as the case may be, to be dealt with according to law.

(2) Any article concerning, by or for which an offence has been committed may be seized and taken to a police station, unless given up sooner by order of a Court of a Magistrate.

**Power of High Court to remove master.**

**204.** (1) The High Court may remove the master of any ship within the jurisdiction of the High Court, if that removal is shown to the satisfaction of the High Court by affidavit evidence to be necessary.

(2) The removal of the master under subsection (1) shall be made upon the application of any owner of the ship or his agent, or of the authorised agent of the ship, or of any certificated mate or engineer, or of one-third or more of the crew of the ship.

(3) The High Court may appoint a new master in place of the one removed, but where the owner or agent of the ship is within the jurisdiction of the High Court, such an appointment shall not be made without the consent of the owner or agent.

(4) The High Court may also make such order and require such security in respect of the costs of the matter as the High Court thinks fit.

**Power to prohibit ship from entering or direct ship to leave territorial waters of Brunei Darussalam.**

**205.** (1) The Director may prohibit any ship from entering and may direct any ship to leave the territorial waters of Brunei Darussalam if he is of the opinion that it would not be in the public interest for the ship to enter or remain within the territorial waters of Brunei Darussalam.

(2) Any person aggrieved by the direction of the Director under subsection (1) may, within 7 days of the receipt of such direction, appeal to the Minister whose decision shall be final.

(3) If any ship fails to leave the territorial waters of Brunei Darussalam within the time specified by the Director, or where an appeal has been made to the Minister under subsection (2), after the appeal has been refused, the Director may take possession of and dispose of the ship in any manner he thinks fit.

**Enforcing detention of ship.**

**206.** (1) Where under this Order a ship is to be or may be detained, the Director, a surveyor of ships, a police officer not below the rank of inspector or a commissioned officer on full pay in the Royal Brunei Armed Forces may detain the ship if it is in Brunei Darussalam, and the ship may be detained until it complies with the provisions which it contravened.

(2) If the ship, after detention, or after service on the master of the ship of any notice of or order for detention, goes to sea before it is released by the competent authority, the owner and the master of the ship, and also any person who is party or privy to the offence, shall each be guilty of an offence and liable on conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 2 years or both.

(3) Any person authorised under this section to detain a ship may, if he thinks it necessary to do so, place a police guard on board.

(4) Any police guard so placed on board a ship may take such steps as are necessary to prevent the ship from going to sea.

**Issue of new document.**

**207.** (1) Where a document issued by the Director or Registrar under this Order is mislaid, lost or destroyed —

(a) in the case of a document which relates to a ship, the master or the owner of the ship;

(b) in the case of a document which relates to a person, the person,

or some other person having knowledge of the facts of the case, shall make a declaration stating the facts of the case to the best of his knowledge and belief, and the Director or Registrar may thereupon issue a new document in lieu of the original document.

(2) The declaration under subsection (1) shall contain an undertaking to surrender to the Director or Registrar the document declared mislaid, lost or destroyed, when the document is subsequently recovered.

(3) The Director or Registrar may, on the delivery up to him of a document issued by him under this Order, issue a new document in lieu thereof.

**Issue of certified copies or extracts.**

**208.** The Director or Registrar may issue certified copies of or extracts from any document issued by him or in his custody.

**Copy of Order and regulations to be kept on Brunei Darussalam ships.**

**209.** (1) The master of a Brunei Darussalam ship which is propelled by mechanical means shall keep a copy of this Order on board the ship, except that he shall not be obliged to keep a copy of any regulations which do not apply to the ship.

(2) Any master who contravenes or fails to comply with this section without reasonable cause shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

**Powers of Minister to prescribe fees, recovery of fees and application of moneys.**

**210.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations prescribing the fees to be paid in respect of the issue or recording of any certificate, licence or other instrument or the doing of any other thing in pursuance of this Order.

(2) All fees prescribed under this Order shall be paid to the Director.

(3) All fees due to or which may be recovered by the Director under this Order shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

(4) For the purposes of this section, "fees" includes —

(a) the fees prescribed under section 13;

(b) fees made under section 102;

(c) the dues made under section 126;

(d) the fines imposed on the seamen of a ship for disciplinary offences required by section 86 to be paid to the Director;

(e) the fees in respect of survey or inspection of a ship or its equipment or other services rendered to or in relation to a ship by a surveyor of ships or a radio surveyor; and

(f) the fees in respect of services rendered to or in relation to a ship by the Director or a person authorised by the Director.

(5) All moneys recovered or received under this Order shall be paid to the Director.

**Documents to be in approved form.**

**211.** Every register, certificate, licence, book, instrument or other document prescribed by this Order shall be made in such form, if any, as may be approved by the Director or as near thereto as circumstances permit.

**Exemption.**

**212.** (1) The Minister may exempt any person or ship or description of persons or ships from all or any of the provisions of this Order.

(2) Any power conferred by this Order to provide for or grant an exemption shall include the power to provide for or grant the exemption subject to conditions and to revoke the exemption.

**Regulations.**

**213.** (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as are necessary or expedient for the purpose of carrying into effect the provisions of this Order and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations —

(a) to exempt any person or ship or description of persons or ships from all or any of the provisions of this Order;

(b) to empower the Director to exempt any person or ship or description of persons or ships from all or any of the provisions of the regulations;

(c) to prescribe the form of any document that may be required and to prescribe different forms for different circumstances;

(d) to make different provision for different descriptions of persons or ships or for persons or ships of the same description in different circumstances;

(e) to prescribe the offences which may be compounded;

(f) to make provisions for any incidental or supplementary matters for which the Minister thinks it expedient for the purposes of the regulations to provide;

(g) to make a contravention of any provision of any regulation an offence punishable with a fine not exceeding \$10,000; and

(h) to provide for all matters stated or required by this Order to be prescribed.

**Power to give effect to international agreements.**

**214.** (1) In this section —

"international agreement" means any international agreement which has been ratified by or on behalf of Brunei Darussalam and which, in the opinion of the

Minister, relates to merchant shipping or to any matter incidental to or connected with merchant shipping;

"agreement" includes an agreement which provides for the modification of another agreement.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order make, in relation to Brunei Darussalam, such provision as appears to him to be requisite for enabling Brunei Darussalam to implement any international agreement.

(3) The powers conferred by subsection (2) to make provision to implement an international agreement include power to provide for the provision to come into force although the international agreement has not come into force.

(4) Without prejudice to the generality of subsection (2), an order under that subsection may in particular include provision —

(a) for amending this Order and any other written law to the extent requisite as mentioned in subsection (2);

(b) with respect to the application of the order to the Government and the extra-territorial operation of any provision made by or under the order;

(c) for imposing penalties in respect of any contravention of a provision made by or under the order; and

(d) for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship, for applying section 206, with such modifications, if any, as are prescribed by the order.

(5) Without prejudice to the generality of paragraph (a) of subsection (4), the power to amend by virtue of that provision includes power so to amend this Order and any other written law as to extend the scope of the subsidiary legislation which may be made by virtue thereof.

(6) An order under subsection (2) may —

(a) make different provision for different circumstances;

(b) provide for exemptions from any provisions of the order;

(c) provide for the delegation of functions exercisable by virtue of the order;

(d) include such incidental, supplemental and transitional provisions as appear to the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, to be expedient for the purposes of the order;

(e) authorise the making of regulations and other instruments for any of the purposes of this section; and

(f) provide that any written law applied by the order shall have effect as so applied subject to such modification as may be specified in the order.

(7) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, the Council of Ministers.

(8) The powers conferred on the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, under this section shall be in addition to and not in derogation of the powers conferred on him under this Order.

**Transitional provisions.**

**215.** (1) Every Brunei Darussalam ship registered before the date of commencement of this Order shall be deemed to be registered under Part II of this Order and the provisions of this Order shall apply to the ship and all matters relating thereto as they apply to a ship registered on or after that date.

(2) Any document, endorsement, exemption or certificate prepared, made or granted under the repealed Act shall, so far as it is not inconsistent with the provisions of this Order and except as otherwise expressly provided in this Order or in any other written law, continue and be deemed to have been prepared, made or granted under the corresponding provisions of this Order and shall have effect accordingly.

(3) Any subsidiary legislation or appointment made and any thing done under the repealed Act or any other written law relating to merchant shipping and in force immediately before the date of commencement of this Order shall, so far as it is not inconsistent with the provisions of this Order, continue to be in force as if made or done under this Order until it is amended, revoked or repealed under this Order.

**Repeal of Chapter 145.**

**216.** The Merchant Shipping Act is hereby repealed.

Made this 3rd. day of Rabiulawal, 1423 Hijriah corresponding to the 16th. day of May, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM

No. S 28

**FISHERIES ACT  
(CHAPTER 61)**

**FISHERIES (FISH PROCESSING ESTABLISHMENTS)  
REGULATIONS, 2002**

ARRANGEMENT OF REGULATIONS

**Regulation**

1. Citation and non-application.
2. Interpretation.
3. Licence required.
4. Application and particulars.
5. Fish processing licence.
6. Renewal of licence.
7. Licence to be exhibited.
8. Conditions of fish processing establishment.
9. Health requirements.
10. Quality assurance programme.
11. Inspection.
12. Certificate.
13. Withdrawal of certificate.
14. Duty of applicants and licensee.

**SCHEDULE — FEES**



**FISHERIES ACT  
(CHAPTER 61)**

**FISHERIES (FISH PROCESSING ESTABLISHMENTS)  
REGULATIONS, 2002**

In exercise of the power conferred by section 5 of the Fisheries Act, the Minister of Industry and Primary Resources hereby makes the following Regulations —

**Citation and non-application.**

**1.** (1) These Regulations may be cited as the Fisheries (Fish Processing Establishments) Regulations, 2002.

(2) Subject to the Act, any fish processing establishment in respect of which a licence has been issued is not subject to the provisions of any other written law.

**Interpretation.**

**2.** In these Regulations, unless the context otherwise requires —

"certificate" means a health certificate issued under sub-regulation (4) of regulation 12;

"dry area" means any place other than a wet area;

"fish inspector" means an inspector authorised by the Director to make inspections under these Regulations;

"fish processing establishment" means any factory, plant, premises or place where fish and processed fish are stored, handled, processed, graded or packed, for commercial purposes;

"inspection" means any activity carried out by a fish inspector for the purpose of ascertaining whether the requirements of these Regulations are being complied with;

"licence" means a fish processing licence issued under regulation 5;

"processing" means —

(a) cutting and all methods of manufacture and preservation;

(b) shucking, gutting, scaling, tailing, cleaning, skinning, deboning, washing, depuration, salting, smoking, cooking, drying, canning, freezing, chilling, thawing, marinating, curing, preserving, mincing, fermenting, and includes any other preparation of fish and processed fish for human consumption;

"wet area" means any place within a fish processing establishment where fish is procured, processed, handled or stored;

"worker" means a person who works in a fish processing establishment and includes the owner thereof.

**Licence required.**

3. No person shall operate a fish processing establishment except with a licence.

**Application and particulars.**

4. An applicant for a licence shall apply in writing to the Director in such form as the Director may determine and shall (if required) supply the following particulars —

(a) name, identity card number and address of applicant;

(b) business name and address, if any;

(c) address and total area of the premises to be used as a fish processing establishment and a description of the intended business;

(d) drawings, in duplicate, with specifications that clearly illustrate and describe the applicant's premises, showing the locations of the buildings, equipment, roadways, wash-basins, water wells and water storage tanks, drainage system and toilet soil lines and which make provision for the drainage system of the fish processing establishment to be separate from the toilet soil line to a point outside the building; and

(e) such other information as the Director may require.

**Fish processing licence.**

5. (1) The Director shall, on being satisfied that the applicant has complied with the conditions referred to in regulation 8 and has paid the fee prescribed in the Schedule, issue a fish processing licence to the applicant in such form as the Director may determine.

(2) The licence shall be valid from the date of issue for a period of one year.

(3) In the case of a breach of any of the conditions referred to in regulation 8, the Director may suspend or revoke any licence.

**Renewal of licence.**

6. Regulations 4 and 5 shall also apply to the renewal of a licence.

**Licence to be exhibited.**

7. A licence shall be exhibited in a conspicuous place in the fish processing establishment together with a copy of the conditions, if any.

**Conditions of fish processing establishment.**

8. Premises used as a fish processing establishment shall comply with such conditions as the Director may determine.

**Health requirements.**

9. No person suffering from any communicable disease or vesicular disease, persistent dermal disease, sores and any other disease likely to contaminate the products processed in the fish processing establishment shall be allowed to work in the premises and the licensee shall cause every worker to undergo a medical examination annually.

**Quality assurance programme.**

10. Every licensee shall implement an approved programme of quality assurance as the Director may determine.

**Inspection.**

11. A fish inspector may enter a fish processing establishment at any appropriate time to inspect the premises, equipment, operation, storage, materials, processed fish, records or to take samples for analysis, or any other relevant purpose to ensure that any requirements of, or any conditions imposed under, these Regulations have been complied with.

**Certificate.**

12. (1) No fish and processed fish, intended for human consumption, shall be exported unless a certificate has been issued.

(2) No certificate shall be issued unless the fish or processed fish —

(a) has been processed and packed in premises that have been licensed;

(b) has been processed, packed, labelled, stored and transported in accordance with the conditions referred to in regulation 8;

(c) in the opinion of the Director, is fit for human consumption; and

(d) meets any overseas requirements that the Director has approved and of which the licensee has been informed.

(3) An applicant for a certificate shall apply in writing to the Director in such form as the Director may determine.

(4) The Director shall, on being satisfied of the matters specified in sub-regulation (2) and on payment of the fee prescribed in the Schedule, issue a health certificate to the applicant in such form as the Director may determine.

**Withdrawal of certificate.**

**13.** (1) Subject to sub-regulation (2), the Director or an Authorised Officer may, at any time and without having regard to the location of the fish or processed fish, withdraw the certificate issued under regulation 12 if —

(a) the statement on the certificate is not accurate or is no longer true, whether or not in respect of all or some of the fish or processed fish; or

(b) the certificate is not or is no longer acceptable to the authorities in the country to which the fish or processed fish is being exported.

(2) The power to withdraw a certificate under this regulation may be exercised by the Director or an Authorised Officer, notwithstanding that the person withdrawing the certificate did not issue the certificate.

(3) The Director, an Authorised Officer or a fish inspector may at any time inspect any fish or processed fish, notwithstanding that a certificate has been issued in respect of that fish or processed fish.

(4) Where a certificate has been withdrawn pursuant to sub-regulation (1), the person withdrawing the certificate —

(a) shall direct how the fish or processed fish included in the certificate is to be dealt with; and

(b) may, upon the request of any interested party, issue a further certificate to cover any fish or processed fish that were included in the original certificate and in respect of which a certificate could, at the time of inspection, have been issued.

(5) Every direction given under paragraph (a) of sub-regulation (4) shall be complied with immediately by the person to whom it is given.

(6) Where a certificate has been withdrawn pursuant to sub-regulation (1), the person in possession of the certificate and of any copies of the certificate shall make reasonable efforts to surrender them immediately to the person withdrawing the certificate.

**Duty of applicants and licensee.**

**14.** Every applicant and licensee shall ensure that at all reasonable times, his agents and workers —

(a) furnish any fish inspector with free unencumbered access to and the use of all amenities, facilities, appliances and records;

(b) supply such information, including information in respect of additives, ingredients, containers and maintenance compounds, in respect of the process used in dealing with any fish or processed fish;

(c) demonstrate such processes; and

(d) comply with such lawful instructions,

as the fish inspector may reasonably require while carrying out his functions under these Regulations.

**SCHEDULE**

(regulations  
5(1) and 12(4))

**FEEs**

For the issue or renewal of a fish processing licence	\$50.00 per year
For the issue of a health certificate	\$2.00

Made this 5th. day of Rabiulawal, 1423 Hijriah corresponding to the 18th. day of May, 2002.

PEHIN ORANG KAYA SETIA PAHLAWAN  
DATO SERI SETIA HAJI AWANG ABDUL RAHMAN BIN  
DATO SETIA HAJI MOHD TAIB  
Minister of Industry and Primary Resources,  
Brunei Darussalam.

No. S 29

**FISHERIES ACT  
(CHAPTER 61)**

**FISHERIES (PIRANHA) REGULATIONS, 2002**

ARRANGEMENT OF REGULATIONS

**Regulation**

1. Citation.
2. Piranha not to be kept etc.
3. Piranha not to be released into river etc.
4. Penalty.

**FISHERIES ACT  
(CHAPTER 61)**

**FISHERIES (PIRANHA) REGULATIONS, 2002**

In exercise of the powers conferred by section 5 of the Fisheries Act, the Minister of Industry and Primary Resources hereby makes the following Regulations —

**Citation.**

1. These Regulations may be cited as the Fisheries (Piranha) Regulations, 2002.

**Piranha not to be kept etc.**

2. No person shall keep, breed, sell, purchase, import into or export from Brunei Darussalam the species of fish known as piranha.

**Piranha not to be released into river etc.**

3. No person shall release any piranha into any river, stream, canal, channel, watercourse, reservoir, lake or other body of water.

**Penalty.**

4. Any person who contravenes regulation 2 or 3 is guilty of an offence and liable on conviction to a fine not exceeding \$2,500 and to imprisonment for a term not exceeding one year.

Made this 5th. day of Rabiulawal, 1423 Hijriah corresponding to the 18th. day of May, 2002.

PEHIN ORANG KAYA SETIA PAHLAWAN  
DATO SERI SETIA HAJI AWANG ABDUL RAHMAN BIN  
DATO SETIA HAJI MOHD TAIB  
Minister of Industry and Primary Resources,  
Brunei Darussalam.

**No. S 30**

**FISHERIES ACT  
(CHAPTER 61)**

**FISHERIES (FISH CULTURE FARMS) REGULATIONS, 2002**

**ARRANGEMENT OF REGULATIONS**

**Regulation**

- 1.** Citation.
- 2.** Interpretation.
- 3.** Designated areas.
- 4.** Licence.
- 5.** Description of fish.
- 6.** Control of areas and species of fish.
- 7.** Removal of equipment.
- 8.** Inspection.
- 9.** Quarantine.
- 10.** Services.
- 11.** Exemption.

**SCHEDULE — FEES**



**FISHERIES ACT  
(CHAPTER 61)**

**FISHERIES (FISH CULTURE FARMS) REGULATIONS, 2002**

In exercise of the power conferred by section 5 of the Fisheries Act, the Minister of Industry and Primary Resources hereby makes the following Regulations —

**Citation.**

1. These Regulations may be cited as the Fisheries (Fish Culture Farms) Regulations, 2002.

**Interpretation.**

2. In these Regulations, unless the context otherwise requires —

"fish culture" means any activity involving the maintenance, propagation and promotion of the growth of fish in captivity or upon the sea bed within the territorial waters;

"fish culture farm" means any establishment or site in which fish culture is carried out and includes all structures and equipment within the establishment or site;

"infectious disease" means any disease of an infectious or contagious nature, dangerous to other fish or species of fish;

"licence" means a fish culture farm licence issued under sub-regulation (3) of regulation 4.

**Designated areas.**

3. The Director may designate areas within which fish culture may be carried out on fish culture farms and may specify the species of fish to be cultured in each fish culture farm.

**Licence.**

4. (1) No person shall erect, operate or maintain a fish culture farm unless he has a licence issued under these Regulations.

(2) An application for a fish culture farm licence shall be in such form as the Director may determine.

(3) The Director shall issue a fish culture farm licence upon payment of the fee as prescribed in Part I of the Schedule and such licence shall be subject to the conditions set out in the licence.

(4) The Director may refuse to issue a fish culture farm licence or may vary the conditions of the licence or impose such other conditions as he thinks fit or revoke any licence already issued without assigning any reason.

**Description of fish.**

5. In the event of any doubt arising as to the correct description of the species of fish cultured under the licence, the name and description given by the Director shall be deemed to be correct.

**Control of areas and species of fish.**

6. The Director may restrict the number of licences which may be issued in any area and in respect of any species of fish to be cultured.

**Removal of equipment.**

7. (1) The licensee shall upon expiry or revocation of the licence or when he ceases to operate the fish culture farm, remove forthwith or within such time as a licensing officer or an Authorised Officer may direct, any structure, pole, anchor, float and ancillary equipment used for fish culture.

(2) Where the licensee fails to comply with sub-regulation (1), a licensing officer or an Authorised Officer may remove or demolish the structure and any expense incurred thereby shall be paid by and recoverable from the licensee.

**Inspection.**

8. Any Authorised Officer may enter any fish culture farm at any appropriate time to inspect the premises and fish or to take samples for analysis or any other relevant purpose to ensure that any conditions of the licence or the provisions of these Regulations have been complied with or that the fish or pond in respect thereof is free from any infectious disease, as the case may be.

**Quarantine.**

9. (1) Notwithstanding anything to the contrary in any other written law, where any Authorised Officer is satisfied, after the inspection or taking of samples mentioned in regulation 8, that the fish or pond in respect thereof is infected with an infectious disease, he may cause such fish or pond to be isolated or put under medical surveillance for such period as he may think necessary to prevent the spread of the disease.

(2) Sub-regulation (2) of regulation 10 shall apply, with such variations as may be necessary, to this regulation.

**Services.**

**10.** (1) On the application of any person, the Director may, if he thinks fit, allow any fisheries officers to perform such services as mentioned in Part II of the Schedule in or on any fish culture farm.

(2) The applicant shall pay to the Director or any Authorised Officer for the performance of such services, such fees as prescribed in Part II of the Schedule.

**Exemption.**

**11.** The Director may if he thinks fit exempt any person from all or any provision of these Regulations.

**SCHEDULE**

(regulations  
4(3) dan 10(2))

**FEES**

**PART I**

Licence \$50.00 each activity per year

**PART II**

Quarantine service

- (i) Fish fry \$10.00 every 100,000 or part thereof
- (ii) Shrimp fry \$10.00 every 100,000 or part thereof
- (iii) Brood stock \$20.00 every 10 or part thereof

Analysis of water quality

- a.* Normal \$3.00 per sample
- b.* Specific \$5.00 per test

Confirmation of disease

- a.* Visits \$20.00 per visit
- b.* Laboratory analysis
  - (i) for parasite \$5.00 per sample
  - (ii) for germs \$5.00 per sample
  - (iii) for histopathology \$5.00 per sample

13th. JUNE, 2002

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Licence	\$50.00 each activity per year
Training	\$100 per person

Made this 5th. day of Rabiulawal, 1423 Hijriah corresponding to the 18th. day of May, 2002.

PEHIN ORANG KAYA SETIA PAHLAWAN  
DATO SERI SETIA HAJI AWANG ABDUL RAHMAN BIN  
DATO SETIA HAJI MOHD TAIB  
Minister of Industry and Primary Resources,  
Brunei Darussalam.

No. S 31

**FISHERIES ACT  
(CHAPTER 61)**

**FISHERIES (FISH LANDING COMPLEXES) REGULATIONS, 2002**

ARRANGEMENT OF REGULATIONS

**Regulation**

1. Citation.
2. Interpretation.
3. Administration of complex.
4. Restriction on entry into complex.
5. Application for vehicle permit.
6. Interrogation of persons upon or in any jetty or premises.
7. Restriction on vessels which may use complex.
8. Use of jetty.
9. Vehicles.
10. Miscellaneous provisions.
11. Net stores.
12. Net repair shed.
13. Sale of ice.
14. Use of electricity supply.
15. Sale etc. of fish prohibited.
16. Acts prohibited.
17. Small scale fishermen.
18. Offences.
19. Removal of persons from complex.

20. Fees.

21. Other landing areas.

22. Exemption.

**FIRST SCHEDULE — FISH LANDING COMPLEXES**

**SECOND SCHEDULE — PERMIT FEES**

**CHARGES FOR THE USE OF FACILITIES OF  
A COMPLEX**

**SERVICE CHARGES ON IMPORTED FISH**

**FISHERIES ACT  
(CHAPTER 61)**

**FISHERIES (FISH LANDING COMPLEXES) REGULATIONS, 2002**

In exercise of the power conferred by section 5 of the Fisheries Act, the Minister of Industry and Primary Resources hereby makes the following Regulations —

**Citation.**

1. These Regulations may be cited as the Fisheries (Fish Landing Complexes) Regulations, 2002.

**Interpretation.**

2. In these Regulations, unless the context otherwise requires, "complex" means a fish landing complex referred to in the First Schedule.

**Administration of complex.**

3. The Director shall be responsible for the administration and control of all complexes.

**Restriction on entry into complex.**

4. No person shall enter any complex for the purpose of loading, unloading, collecting, selling, purchasing or offering to sell or purchase, fish unless he is the holder of a vehicle permit issued under regulation 5.

**Application for vehicle permit.**

5. (1) Every application for a vehicle permit to enter any complex shall be made in writing to the Director and shall contain the following particulars —

- (a) the name, identity card number and address of the applicant;
- (b) the business name and address of the applicant, if any;
- (c) the purpose for which the permit is required; and
- (d) such other information as the Director may require.

(2) The permit issued under this regulation shall be in such form as the Director may determine and subject to such terms and conditions as may be imposed by the Director and shall be valid for the period stated therein.

(3) The fee payable in respect of a permit issued under this regulation shall be as prescribed in the Second Schedule.

(4) The Director in issuing such permit shall allow only such number of persons who shall be engaged in the loading, unloading, keeping, collecting, selling or purchasing of fish to enter such complex, and shall issue to each of such persons, including the permit holder, a badge to be worn on entering the complex.

**Interrogation of persons upon or in any jetty or premises.**

6. Any person upon, in or seeking access to any jetty, premises or vessel in any complex shall, if so requested by an Authorised Officer, state his name and address and the nature and place of his business therein or thereon, and any such person who fails to satisfy the Authorised Officer that he is a member of the crew of a ship lawfully using the complex or employed on dock labour shall, if so requested, produce for inspection to an Authorised Officer any authority which may have been issued to him.

**Restriction on vessels which may use complex.**

7. (1) Any vessel belonging to a person who has been issued a licence under Part IV of the Act may use a complex.

(2) The Director or any Authorised Officer shall designate the place or places where vessels may berth in a complex.

(3) No vessel shall berth in a complex without the authority of the Director or otherwise than in accordance with any such authority.

(4) Berthing in the complex shall be authorised on a first come first served basis.

(5) A vessel that has finished loading or unloading, as the case may be, shall forthwith leave the loading area unless and to the extent that the Director authorises the master of the vessel to remain in that area.

**Use of jetty.**

8. (1) No person shall, without being authorised by the Director or an Authorised Officer, set in motion, move or interfere with or obstruct or impede the use of any crane, gear or machinery used upon the jetty in a complex.

(2) No person shall carry on the jetty in a complex any activity, including net-mending and machinery and carpentry work, other than an activity involved in or connected with the loading or unloading of a vessel.

(3) No person shall commit or cause any nuisance or obstruction on the jetty in a complex.



**Vehicles.**

9. (1) No person shall, without the permission of an Authorised Officer, bring to the jetty in a complex or drive any vehicle thereon.

(2) A person driving a vehicle in a complex shall drive it at all times with due care and attention and shall not drive it at a speed exceeding 10 kilometres per hour.

(3) No person shall park a vehicle in a complex in any place which is not in the area designated by the Director as an area where vehicles may be parked.

**Miscellaneous provisions.**

10. (1) No person shall use any area in a complex designated by the Director or an Authorised Officer as a fish-sorting area for any purpose other than sorting, icing, weighting or inspecting fish, or washing fish boxes.

(2) No person shall use any area in a complex designated by the Director or an Authorised Officer as a fish boxes storage area for any purpose other than the storage of fish boxes.

(3) The Director and any Authorised Officer shall not be liable for any injury caused to persons, or loss of or damage to property, suffered by holders of a permit or by unauthorised persons in a complex, unless such injury, loss or damage was caused by his wilful neglect or default.

**Net stores.**

11. (1) No person shall use any premises in a complex designated by the Director as net stores for any purpose other than the storage of nets or any related materials and equipment.

(2) The occupant of any such store shall —

(a) keep the store clean;

(b) provide an Authorised Officer, nominated by the Director, with a duplicate key to the store; and

(c) be liable to repair any damage caused by such occupant to the store and to meet the costs of the repair of such damage.

**Net repair shed.**

12. (1) The Director or any Authorised Officer may designate any premises in a complex as a net repair shed which may be used to repair gear and rigging.

(2) Any person so using a net repair shed shall complete the repair concerned within a reasonable period.

**Sale of ice.**

**13.** (1) Payment for ice owned by the Government shall be by way of coupons sold in the complex.

(2) No person shall pay or accept cash, or attempt to do so, for the supply of ice owned by the Government.

**Use of electricity supply.**

**14.** No person shall use the electricity supply in a complex without the authority of the Director or any Authorised Officer.

**Sale etc. of fish prohibited.**

**15.** No person shall in a complex buy, retail or sell fish to the general public.

**Acts prohibited.**

**16.** No person shall in a complex —

(a) consume intoxicating liquor;

(b) engage in gambling;

(c) conduct himself in a riotous, disorderly, indecent or offensive manner;

(d) use language or behave in a manner that is calculated to cause a disturbance or a breach of the peace;

(e) any other activity which is against the laws of Brunei Darussalam.

**Small scale fishermen.**

**17.** (1) Small scale fishermen may be granted a permanent permit by the Director to use a complex subject to compliance with these Regulations.

(2) In this regulation, "small scale fisherman" means a fisherman using a boat other than a boat with an inboard engine.

**Offences.**

**18.** (1) Any person who contravenes any provision of these Regulations is guilty of an offence.

(2) Where any provision of these Regulations has been contravened by or in relation to any vessel, the master and the owner of the vessel are also guilty of the offence.

(3) A person guilty of an offence against sub-regulation (1) or (2) is liable on conviction to a fine not exceeding \$2,500 and to imprisonment for a term not exceeding one year.

**Removal of persons from complex.**

**19.** A person infringing regulation 4, 6, 8, 9, 15 or 16 shall, without prejudice of the penalty prescribed by regulation 18, be liable to be removed from the complex or any part of the complex by the Director, an Authorised Officer or a police officer.

**Fees.**

**20.** The fees specified in the Second Schedule shall be paid in respect of the matters to which they relate.

**Other landing areas.**

**21.** The fees specified in the Second Schedule shall also be applicable to other landing areas designated by the Director.

**Exemption.**

**22.** The Director may if he thinks fit exempt any person from all or any provision of these Regulations.

**FIRST SCHEDULE**

(regulation 2)

**FISH LANDING COMPLEXES**

1. Fish Landing Complex, Muara
2. Kuala Belait Fisheries Centre
3. Other fish landing areas as designated by the Director.

**SECOND SCHEDULE**

(regulation 20)

**PERMIT FEES****PART I****FEE FOR TEMPORARY PERMIT OF VEHICLE  
FOR THE USE OF SPACE AT A COMPLEX**

1.	Motorcar, van, station-wagon, motorcycle with side-carriage or pick-up (not exceeding unladen weight 1500 kg)	\$1.00 per 2 hours or part thereof
2.	Lorry, bus or truck (exceeding unladen weight 1500 kg)	\$2.00 per 2 hours or part thereof
3.	Motorcycle	\$0.50 per 2 hours or part thereof
4.	Container tractor (with or without trailer or mobile crane)	\$10.00 per 2 hours or part thereof

**PART II****FEE FOR MONTHLY PERMIT OF VEHICLE  
FOR THE USE OF SPACE AT A COMPLEX**

1.	Motorcar, van, station-wagon, motorcycle with side-carriage or pick-up (not exceeding unladen weight 1500 kg)	\$15.00 per month
2.	Lorry, bus or truck (exceeding unladen weight 1500 kg)	\$30.00 per month
3.	Motorcycle	\$5.00 per month

**CHARGES FOR THE USE OF FACILITIES OF A COMPLEX**

1.	Packing hall	not exceeding \$54.00 per square metre per month
2.	Dealers office	\$10.00 per square metre per month
3.	Shed:	
	<i>a.</i> net mending	\$1.00 per day or part thereof

<i>b.</i>	net storing	\$2.00 per day or part thereof
4.	Charges on berthing Brunei registered vessel	\$0.10 per gross ton per vessel per day or part thereof
	Charges on berthing non-Brunei registered vessel —	
<i>a.</i>	boat with outboard engine	\$10.00 per hour or part thereof
<i>b.</i>	boat with inboard engine	\$20.00 per hour or part thereof
5.	Fork lift	\$3.00 per pallet
6.	Electricity	\$10.00 per hour or part thereof

**SERVICE CHARGES ON IMPORTED FISH**

1.	A container or any other receptacle containing not more than 50 kilogrammes of fish	\$0.50 per container
2.	A container or any other receptacle containing more than 50 kilogrammes but less than 100 kilogrammes of fish	\$1.50 per container

Made this 5th. day of Rabiulawal, 1423 Hijriah corresponding to the 18th. day of May, 2002.

PEHIN ORANG KAYA SETIA PAHLAWAN  
DATO SERI SETIA HAJI AWANG ABDUL RAHMAN BIN  
DATO SETIA HAJI MOHD TAIB  
Minister of Industry and Primary Resources,  
Brunei Darussalam.

No. S 32

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**CURRENCY (AMENDMENT) ORDER, 2002**

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**Citation and Commencement.**

1. This Order may be cited as the Currency (Amendment) Order, 2002 and shall be deemed to have come into force on 21st. October, 2001.

**Amendment of section 5 of Cap. 32.**

2. The Currency Act is amended in section 5 by deleting subsection (2) and substituting therefore the following —

“(2) A quorum of the Board shall consist of 3 members”.

Made this 25th. day of Safar, 1423 Hijriah corresponding to the 8th. day of May, 2002 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM

No. S 36

**LAW REVISION ACT  
(CHAPTER 1)**

**LAW REVISION ORDER NO. 3 OF 2002**

In exercise of the powers conferred by subsections (1) and (2) of section 5 of the Law Revision Act, the Attorney General hereby makes the following Order —

**Citation and commencement.**

1. This Order may be cited as the Law Revision Order No. 3 of 2002 and shall commence on the 1st. June, 2002.

**Substitution of pages.**

2. The removal from the Laws of the pages specified in the third column of Part A of the Schedule bearing on the face thereof or overleaf the legend specified in the fourth column thereof with reference to the written laws specified in the first and second columns thereof is hereby directed, and the inclusion in the Laws, in respective substitution of the pages so directed to be removed, of the pages specified in the third column of Part B of the Schedule bearing on the face thereof or overleaf the legend specified in the fourth column thereof with reference to those written laws is hereby authorised.

**SCHEDULE**

(paragraph 2)

**PART A**

Chapter	Title	Pages	Legend
15	Brunei Nationality Act	1 to 20	B.L.R.O. 1/1984
	Brunei Nationality (Registration) Regulations	21 to 51	B.L.R.O. 1/1984
	Designation of areas under regulation 9(1) for the purposes of Language Boards	52	B.L.R.O. 1/1984
19	National Registration Act	1 to 6	B.L.R.O. 1/1984
	National Registration Regulations	7 to 21	B.L.R.O. 1/1984

**PART A (continued)**

Chapter	Title	Pages	Legend
	National Registration (Control of Photographs) Regulations	22 to 23	B.L.R.O. 1/1984
	National Registration (Transitional Provisions) Regulations	23 to 24	B.L.R.O. 1/1984
142	Price Control Act	1 to 8	B.L.R.O. 1/1984
	Price Control (Display of Prices) Order	9 to 10	B.L.R.O. 1/1984

**PART B**

Chapter	Title	Pages	Legend
15	Brunei Nationality Act	1 to 18	B.L.R.O. 3/2002
	Brunei Nationality (Registration) Regulations	1 to 34	B.L.R.O. 3/2002
	Designation of areas under regulation 9(1) for the purposes of Language Boards	1 to 2	B.L.R.O. 3/2002
19	National Registration Act	1 to 10	B.L.R.O. 3/2002
	National Registration Regulations	1 to 14	B.L.R.O. 3/2002
	National Registration (Control of Photographs) Regulations	1 to 4	B.L.R.O. 3/2002
	National Registration (Transitional Provisions) Regulations	1 to 4	B.L.R.O. 3/2002
142	Price Control Act	1 to 12	B.L.R.O. 3/2002
	Price Control (Display of Prices) Order	1 to 4	B.L.R.O. 3/2002



Made this 14th. day of Rabiulakhir, 1423 Hijriah corresponding to the 25th. day of June, 2002.

DATO PADUKA AWANG HAJI KIFRAWI BIN  
DATO PADUKA HAJI KIFLI  
ATTORNEY GENERAL,  
BRUNEI DARUSSALAM.