

LAWS OF BRUNEI

CHAPTER 4

INTERPRETATION AND GENERAL CLAUSES

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CHAPTER 4
INTERPRETATION AND GENERAL CLAUSES

ARRANGEMENT OF SECTIONS

Section

PART I

GENERAL PROVISIONS OF INTERPRETATIONS

1. Citation.
2. Application.
3. Interpretation of certain words and expressions.

PART II

GENERAL PROVISIONS REGARDING ACTS AND
OTHER WRITTEN LAWS

4. Acts
5. Sections and Schedules.
- 5A. Subdivisions of Acts.
- 5B. Examples and illustrations.
6. Mode of citing Acts.
7. Construction in an Act of references to sections etc.

- 7A. Purposive interpretation of written law and use of extrinsic materials.
- 8. Coming into operation of written law.
- 9. Repeal and substitution effect thereof.
- 10. Effect of repeal generally.
- 10A. Interpretation of section 10.
- 11. Limit of repeal.
- 12. Written law to be read as one with written law it amends.

PART III

SUBSIDIARY LEGISLATION AND INSTRUMENTS

- 13. Powers included in authority to make subsidiary legislation.
- 14. Construction of general penalties provision regarding subsidiary legislation.
- 15. Extent of power to make subsidiary legislation or instruments or perform acts of similar nature.
- 16. Publication.
- 17. Signification of orders of His Majesty the Sultan and Yang Di-Pertuan or His Majesty the Sultan and Yang Di-Pertuan in Council.
- 17A. Signification of orders etc. of Minister.
- 17B. Signing of documents.
- 18. Exercise of statutory powers between enactment and commencement of written law.

PART IV

POWERS AND APPOINTMENTS

- 19. Construction of provisions as to exercise of powers and duties.
- 20. Power to appoint includes power to dismiss.

21. Construction of enabling words.
22. Appointment of officers by name or office.
23. Relation back of appointments.
24. Power of Minister to provide for execution of duties of public officer during temporary absence or inability.
25. Power to appoint to substantive office not vacant.
26. Effect of defining office to include deputy, assistant etc.
27. Power of majority and person presiding.
28. Presumption in favour of lawful exercise of power.

PART V

DELEGATION OF POWERS

29. Delegation under sections 30, 31 and 31A to be published in *Gazette*.
30. Power of His Majesty the Sultan and Yang Di-Pertuan in Council to delegate.
31. Power of His Majesty the Sultan and Yang Di-Pertuan to delegate certain powers and duties.
- 31A. Delegation of power of Minister.
32. Savings.
33. Delegation not to preclude exercise of powers by officer delegating same.

PART VI

PENAL PROVISIONS

34. Imposition of penalty not bar to civil action.
- 34A. Attempt to commit offence be deemed offence.
35. Contravention of condition in licence, permit etc. offence.
36. Provisions as to offences under two or more laws.

37. Punishment for misdemeanours and other contraventions in absence of specific provision.
38. Method of prescribing penalties and cumulative penalties.
39. Penalties prescribed to be maximum penalties.
40. Disposal of fines and penalties.
41. Disposal of forfeits.

PART VI

GENERAL

42. Power of His Majesty the Sultan and Yang Di-Pertuan to appoint public officer to serve on Board and to appoint chairman.
 43. Evidence of signature of Attorney General or public officer to fiat.
 44. *Ex-officio* proceedings not to abate on death etc.
 45. *Gazette* to be evidence of matters therein.
 46. *Repealed.*
 47. Act for which payment is required need not be performed till payment be made.
 48. Reduction, variation, remission and application of fees and charges.
 - 48A. Service of documents.
 49. Citation of Imperial statutes.
 50. Modification of Acts and Orders in Council extended or applied to Brunei Darussalam.
 51. Construction of references in written law to Acts of Parliament and Orders in Council and legislation enacted thereunder.
 52. Saving of rights etc. of His Majesty the Sultan and Yang Di-Pertuan.
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INTERPRETATION AND GENERAL CLAUSES ACT

An Act to make better provision in the law relating to the construction, interpretation and publication of the law, and of matters incidental thereto

Commencement: 29th September 1959

[S 105/1959]

PART I**GENERAL PROVISIONS OF INTERPRETATION****Citation.**

1. This Act may be cited as the Interpretation and General Clauses Act.

Application.

2. (1) Save where the contrary intention appears, the provisions of this Act shall apply to this Act and any written law now or hereafter in force made by competent authority in Brunei Darussalam, and to any instrument made or issued thereunder.

- (2) This Act shall be binding on the Government.

Interpretation of certain words and expressions.

3. (1) “Act” means a law enacted by the legislature, and includes an Act where the same was enacted prior to 18th October 1959 of Parts VI and VII of the Constitution:

Provided that —

(a) in subsidiary legislation, a reference to “the Act” shall be read as meaning the Act under the authority of which such legislation was made; and

(b) a reference in any Act to “the Principal Act” shall be read as meaning the Act which the long title of the first mentioned Act declares is being amended;

“act”, used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts done extend to omissions;

“administrative appeal rules” means the rules relating to administrative appeals to His Majesty the Sultan and Yang Di-Pertuan in Council;

“affidavit” includes affirmation, declaration, affirming and declaring in the case of persons allowed by law to affirm or declare instead of swearing;

“amend” includes repeal, add to or vary and the doing of all or two or more of such things simultaneously or by the same instrument;

“Attorney General” means the officer appointed under Article 81(1) of the Constitution;

“Auditor General” means the officer appointed under Article 66(1) of the Constitution;

“Brunei Darussalam” means the State of Brunei Darussalam and includes the Sultanate of Brunei Darussalam and Negara Brunei Darussalam and also includes the continental shelf;

“Brunei Darussalam waters” means all waters, whether navigable or not, included within Brunei Darussalam, and shall be deemed to include territorial waters;

“Chief Justice” means the Chief Justice of the Supreme Court for Brunei Darussalam;

“Chief Registrar” means the Chief Registrar of the Supreme Court for Brunei Darussalam;

“a citizen of Brunei Darussalam” means a person who is a subject of His Majesty the Sultan and Yang Di-Pertuan by virtue of the provisions of any written law relating to nationality;

“Clerk to the Legislative Council” includes any person appointed by His Majesty the Sultan and Yang Di-Pertuan to be Deputy Clerk to that Council;

“Clerk to the Privy Council” includes any person appointed by His Majesty the Sultan and Yang Di-Pertuan to be Deputy Clerk to that Council;

“commencement”, used with reference to any written law, means the date upon which such written law comes into operation;

“common law” means the common law of England;

“Commonwealth” means the countries that are independent members of the Commonwealth and territories for whose international relations any of those countries is wholly or in part responsible;

“Constitution” means the Constitution of Brunei Darussalam;

“consular officer” means a consul-general, consul, vice-consul, consular agent, and any person for the time being authorised to discharge the duties of consul-general, consul or vice-consul;

“continental shelf” means the area of the sea-bed and the sub-soil thereof under the high seas adjacent to the territorial waters;

“contravene”, in relation to any requirement or condition prescribed in any written law, or in any permit, licence or authority granted under any written law, includes a failure to comply with that requirement or condition;

“Council of Ministers” means the Council of Ministers also known as the Council of Cabinet Ministers established by Article 10 of the Constitution;

“Council of Regency” means the Council of Regency appointed under section 13(1) of the Succession and Regency Proclamation, 1959;

“Council of Succession” means the Council of Succession appointed under section 6(1) of the Succession and Regency Proclamation, 1959;

“Court of Appeal” means the Court of Appeal of the Supreme Court for Brunei Darussalam;

“definition” means the interpretation given by any written law to words or expressions;

“dependent Commonwealth territory” means any territory for the international relations of which any member of the Commonwealth is responsible;

“District Officer” means the officer in administrative charge of a district;

“export” means to take or cause to be taken out of Brunei Darussalam;

“financial year” means the 12 months ending on the 31st day of March in any year;

“*Gazette*” or “Government *Gazette*” means the *Gazette* published in electronic or other form by the order of the Government, and includes Parts thereof, any Supplement thereto or any Extraordinary *Gazette* so published;

“Government” means the Government of Brunei Darussalam;

“Government Printer” means the Director of Printing and includes any printer authorised to print Acts, Enactments and other documents of the Government;

“Her Britannic Majesty” means Her Majesty the Queen and Her Heirs and Successors, according to such styles and titles as may be authorised by the Royal Titles Act 1953;

“High Court” means the High Court of the Supreme Court;

“His Majesty” or “His Majesty the Sultan and Yang Di-Pertuan” means His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam and includes —

(a) a Sultan whose accession to the throne has been proclaimed whether or not he has been crowned as the Sultan and Yang Di-Pertuan;

(b) where appropriate, a Council of Regency; and

(c) to the extent to which a Deputy to His Majesty the Sultan and Yang Di-Pertuan is authorised to act, that Deputy;

“His Majesty in Council” or “His Majesty the Sultan and Yang Di-Pertuan in Council” means His Majesty the Sultan and Yang Di-Pertuan acting after consultation with the Council of Ministers, but not necessarily in accordance with the advice of that Council, nor necessarily in that Council assembled;

“His Majesty in Privy Council” or “His Majesty the Sultan and Yang Di-Pertuan in Privy Council” means His Majesty the Sultan and Yang Di-Pertuan acting after consultation with the Privy Council, but not necessarily in accordance with the advice of that Council, nor necessarily in that Council assembled;

“His Majesty in Religious Council” or “His Majesty the Sultan and Yang Di-Pertuan in Religious Council” means His Majesty the Sultan and Yang Di-Pertuan acting after consultation with the Religious Council, but not necessarily in accordance with the advice of that Council, nor necessarily in that Council assembled;

“immovable property” includes land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth, but does not include minerals or mineral rights;

“Imperial Parliament” means the Parliament of the United Kingdom;

“import” means to bring or cause to be brought into Brunei Darussalam;

“infant” means a person who has not attained the age of 18 years;

“instrument” includes any publication in the *Gazette*, whether or not such publication merely purports to publish the doing of an act or the occurrence of a fact or event, or otherwise conveys or purports to convey information;

“Islamic Religion” means the Islamic Religion according to the Shafeite sect of Ahlis Sunnah Waljamaah;

“Judge” means one of the Judges of the Supreme Court and includes the Chief Justice;

“Legislative Council” means the Legislative Council established by Article 23 of the Constitution;

“legislature” means the authority competent to make Acts for Brunei Darussalam;

“Magistrate” means a person appointed to be a Magistrate under the provisions of the Subordinate Courts Act (Chapter 6) or under any written law;

“man” means a male human being of any age;

“member of the Commonwealth” means any independent Commonwealth country;

“Minister” means a person appointed under the provisions of Article 4(3) of the Constitution;

“minor” means a person who has not attained the age of 18 years;

“month” means calendar month;

“movable property” means property of every description except immovable property;

“Municipal Board” means a Municipal Board constituted under section 3(2) of the Municipal Boards Act (Chapter 57);

“oath” includes affirmation, declaration, affirming and declaring in the case of persons allowed by law to affirm or declare instead of swearing;

“offence” means any act punishable under any law for the time being in force in Brunei Darussalam;

“or” shall be construed disjunctively and not as implying similarity, unless the word “similar” or some other word of like meaning is added;

“Order in Council” means an Order made by Her Britannic Majesty in Her Privy Council;

“other” shall be construed disjunctively and not as implying similarity, unless the word “similar” or some other word of like meaning is added;

“otherwise” shall be construed disjunctively and not as implying similarity, unless the word “similar” or some other word of like meaning is added;

“Parliament” means the Parliament of the United Kingdom;

“party” includes any company or association or body of persons, corporate or unincorporate; and this interpretation shall apply notwithstanding that the word “person” occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation;

“permanent resident” means a person to whom a Residence Permit has been issued under section 67(1) of the Immigration Enactment, 1956 (Enactment No. 23 of 1956) or to whom an Entry Permit has been issued under section 10 of the Immigration Act (Chapter 17);

“person” includes any company or association or body of persons, corporate or unincorporate; and this interpretation shall apply notwithstanding that the word “person” occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation;

“police officer” means any member of the police force of Brunei Darussalam, and terms or expressions referring to ranks in the police force shall bear the meanings respectively assigned to them by the Royal Brunei Police Force Act (Chapter 50);

“power” includes privilege, authority and discretion;

“prescribed” when used with reference to any written law, means prescribed or provided by or under such written law, or by or under any subsidiary legislation or instrument authorised thereunder;

“printing” includes writing, printing, lithography, photography, typewriting, and every other mode of representing words or figures in a visible form; but, in the case of a book, “printing” does not include writing or typing. Nothing in this definition shall be taken to apply to signatures;

“prison” includes any place or building or portion of a building set apart or hereafter to be set apart for the purpose of a prison under any written law relating to prisons;

“Privy Council” means the Privy Council established by the Constitution;

“Proclamation” includes a Proclamation made by or under the authority of the Military Commander during the period of the British Military Administration;

“property” includes —

(a) money, goods, choses in action, land and every description of property, whether movable or immovable; and

(b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of, or incidental to, any property as defined in paragraph (a);

“provided” when used with reference to any written law, means prescribed or provided by or under such written law, or by or under any subsidiary legislation or instrument authorised thereunder;

“public” includes any class of the public, or any community;

“public body” means any executive or legislative council, any Government department or undertaking, any local or public authority or undertaking, any board, commission, committee or other body, whether paid or unpaid, which is vested with, or is performing, whether permanently or temporarily, duties of a public nature;

“public holiday” means any day which is declared by notification published in the *Gazette*, to be a public holiday, or which is, by Proclamation of His Majesty the Sultan and Yang Di-Pertuan, proclaimed a public holiday, or which under any other written law is to be observed as a public holiday in Brunei Darussalam or any part thereof;

“public notification” includes a notification published in the *Gazette*;

“public office” means any office of emolument under the Government but does not include the Sultanate, the office of Regent, Kepala Wazir, Chief Justice, Speaker of Legislative Council, Deputy Speaker of Legislative Council, Minister, Parliamentary Secretary, Political Secretary, member of Legislative Council, Ambassador, High Commissioner, Consul-General, Consul or such other office as His Majesty the Sultan and Yang Di-Pertuan may from time to time by order prescribe and publish in the *Gazette*;

“public officer” means the holder of any public office and includes any person appointed to act in any such office;

“public place” includes every public highway, street, road, square, court, alley, lane, bridleway, footway, parade, wharf, jetty, quay, bridge, public garden or open space, and every theatre, place of public entertainment of any kind or other place of general resort,

admission to which is obtained by payment, or to which the public have access;

“public servant” means any person holding any appointment or discharging the duties of any public office and any employee or member of a public body, whether temporary or permanent and whether paid or unpaid;

“Queen” means Her Majesty the Queen and Her Heirs and Successors, according to such styles and titles as may be authorised by the Royal Titles Act 1953;

“Regent” means a Regent duly appointed under the Succession and Regency Proclamation, 1959;

“registered”, used with reference to a document, means registered under the provisions of the written law applicable to the registration of such document;

“Registrar” means the Chief Registrar or a Registrar of the Supreme Court, and includes a Deputy or Assistant Registrar;

“regulations” includes rules, rules of court and by-laws;

“Religious Council” means the Majlis Ugama Islam constituted under the Religious Council and Kadis Courts Act (Chapter 77);

“repeal” includes rescind, revoke, cancel or replace;

“road” includes any highway, street, road, bridge, thoroughfare, parade, square, court, alley, lane, bridleway, footway, passage or open place whether situate on land leased from the Government or not, used or frequented by the public, or to which the public have, or are permitted to have, access;

“rules of court” means, when used in relation to any court, rules made by the authority having for the time being power to make rules and orders regulating the practice and procedure of such court;

“Secretary to the Council of Ministers” means the person appointed under Article 22 of the Constitution and includes any person appointed by His Majesty the Sultan and Yang Di-Pertuan to be Deputy Secretary to that Council;

“sell” includes exchange and barter;

“ship” includes every description of vessel used in navigation, not exclusively propelled by oars or paddles;

“sign” includes, in the case of a person unable to write, the making of a mark or the affixing of a thumbprint or chop;

“standard time” means 8 hours in advance of Greenwich mean time, or such other period in advance of Greenwich mean time as His Majesty the Sultan and Yang Di-Pertuan in Council may by order signified in the *Gazette* prescribe;

“State” means the State of Brunei Darussalam and includes the Sultanate of Brunei Darussalam and Negara Brunei Darussalam and also includes of the continental shelf;

“State Seal” means the Seal of Brunei Darussalam referred to in Article 79 of the Constitution;

“State waters” means all waters, whether navigable or not, included within Brunei Darussalam, and shall be deemed to include territorial waters;

“statutory declaration”, if made —

(a) in Brunei Darussalam, means a declaration under the Statutory Declarations Act (Chapter 12);

(b) in any part of the Commonwealth except Brunei Darussalam, means a declaration made before a justice of the peace, notary public or other person having authority therein under any legal provision for the time being in force in such part of the Commonwealth to take or receive a declaration; and

(c) in any other place, means a declaration before a Brunei Darussalam Consul;

“street” includes any highway, street, road, bridge, thoroughfare, parade, square, court, alley, lane, bridleway, footway, passage or open place whether situate on land leased from the Government or not, used or frequented by the public, or to which the public have, or are permitted to have, access;

“subsidiary legislation” means any regulation, order, Proclamation or other instrument made under any written law and having legislative effect;

“Sultan” means His Majesty the Sultan and Yang Di-Pertuan;

“Supreme Court” means the Supreme Court of Brunei Darussalam established under the Supreme Court Act (Chapter 5);

“swear” includes affirmation, declaration, affirming and declaring in the case of persons allowed by law to affirm or declare instead of swearing;

“territorial waters” means such part of the sea adjacent to the coast of Brunei Darussalam as is defined by the Territorial Waters of Brunei Act (Chapter 138) and the limits of it are more particularly set out in the map published in pursuance to section 3 and notified in the *Gazette*;

“treaty” means a treaty, convention or agreement made with a foreign state, together with protocols or declarations attached thereto, or independent thereof but referring thereto;

“trust territory” means a territory administered by the Government of any part of Her Majesty’s dominions under the trusteeship system of the United Nations;

“United Kingdom” means the United Kingdom of Great Britain and Northern Ireland;

“waters of Brunei Darussalam” means all waters, whether navigable or not, included within Brunei Darussalam, and shall be deemed to include territorial waters;

“waters of the State” means all waters, whether navigable or not, included within Brunei Darussalam, and shall be deemed to include territorial waters;

“will” includes any testamentary instrument;

“words” includes figures and symbols;

“writing” includes writing, printing, lithography, photography, typewriting, and every other mode of representing words or figures in a visible form; but, in the case of a book, “printing” does not include writing or typing. Nothing in this definition shall be taken to apply to signatures;

“written law” includes all Acts, Proclamation and subsidiary legislation, or any part thereof, but does not include any Act of Parliament of the United Kingdom or any Order of Her Britannic

Majesty in Council, or any law which no authority in Brunei Darussalam is empowered to amend;

“year” means a year according to the Gregorian calendar;

“years of age” or words of a like meaning, when used in reference to the age of any person, means years according to English reckoning.

Definition.

(2) When a definition has been given by this Act or any other written law to words or expressions, that definition, and all grammatical variations and cognate expressions thereof, shall, unless there is something in the subject or context inconsistent with such construction, have the meaning thereby assigned to it whenever it is used in such written law or in any subsidiary legislation made thereunder.

Reference to Government property.

(3) Whenever any reference is made to property and the expressions used in relation thereto imply that such property is owned by, or belongs to, the Government, or convey a similar meaning, such reference shall be deemed to refer to such of the property of the description mentioned as has by, or with the consent of, the competent authority, express or implied, been appropriated to the use of the Government.

Provisions for gender and number.

(4) (a) Words importing the masculine gender include females.

(b) Words in the singular include the plural and *vice versa*.

Meaning of serving by post.

(5) When any written law authorises or requires any document to be served by post, whether the expression “serve”, “give”, “send” or any other expression is used, the service shall be deemed to be effected by properly addressing, preparing and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Reference to time.

(6) (a) Whenever any expression of time occurs in any written law or instrument, the time referred to shall be held to be standard time.

A.m. and p.m.

(b) The expression “a.m.” indicates the period between midnight and the following noon; and the expression “p.m.” indicates the period between noon and the following midnight; and where two such expressions occur conjunctively in relation to any specified hours, or in conjunction with the words “sunset” or “sunrise”, they shall be construed as relating to a consecutive period of time.

His Majesty the Sultan and Yang Di-Pertuan.

(7) Reference to His Majesty the Sultan and Yang Di-Pertuan shall be construed as a reference to His Majesty the Sultan and Yang Di-Pertuan for the time being; and in this Act and in every other written law, whether passed before or after the commencement of this Act, references to His Majesty the Sultan and Yang Di-Pertuan reigning at the time of the passing of the Act shall be construed as references to His Majesty the Sultan and Yang Di-Pertuan for the time being.

Straits Settlements.

(8) Reference to the Straits Settlements or to the Colony of Singapore or to the State of Singapore or to Singapore shall be construed as a reference to the Republic of Singapore.

Federated Malay States, Malaya or Federation.

(9) Reference to the Federated Malay States or to Malaya, the Malayan Union or the Federation of Malaya or the Federation shall be construed as a reference to the Federation of Malaysia.

Sarawak and North Borneo.

(10) Reference to the Colony of Sarawak or to the Colony of North Borneo or to Sarawak or North Borneo shall be construed as a reference to the State of Sarawak or the State of Sabah respectively.

Restyling of designation of public office etc. [S 10/2010]

(11) Whenever His Majesty the Sultan and Yang Di-Pertuan, by notification signified in the *Gazette*, directs that the style of any public office or of one or more officers holding the same public office, or of any public body or any other public authority, or of any place be changed, a reference to such office, officer or officers, body, authority or place in any written law shall be construed as a reference to such office, officer, officers, body, authority or place as so restyled.

Public officers.

(12) Where a reference is made in any written law to any public officer by the term designating his office, the term shall include the officer for the time being discharging the functions of that office.

Expression denoting distance.

(13) Any word or expression denoting distance shall denote distance measured in a straight line on a horizontal plane.

Computation of days.

(14) In computing a period of days from the happening of an event for the doing of any act or thing, there shall be excluded the day on which the event happens or the act or thing is done and, if the period is less than 6 days, any public holiday within such period.

Provision where no time prescribed.

(15) A prescribed act or thing shall, if no time is prescribed, be done with all convenient speed, and as often as the prescribed occasion arises.

Written law, when binding on Government.

(16) No written law shall be binding on the Government unless it appears expressly or by necessary implication that the Government shall be bound thereby.

References to instruments under Act.

(17) A reference in any written law to any other law shall be deemed to include a reference to any instrument made by virtue of the law to which reference is made.

Forms.

(18) Whenever forms are prescribed under any written law slight deviations therefrom, not affecting the substance or not calculated to mislead, shall not invalidate them.

Exercise of powers in special cases.

(19) Where any power or duty is by or under any written law vested in the holder of any public office and either —

(a) that office has been abolished; or

(b) no person has been appointed to discharge the functions of that office,

those power and duties may be discharged —

(i) in the case of making subsidiary legislation, by His Majesty the Sultan and Yang Di-Pertuan in Council; and

(ii) in any other case, by the holder of such other public office as His Majesty the Sultan and Yang Di-Pertuan may by order signified in the *Gazette* direct.

(20) Where a *Gazette* is published in more than one form, the date of publication of that *Gazette* shall be deemed to be the date that *Gazette* is first published in any form.

PART II

GENERAL PROVISIONS REGARDING ACTS AND
OTHER WRITTEN LAWS**Acts.**

4. Every Act shall be a public Act and shall be judicially noticed as such.

Sections and Schedules.

5. (1) Every section of an Act shall have effect as a substantive Act without introductory words.

(2) Every Schedule, Table or other annexure to any written law shall, together with any notes thereto, be construed and have effect as part thereof.

Subdivision of Acts.

5A. When an Act is divided into Parts, Chapters, titles or other subdivisions, the fact and particulars of such division shall, with or without express mention thereof in the Act, be taken notice of in all courts and for all purposes whatsoever.

Examples and illustrations.

5B. Where an Act includes an example or illustration of the operation of a provision —

(a) the example or illustration shall not be taken to be exhaustive; and

(b) if the example or illustration is inconsistent with the provision, the provision prevails.

Mode of citing Acts.

6. Any written law may, for all purposes, be cited by the short title thereof:

Provided that any Act may also be cited by its number among the Acts of the year in which it was made, or by any Chapter number lawfully given thereto.

Construction in Act of references to sections etc.

7. (1) Where, in any Act, there is a reference to a section, Part, Chapter or Schedule by number or letter only, and not in conjunction with the title or series number of an Act such reference shall be construed as a reference to the section, Part, Chapter or Schedule of that number or letter contained in the Act in which such reference occurs.

Construction in a section of reference to subsections and paragraph.

(2) Where, in any section of any Act, there is a reference to a subsection, paragraph or subparagraph by number or letter only, and not in conjunction with the number of any section of that or of any other Act, such

reference shall be construed as a reference to the subsection, paragraph, or subparagraph of that number or letter contained in the section in which such reference occurs.

Construction to apply to other written laws.

(3) This section shall apply with suitable modifications to other written laws, and to instruments issued under or by virtue thereof.

Special provision in marginal notes.

(4) This section shall not apply to marginal notes contained in an amending Act, or in any written law which amends another written law; and, in such case, references to a Part, section or other division which does not contain a reference to the written law of which such Part, section or other division forms part shall be deemed to refer to the Principal Act or other written law which is being amended.

Purposive interpretation of written law and use of extrinsic materials.

7A. (1) In the interpretation of a provision of a written law, an interpretation that would promote the purpose or object underlying the written law (whether that purpose or object is expressly stated in the written law or not) shall be preferred to an interpretation that would not promote that purpose or object.

(2) Subject to subsection (4), in the interpretation of a provision of a written law, if any material not forming part of the written law is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material —

(a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the written law and the purpose or object underlying the written law; or

(b) to ascertain the meaning of the provision when —

(i) the provision is ambiguous or obscure; or

(ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the written law and the purpose or object underlying the written

law leads to a result that is manifestly absurd or unreasonable.

(3) Without limiting the generality of subsection (2), the material that may be considered in accordance with that subsection in the interpretation of a provision of a written law shall include —

(a) all matters not forming part of the written law that are set out in the document containing the text of the written law as printed by the Government Printer;

(b) any explanatory statement relating to the Bill containing the provision;

(c) any official speech, remarks or address by His Majesty the Sultan and Yang Di-Pertuan;

(d) any relevant material in any official record of debates in Legislative Council;

(e) any treaty or other international agreement that is referred to in the written law; and

(f) any document that is declared by the written law to be a relevant document for the purposes of this section.

(4) In determining whether consideration should be given to any material in accordance with subsection (2), or in determining the weight to be given to any such material, regard shall be had, in addition to any other relevant matters, to —

(a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the written law and the purpose or object underlying the written law; and

(b) the need to avoid prolonging legal or other proceedings without compensating advantage.

Coming into operation of written law.

8. (1) Any written law which is expressed to come into operation on a particular day shall come into operation on the expiration of the previous day.

(2) Subsection (1) shall apply also to the day proclaimed, notified or otherwise appointed as the day as from which any written law shall come into force; and the expression “otherwise appointed” shall include the provisions for commencement made by sections 16 and 18.

(3) Where a written law is to come into operation on a day specified by a notification made under the written law, the notification may specify different days for different provisions of the written law to come into operation.

Repeal and substitution effect thereof.

9. (1) Wherever any written law repeals any former written law and substitutes other provisions therefor, the written law so repealed shall remain in force until the substituted provisions come into operation.

(2) Whenever any written law is declared to be made by way of replacement of, or substitution for, another, or re-enacts another, with or without modification, the subsidiary legislation and instruments made or prescribed by or under the earlier written law shall remain in force so far as they are not inconsistent with such later written law, or any instrument made and prescribed thereunder, and shall be deemed for all purposes, including penalties, to have been made or prescribed thereby and to be liable to amendment thereby or thereunder.

Effect of repeal generally.

10. Where a written law repeals in whole or in part any other written law, unless the contrary intention appears, the repeal shall not —

(a) revive anything not in force or existing at the time at which the repeal takes effect;

(b) affect the previous operation of any written law so repealed, or anything duly done or suffered under any written law so repealed;

(c) affect any right, power, obligation, restriction or liability acquired, accrued, imposed or incurred under any written law so repealed;

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any written law so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, power, obligation, restriction, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such restriction, liability, penalty, forfeiture or punishment may be imposed, as if the repealing written law had not been passed.

Interpretation of section 10.

10A. (1) A reference in section 10 to the repeal of a written law in whole or in part includes a reference to —

(a) a repeal effected by implication;

(b) the abrogation or limitation of the effect of the written law or part; and

(c) the exclusion of the application of the written law or part to any person, subject matter or circumstance.

(2) Where a written law expires, lapses or otherwise ceases to have effect, section 10 applies as if the written law had been repealed by another written law.

(3) A reference in section 10 to a part of a written law includes a reference to any provision of, or words, figures, drawings or symbols in, the written law.

Limit of repeal.

11. Whenever any written law which repeals any earlier written law is itself repealed, such last repeal shall not be construed as reviving the written law previously repealed.

Written law to be read as one with written law it amends.

12. (1) Any written law which amends another written law shall be read and construed as one with the written law so amended.

(2) A reference in any written law to the provisions of another written law shall include a reference to any written law amending that other written law, or replacing it with or without modification.

PART III

SUBSIDIARY LEGISLATION AND INSTRUMENTS

Powers included in authority to make subsidiary legislation.

13. The following provisions shall apply to subsidiary legislation —

(a) authority to make subsidiary legislation shall include —

- (i) authority to provide that a contravention thereof shall be punishable by imprisonment for such term, not exceeding 6 months, or with such fine not exceeding \$10,000, or by both such fine and imprisonment, as may be specified in the subsidiary legislation;
- (ii) authority to amend any forms prescribed by the written law under which the subsidiary legislation was made;
- (iii) authority to prescribe new forms for the purpose thereof and for the purpose of the subsidiary legislation; and
- (iv) authority to provide for the manner and method in which any document, record, application, permit, approval or licence may be submitted, issued or served by electronic means, or for the authentication thereof;

To include reduction of fees etc.

(b) authority to provide for fees and charges shall include authority to provide for the reduction, waiver or refund thereof, either generally or in any particular event or case, or class of cases, or in the discretion of any person;

(c) subsidiary legislation shall have the same force and effect and be as binding, and shall be construed for all purposes as if it had been contained in, the written law under which it was made;

Where subsidiary legislation requires approval.

(d) whenever any written law provides that the subsidiary legislation shall be subject to the approval of the Legislative Council or of any other authority, or contains words to the like effect, then —

- (i) the subsidiary legislation shall be submitted for the approval of such authority;
- (ii) such authority shall have power to amend or disapprove the whole or any part of the subsidiary legislation, and may, if it disapproves of either in whole or in part, require further subsidiary legislation to be submitted for approval;
- (iii) a statement by the approving authority, purporting to be made under the provision of such written law whereby approval is required, that specified subsidiary legislation has been made with the approval of such authority shall, until the contrary is proved, be evidence that the subsidiary legislation was duly made and the requisite approval duly obtained;
- (iv) the provisions of subparagraph (iii) shall apply whether or not the power to amend conferred by subparagraph (ii) has been exercised and, if the statement appears in a publication authorised by such written law, whether or not publication has been made in the *Gazette*, and it shall not be necessary to specify in what respect, if any, the subsidiary legislation originally submitted has been amended; and
- (v) the expression “the approving authority” shall include a person authorised by section 17 or otherwise to signify on behalf of the authority that its approval has been given; and the expression “the person authorised to make the subsidiary legislation” shall include any person authorised to signify the exercise of the power to make subsidiary legislation vested in such first mentioned person;

Power to make subsidiary legislation for special as well as general purposes.

(e) authority to make subsidiary legislation for any general purpose, and also for any special purpose incidental thereto, shall not be construed so as to derogate from the powers conferred with reference to the general purpose;

Reference to written law includes reference to legislation thereunder.

(f) a reference in a written law to another written law shall include reference to any subsidiary legislation made thereunder;

(g) where any Act confers powers to make any subsidiary legislation, expressions used in the subsidiary legislation shall, unless the contrary intention appears, have the same respective meanings as in the Act conferring the power.

Construction of general penalties provision regarding subsidiary legislation.

14. (1) A provision in any written law to the effect that any breach or contravention of subsidiary legislation made or deemed to be made, or taking effect, by virtue of such written law shall constitute an offence, or prescribing punishment for breach or contravention of such subsidiary legislation, shall be deemed to include power to prescribe by such subsidiary legislation that the contravention of any particular provision therein shall or shall not constitute an offence, and to include power to prescribe by such subsidiary legislation punishment therefor not exceeding that so prescribed in such written law for breach or contravention of the subsidiary legislation:

Provided that, except in so far as the power deemed by this subsection to be included in such provision is exercised, such provision shall be construed and take effect as if no such power had been conferred.

(2) Notwithstanding section 2 —

(a) this section shall apply to any written law coming into operation prior to the commencement of this Act, notwithstanding any contrary expression in such written law; and

(b) this section shall apply to any written law coming into operation after the commencement of this Act, unless the operation of this section is expressly excluded.

Extent of power to make subsidiary legislation or instruments or perform acts of similar nature.

15. Whenever by or under any written law power is given to His Majesty the Sultan and Yang Di-Pertuan, His Majesty the Sultan and Yang Di-Pertuan

in Council, any public officer or body or any other authority (in this section referred to as “the authority empowered”) to —

(a) make subsidiary legislation; or

(b) make, issue or approve any order, Proclamation, instrument, declaration, direction, instruction, notification, register or list,

it shall include the power of amending or suspending such subsidiary legislation, order, Proclamation, instrument, declaration, direction, instruction, notification, register or list, or withdrawing approval thereof, in the same manner as it was made, approved or issued, and shall include the power of declaring the date (including a date prior to that upon which it is declared) as from which it shall have or be deemed to have had effect, and the period of its operation, and of substituting another therefor:

Provided that —

(a) the power of declaring the date of commencement shall not be deemed to include power to appoint a date of commencement prior to the commencement of the written law conferring the power; and, if, in pursuance of such power, a date of commencement for any subsidiary legislation is appointed which is prior to the date of publication of that subsidiary legislation, no person shall be found guilty of an offence committed prior to the date of publication unless it is proved to the court having cognisance of such offence that that person was, at the time that he committed the act constituting the offence with which he is charged, aware that that act had been constituted an offence under such subsidiary legislation;

(b) where any Act is to come into operation on a day to be fixed by Proclamation, notification or other instrument, the power to issue such Proclamation, notification or other instrument shall not include, except in the case of, and for the purpose of, correcting any mistake therein, the power of amending or suspending the same; and

(c) where the authority empowered has been replaced wholly or partially by another authority, the power conferred herein upon the original authority may be exercised by such other authority, concerning all matters or things which it is empowered to do, as if it were the original authority.

Publication.

16. (1) Power to make subsidiary legislation shall, unless another method of publication is authorised, be deemed to include a direction to publish it in the *Gazette* and, without prejudice to the provisions of sections 15 and 18, a direction that it shall come into operation on the date of its publication.

(2) If the particular form or manner of publication of any legislation or instrument has not been provided for, then, without prejudice to subsection (1) and to any form or manner which may be deemed sufficient, it shall be deemed to be duly published if it is published in such form or manner as the Minister shall direct.

(3) Without prejudice to subsection (1), a provision in any written law that subsidiary legislation of any description shall be made or published in the *Gazette* shall not be deemed to prohibit the making of any such subsidiary legislation otherwise than in the *Gazette*; and such provision shall be deemed to have been complied with if, after such subsidiary legislation has been made, the fact that such subsidiary legislation has been made, and the contents thereof, are published, by signification or otherwise, in the *Gazette*.

(4) Without prejudice to subsection (6), subsection (3) shall apply to instruments not constituting subsidiary legislation, with the modification that it shall suffice to publish the purport thereof.

(5) The expression “notification in the *Gazette*” shall not import a duty to execute any formal instrument or to use any words denoting notification, but shall nevertheless import a direction to effect publication in the *Gazette* in an appropriate manner.

(6) Nothing in the definition of “instrument” as read with this section shall import either a duty or direction to execute any formal instrument, unless the same is otherwise required, or a direction to publish the fact that an instrument has been made, unless such is in fact the case.

Signification of orders of His Majesty the Sultan and Yang Di-Pertuan or His Majesty the Sultan and Yang Di-Pertuan in Council.

17. Whenever any written law confers upon His Majesty the Sultan and Yang Di-Pertuan or His Majesty the Sultan and Yang Di-Pertuan in Council power to —

- (a) make subsidiary legislation;
- (b) give any directions;
- (c) issue, any order;
- (d) authorise any thing or matter to be done;
- (e) grant any exemption;
- (f) remit any fee or penalty; or
- (g) exercise any other power,

it shall be sufficient if the exercise of such power be signified, in the case of His Majesty the Sultan and Yang Di-Pertuan, under the hand of any Minister or the Permanent Secretary to the Office of the Prime Minister, and, in the case of His Majesty the Sultan and Yang Di-Pertuan in Council, under the hand of any Minister or the Secretary to the Council of Ministers:

Provided that this section shall not apply to the power of His Majesty the Sultan and Yang Di-Pertuan to issue any warrant or Proclamation, which shall be made or issued only under the hand of His Majesty the Sultan and Yang Di-Pertuan himself.

Signification of orders etc. of Minister.

17A. Where any written law confers upon a Minister power to —

- (a) make any subsidiary legislation or appointment;
- (b) give any directions;
- (c) issue any order;
- (d) authorise any thing or matter to be done;
- (e) grant any exemption;
- (f) remit any fee or penalty; or
- (g) exercise any other power,

it shall be sufficient, unless in such written law it is otherwise provided, if the exercise of such power by the Minister be signified under the hand of the Permanent Secretary to the Ministry for which the Minister is responsible.

Signing of documents.

17B. Where in any written law any document is required to be under the hand of or countersigned by a Minister in exercise of any powers conferred thereby, it shall be sufficient for such document to be under the hand of or signed or countersigned by the Permanent Secretary to the Ministry for which the Minister is responsible or by any public officer duly authorised in writing by the Minister.

Exercise of statutory powers between enactment and commencement of written law.

18. Whenever any written law which is not to commence immediately on the passing thereof confers power to —

- (a) make subsidiary legislation;
- (b) issue any instrument;
- (c) prescribe forms; or
- (d) do any other thing,

for the purposes of that written law, the power may be exercised at any time after the passing of the written law so far as may be necessary or expedient for the purpose of bringing the written law into operation at the date of the commencement thereof:

Provided that nothing contained in this section shall be deemed to authorise any provision to bring into effect any such subsidiary legislation, instrument, form or thing prior to the commencement of the written law conferring power to make, issue, prescribe or do the same; and, if no date is specified as from which any such subsidiary legislation, instrument, form or thing shall have effect, it shall have effect as from the commencement of such written law.

PART IV

POWERS AND APPOINTMENTS

Construction of provisions as to exercise of powers and duties.

19. (1) Whenever any written law confers a power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Whenever any written law confers a power or imposes a duty on the holder of an office as such, then, the power may be exercised and the duty shall be performed by the holder of the office for the time being, or by a person duly appointed to act for him or to exercise the power or discharge the duty.

Power to appoint includes power to dismiss.

20. Whenever any written law confers upon any person or authority a power to make appointments to any office or place, the power shall be construed as including a power to dismiss or suspend any person so appointed and to appoint another person temporarily in the place of any person so suspended, or in place of any sick or absent holder of such office or place:

Provided that, where the power of such person or authority to make the appointment is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, the power of dismissal shall only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority.

Construction of enabling words.

21. (1) Whenever any written law, either expressly or by necessary implication, confers on any person power to do or enforce the doing of any act or thing, all such powers shall be understood to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.

(2) Without prejudice to the generality of subsection (1) —

(a) a power to provide for, prohibit, control or regulate any matter includes power to provide for that matter by the licensing

thereof and power to prohibit acts whereby the prohibitions, control or regulations affecting that matter might be evaded;

(b) a power to grant a licence, permit, authority, approval or exemption includes power to impose reasonable conditions subject to which such licence, permit, authority, approval or exemption may be granted;

(c) power to approve any person or thing includes power to withdraw approval thereof; and

(d) power to give directions includes power to couch the same in the form of prohibitions.

(3) Without prejudice to the generality of subsection (1), whenever in any written law one of the following expressions, namely, “as His Majesty the Sultan and Yang Di-Pertuan may appoint”, or “as His Majesty the Sultan and Yang Di-Pertuan may direct”, or “as may be designated by His Majesty the Sultan and Yang Di-Pertuan”, or any similar expression, appears, and no power is expressly conferred upon His Majesty the Sultan and Yang Di-Pertuan to make the appointment, give the direction or make the designation, or as the case may be, such power shall nevertheless be deemed to be conferred by necessary implication.

(4) Subsection (3) shall have effect in relation to His Majesty the Sultan and Yang Di-Pertuan, His Majesty the Sultan and Yang Di-Pertuan in Council, a public body, public officer or other person as it has effect in relation to His Majesty the Sultan and Yang Di-Pertuan, and shall have effect in respect of any instrument or other matter as it has effect in respect of appointments or directions.

(5) Without prejudice to the generality of subsection (1), whenever in any written law power is expressly or impliedly conferred on His Majesty the Sultan and Yang Di-Pertuan, His Majesty the Sultan and Yang Di-Pertuan in Council, a public body or a public officer to make any Proclamation, warrant, order, instrument or appointment, or to give any direction, approval or notice, and it does not expressly appear what effect any such making or giving shall have, the instrument or document made or executed in pursuance of such power shall, if lawfully made in conformity with the power so conferred, have effect nevertheless according to its tenor.

Appointment of officers by name or office.

22. Whenever, by or under any written law, power is given to appoint or name a person to have and exercise any powers or discharge any duties, the power may be lawfully exercised either by appointing a person by name, or by directing that the person for the time being holding a designated office shall have and exercise such powers and discharge such duties.

Relation back of appointments.

23. Any appointment may be declared to have effect as from the date upon which the appointee in fact commenced to exercise the powers and discharge the duties of his appointment, not being a date earlier than the commencement of the written law under which the appointment is made.

Power of Minister to provide for execution of duties of public officer during temporary absence or inability.

24. (1) Whenever, by or under any written law, powers are conferred or duties are imposed upon a public officer, then, if, during any period, owing to absence or inability to act from illness or any other cause, the public officer is unable to exercise the powers or perform the duties of his office in any place under his jurisdiction or control, the powers shall be had and may be exercised, and the duties shall be discharged, in that place by a person named by, or by a public officer holding the office designated by, the direction of the Minister, subject to such conditions, exceptions and qualifications as the Minister may direct.

Any such direction may be given in anticipation of any absence or inability occurring, in which case it shall be notified by the Minister in the *Gazette* or, if given subsequent thereto, may relate back to the commencement of the inability or absence, and shall be notified as aforesaid upon the termination of any period of absence or inability.

(2) Whenever, by or under any written law, powers are conferred or duties are imposed upon a public officer and a new post is subsequently created in the same department, the emoluments of which are no less than those of such public officer, the Minister may by notification published in the *Gazette*, direct that those powers and duties, or any of them, shall be exercised by any holder of the post so created, and either to the exclusion of the first named public officer or otherwise.

Power to appoint to substantive office not vacant.

25. Notwithstanding the provisions of any written law constituting an office, when the substantive holder of such office is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively to the same office; and, upon any such appointment, all rights, powers, functions and duties of the office shall vest in the person so appointed to the exclusion of the holder of such office on leave of absence pending relinquishment of office, but without prejudice to the provisions of section 19(2), or to any provision enabling an acting appointment to be made, or enabling a person other than the holder of an office to exercise and discharge temporarily the powers and duties of that office or some of them.

Effect of defining office to include deputy, assistant etc.

26. Whenever an office is defined as including a deputy or assistant or other public officer, then, subject to any instructions of His Majesty the Sultan and Yang Di-Pertuan, the deputy, assistant or other officer shall —

(a) during the absence or inability to act of the holder of the office, unless and until the vacancy is filled, whether temporarily or otherwise, exercise the powers vested in and discharge the duties to be discharged by him; and

(b) notwithstanding that the holder or other person discharging the duties of the office is present and able to act, exercise such powers and discharge such duties as the holder or other person may delegate.

Power of majority and person presiding.

27. (1) Whenever, by or under any written law, a power is conferred or a duty imposed on a body or number of persons consisting of, or being not less than three, the power may be exercised or duty discharged in the name of that body or number of persons by a majority of those persons.

(2) Whenever such body is assembled, the chairman or other person presiding shall have a casting as well as a deliberate vote.

(3) The exercise of any power vested in the body or number of persons may be signified either by the chairman or other person presiding at the meeting or other deliberation at which the power was exercised, or at which, as the case may be, authority to exercise it was conferred, or by any

person from time to time authorised by the body or persons to signify the exercise of such power.

Presumption in favour of lawful exercise of power.

28. (1) Whenever, by virtue of any written law, power is conferred on His Majesty the Sultan and Yang Di-Pertuan or any public officer to —

- (a) make any subsidiary legislation;
- (b) make any instrument; or
- (c) exercise any power,

and the written law conferring the power prescribes conditions, whether objective or subjective, subject to the observance, performance or existence of which any such power may be exercised, a statement in the instrument exercising the power that the subsidiary legislation or instrument is made, or the power exercised, in exercise of, or in pursuance of, the power conferred by such written law, or a statement to the like effect, shall, if such statement includes reference to the provision of such written law where such conditions are prescribed, be deemed to include a statement that the conditions precedent to the making of the subsidiary legislation or instrument, or to the exercise of the power, have been duly fulfilled.

(2) For the purposes of this section, His Majesty the Sultan and Yang Di-Pertuan includes His Majesty the Sultan and Yang Di-Pertuan acting after consultation with any Council constituted by or under any written law.

PART V

DELEGATION OF POWERS

Delegation under sections 30, 31 and 31A to be published in *Gazette*.

29. Any delegation made in exercise of the powers conferred by this Part shall be published in the *Gazette*.

Power of His Majesty the Sultan and Yang Di-Pertuan in Council to delegate with the approval of the Legislative Council.

30. Subject to the provisions of any other written law, His Majesty the Sultan and Yang Di-Pertuan in Council may delegate to any public officer or public body the exercise of any power or the discharge of any duty which, by the provisions of any written law other than the Constitution, is required to be exercised or discharged by His Majesty the Sultan and Yang Di-Pertuan in Council.

Power of His Majesty the Sultan and Yang Di-Pertuan to delegate certain powers and duties.

31. Where any power or duty is vested in or to be discharged by His Majesty the Sultan and Yang Di-Pertuan by any written law other than the Constitution, he may delegate the exercise of that power or the discharge of that duty to any public officer or public body.

Delegation of power of Minister.

31A. (1) Where in any written law a Minister is empowered to exercise any power or perform any duty, he may, in the absence of any provision of law to the contrary, with the approval of His Majesty the Sultan and Yang Di-Pertuan and by notification published in the *Gazette*, depute any person by name or the person for the time being discharging the duties of an office designated by him to exercise such powers or perform such duties on behalf of the Minister subject to such conditions, exceptions and qualifications as His Majesty the Sultan and Yang Di-Pertuan may determine, and thereupon or from the date specified by His Majesty the Sultan and Yang Di-Pertuan, the person so deputed shall have and exercise such powers and perform such duties:

Provided that nothing herein contained shall authorise a Minister to depute any person to make subsidiary legislation under the power in that behalf conferred upon the Minister by any Act.

(2) The Minister may exercise any powers or perform any duties conferred upon him by an Act notwithstanding the delegation by him of such powers or duties.

Savings.

32. Nothing in section 30, 31 or 31A shall authorise the delegation of any power to make subsidiary legislation, to issue warrants or Proclamations or to hear any appeal.

Delegation not to preclude exercise of powers by officer delegating same.

33. Whenever, by this Act or any other written law, His Majesty the Sultan and Yang Di-Pertuan, His Majesty the Sultan and Yang Di-Pertuan in Council, or any public officer, public body or person is empowered to delegate the exercise of any of the powers, or the performance of any of the duties, vested in him under such written law —

(a) no delegation made thereunder shall preclude His Majesty the Sultan and Yang Di-Pertuan, His Majesty the Sultan and Yang Di-Pertuan in Council or such public officer, public body or person, as the case may be, from exercising or performing at any time any of the powers or duties so delegated; and

(b) delegation may be conditional, qualified or limited in such manner as the person or body, with whose approval the delegation is required to be made, may approve, and, if there is no such person or body, in such manner as the person or body delegating may think fit.

PART VI

PENAL PROVISIONS

Imposition of penalty not bar to civil action.

34. The imposition of a penalty by or under the provisions of any written law shall not relieve any person from liability to answer for damages to a person injured.

Attempt to commit offence to be deemed offence.

34A. A provision which constitutes an offence shall, unless the contrary intention appears, be deemed to provide also that an attempt to commit the offence shall be an offence against such provision, punishable as if the offence itself had been committed.

Contravention of condition in licence, permit etc. offence.

35. If, by virtue of any written law, it is an offence to do any act or thing without a licence, permit, approval or other authority, the contravention of any condition to which any such licence, permit, approval or other authority has lawfully been made subject shall itself be an offence, punishable in like manner and with the like penalties as the offence first mentioned.

Provisions as to offences under two or more laws.

36. Whenever any act or omission constitutes an offence under two or more written laws, or under a written law and under any other law which applies to Brunei Darussalam, the offender shall be liable to be prosecuted and punished under either or any of such laws, or under such other laws, but shall not be liable to be punished twice for the same offence.

Punishment for misdemeanours and other contraventions in absence of specific provision.

37. (1) If, by virtue of the Application of Laws Act (Chapter 2), a contravention of any act made by competent authority in the United Kingdom or any act constitutes a common law misdemeanour, and no express provision has been made for the punishment thereof, then, that act or that contravention may be punished by a fine and imprisonment for a term of 3 years, and a Court of a Magistrate shall have jurisdiction.

(2) Subject as provided in subsection (3), a contravention of a written law which has not expressly been declared to be an offence shall constitute an offence: Penalty, in the case of a written law other than subsidiary legislation, a fine of \$8,000 and imprisonment for 6 months; and, in the case of subsidiary legislation, a fine of \$4,000.

(3) Subsection (2) does not apply —

(a) if some other remedy is provided by the relevant Act;

(b) without prejudice to disciplinary proceedings in respect thereof, if the contravention consists merely of the dereliction of a duty imposed on an officer in the Government service; or

(c) to a breach of subsidiary legislation which contains any provision declaring which breaches shall constitute offences.

(4) The penalties provided by subsection (2) shall be applicable also if a contravention of a written law has been declared to be an offence but no provision has been made for the punishment thereof.

Method of prescribing penalties and cumulative penalties.

38. (1) Whenever, in or by virtue of the provisions of any law specified in the Schedule, more than one penalty is prescribed for an offence, the use of the word “and” shall signify that the penalties shall be inflicted cumulatively.

(2) Whenever, in or by virtue of the provisions of any written law other than the provisions of the law specified in the Schedule, more than one penalty is prescribed for an offence, the use of the word “and” shall signify that the penalties may be inflicted alternatively or cumulatively.

(3) Without prejudice to subsections (1) and (2) and to section 39, the use of the word “penalty” in a section or other division of any written law shall be deemed to prescribe that a contravention of the section or other division in which the word appears is an offence punishable by penalties not exceeding those specified immediately after the word “penalty”.

Penalties prescribed to be maximum penalties.

39. Whenever, in or by virtue of any written law, a penalty, whether of imprisonment or fine, is prescribed for an offence the penalty shall imply —

(a) that the offence shall be punishable upon conviction by a penalty not exceeding the penalty prescribed; and

(b) if the amount of the fine is unspecified, that the offence shall, without prejudice to any provision of law against excessive and unreasonable fines and assessments, be punishable by a fine of any amount.

Disposal of fines and penalties.

40. Any fine or penalty imposed by or under the authority of any written law shall be paid into the Consolidated Fund.

Disposal of forfeits.

41. Whenever, under any written law, any movable property is adjudged by any court or other authority to be forfeited, it shall be forfeited to the Government, and the net proceeds thereof, if it is ordered by competent authority to be sold, shall be paid into the Consolidated Fund.

PART VII

GENERAL

Power of His Majesty the Sultan and Yang Di-Pertuan to appoint public officer to serve on Board and to appoint chairman.

42. Whenever, under the provisions of any written law, power is given to His Majesty the Sultan and Yang Di-Pertuan or to any public officer to appoint any person or persons to be a chairman or member of any board, commission, committee or similar body, it shall be lawful for His Majesty the Sultan and Yang Di-Pertuan or such public officer, as the case may be, so to appoint, by his official designation, any public officer; and, on such appointment and until such appointment shall be cancelled or otherwise determined, the person for the time being filling the office in question shall be the chairman or a member of such board, commission, committee or similar body.

Evidence of signature of Attorney General or public officer to fiat.

43. Whenever the fiat, authorisation or sanction of the Attorney General or any public officer is necessary before any prosecution or action is commenced, or for any purpose whatsoever in connection with any proceeding, any document purporting to bear the fiat, authorisation or sanction of the Attorney General or such public officer, as the case may be, shall, until the contrary is proved, be received as evidence in any proceedings without proof being given that the signature to such fiat, authorisation or sanction is that of the Attorney General or such public officer.

***Ex-officio* proceedings not to abate on death etc.**

44. Any civil or criminal proceedings taken by or against any person in virtue of his office shall not be discontinued or abated by his death, resignation or absence or removal from office, but may be carried on by or against, as the case may be, the person appointed to perform the duties of the office.

Gazette to be evidence of matters therein.

45. All printed copies of the *Gazette*, purporting to be published by authority and printed by the Government Printer, shall be admitted in evidence by all courts, and in all legal proceedings whatsoever, without any proof being given that such copies were so published and printed, and shall, until the contrary is proved be taken and accepted as evidence of the Proclamations, regulations, orders, appointments, notices and other publications therein printed, and of the matters and things contained or necessarily implied in any of them.

46. *Repealed.*

Act for which payment is required need not be performed till payment be made.

47. (1) Whenever any person, public officer, public department or public body is required to do anything for which a fee is to be paid or a charge made under any written law, such person, officer, responsible officer of the public department or public body may decline to do that thing until the fee is paid or payment be made, and, where the precise amount of the payment to be made cannot be ascertained until the thing is done, until there be paid such an amount as may be estimated to be the correct amount by the person, officer, responsible officer of the department or public body required to do that thing.

(2) Whenever a thing has been done for which an estimated amount shall have been paid, such amount shall be adjusted to the correct amount, either by means of a further payment or by a refund of the amount overpaid.

Reduction, variation, remission and application of fees and charges.

48. Any fee or charge by or under any written law made payable to the Government or to any public body or public officer, not being a fee or charge which is regulated by rules of court —

(a) may be reduced or varied by order of His Majesty the Sultan and Yang Di-Pertuan in Council:

Provided that any variation thereof shall not exceed the original figure;

(b) may, in any particular case and on any special ground, be remitted or refunded, in whole or in part, by His Majesty the Sultan and Yang Di-Pertuan in Council.

Service of documents.

48A. (1) Where a written law authorises or requires a document to be served on a person, whether the expression “serve”, “give” or “send” or any other expression is used, then, unless the contrary intention appears, the document may be served —

(a) in the case of an individual —

- (i) by delivering it to the individual personally; or
- (ii) by leaving it at, or by sending it by pre-paid post to, the usual or last known address of the place of residence or business of the individual;

(b) in the case of a partnership —

- (i) by delivering it to the secretary or other like officer of the partnership; or
- (ii) by leaving it at, or by sending it by pre-paid post to, the principal or last known place of business of the partnership in Brunei Darussalam;

(c) in the case of a body corporate —

- (i) by delivering it to the secretary or other like officer of the body corporate; or
- (ii) by leaving it at, or by sending it by pre-paid post to, the registered office or a principal office of the body corporate in Brunei Darussalam.

(2) Nothing in subsection (1) —

(a) affects the operation of any written law that authorises the service of a document otherwise than as provided in that subsection; or

(b) affects the power of a court to authorise service of a document otherwise than as provided in that subsection.

Citation of Imperial statutes.

49. When any Act of Parliament is referred to, it shall be sufficient for all purposes to cite the Act of Parliament by the short title cited therein, or by the short title given thereto by the Short Titles Act 1896.

Modification of Acts and Orders in Council extended or applied to Brunei Darussalam.

50. (1) Whenever, by any written law, an Act of Parliament or Order in Council has been, or is hereafter, applied to Brunei Darussalam, including any statute of general application which applies by virtue of the Application of Laws Act (Chapter 2) —

(a) it shall be lawful for His Majesty the Sultan and Yang Di-Pertuan in Council, by regulations not inconsistent with any such written law, to provide for such modifications, as to names, localities, courts, officers, persons, moneys, penalties and otherwise, as may be necessary to make it applicable to the circumstances of Brunei Darussalam; and

(b) if no such regulations are made or if there is any respect in which such regulations are silent, such Act or Order in Council shall nevertheless be deemed to apply with such modifications as may be necessary to make it applicable to the circumstances of Brunei Darussalam.

(2) Without prejudice to subsection (1), in any case in which a statute of general application applies to Brunei Darussalam by virtue of the Application of Laws Act (Chapter 2), a reference to a sum of money, or part thereof, in pounds sterling shall be deemed to refer to ten times the equivalent number of dollars, and a reference to a sum of money, or part thereof, in multiples of 5 new pence shall be deemed to refer to half the equivalent number of dollars.

(3) For the purposes of subsection (2), “dollar” means the currency so designated which is legal tender in Brunei Darussalam by virtue of the Currency Order, 2004 (S 16/2004).

Construction of references in written law to Acts of Parliament and Orders in Council and legislation enacted thereunder.

51. (1) A reference in any written law or in any instrument thereunder to an Act of Parliament or an Order in Council shall include a reference to the same, as the same may from time to time be amended, and to any Act of Parliament or Order in Council re-enacting, with or without modification, the provisions of such Act of Parliament or Order in Council.

(2) Subsection (1) shall have effect, in relation to regulations, rules or other provisions having legislative effect by virtue of any Act of Parliament or Order in Council, as it has effect in relation to such Act or Order in Council.

Saving of rights etc. of His Majesty the Sultan and Yang Di-Pertuan.

52. No Act shall in any manner whatsoever affect the rights, privileges, position, authority, powers and prerogatives of His Majesty the Sultan and Yang Di-Pertuan unless it is therein expressly provided.

SCHEDULE

(section 38(1))

Sections 6(3)(a), 15(2)(b), 55(1)(i) and (ii) and 55A(2) of the Immigration Act (Chapter 17).

Sections 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 354, 354A, 354B, 376, 384, 385, 386, 387, 388, 389, 392, 393, 394, 395, 397, 398, 399, 400, 401, 402, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 437, 439, 440 and 511 of the Penal Code (Chapter 22).

Section 29 of the Misuse of Drugs Act (Chapter 27).

Section 2 of the Unlawful Carnal Knowledge Act (Chapter 29).

Abetment of any offence included for the time being in this Schedule.

[S 26/2012]

