

No. S 20

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under Article 83(3))

COMMON GAMING HOUSES ACT (AMENDMENT) ORDER, 2008

ARRANGEMENT OF SECTIONS

Section

1. Citation.
 2. Amendment of section 2 of Chapter 28.
 3. Insertion of new section 3A.
 4. Amendment of section 4.
 5. Insertion of new section 4A.
 6. Amendment of section 9.
 7. Amendment of section 13.
 8. Insertion of new section 13A.
 9. Amendment of section 14.
 10. Insertion of new section 14A.
 11. Amendment of section 15.
 12. Insertion of new sections 19A and 19B.
 13. Insertion of new section 20A.
 14. Amendment of section 23.
 15. Amendment of section 26.
 16. Addition of new Schedule.
-

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under Article 83(3))

COMMON GAMING HOUSES ACT (AMENDMENT) ORDER, 2008

In exercise of the power conferred under Article 83(3) 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 Common Gaming Houses Act (Amendment) Order, 2008.

Amendment of section 2 of Chapter 28.

2. Section 2 of the Common Gaming Houses Act, in this Order referred to as the Act, is amended —

(a) by deleting the definition of "common gaming house" and by substituting the following new definition therefor —

" "common gaming house" includes —

- (a) any place kept or used for gaming, to which the public or any class of the public has or may have access;
- (b) any place kept for habitual gaming, whether the public or any class of the public has or may have access to it or not;
- (c) any place kept or used for the purpose of a public lottery;
- (d) any place (including a place which is owned, occupied, possessed, kept, used or maintained by any society or any other organisation, body, or group of persons whether or not that society, organisation, body or group is established by or under any written law) —
 - (i) where 4 or more persons are gaming;
 - (ii) where any game specified in the Schedule is being played; or

- (iii) where gaming is carried out and for which payment is made by any person to any society, organisation, body or group of persons or any other person as consideration for permitting gaming in such place;";

(b) by inserting the following 2 new definitions immediately after the definition of "common gaming house" —

"gaming" means playing any game of chance or of mixed chance and skill for money or money's worth and includes —

(a) playing any game specified in the Schedule; and

(b) playing or operating any gaming machine;

"gaming machine" means any mechanical, electrical or electronic machine or device (including any computer program used in such machine or device), whether wholly or partly mechanically, electrically or electronically operated, that is so designed or that has been so adapted that —

(a) it may be used for the purpose of playing any game of chance or of mixed chance and skill; and

(b) as a result of playing or operating the machine or device, winnings in money or money's worth may become payable;".

Insertion of new section 3A.

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

"Specific game need not be stated or proved.

3A. (1) Where a person is charged for an offence under sections 6 or 7, it shall be sufficient for the charge to merely state that the person charged was found gaming, without having to state the specific game being played.

(2) Where a person is being tried for an offence under sections 6 or 7, it shall be sufficient for the prosecution to merely prove that the game being played was one of the games specified in the Schedule, without having to prove the specific game being played."

Amendment of section 4.

4. Section 4 of that Act is amended —

(a) By deleting the comma at the end of paragraph (g) and by substituting "; or" therefor;

(b) by inserting the following new paragraph immediately after paragraph (g) —

"(h) conducts in or through any newspaper or any other periodical publication, or in connection with any trade or business or the sale of any article to the public —

(i) any competition in which prizes are offered for forecasts of the result either of a future event or of a past event the result of which is not yet ascertained or not yet generally known; or

(ii) any other competition, success in which does not depend to a substantial degree upon the exercise of skill,";

(c) by deleting "shall be guilty of an offence: Penalty, a fine of \$20,000 and imprisonment for 12 months" from the last 2 lines and by substituting "is guilty of an offence and liable on conviction to a fine of not less than \$5,000 and not exceeding \$50,000, imprisonment for a term not exceeding 3 years or both" therefor.

Insertion of new section 4A.

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

"Offences relating to dealing with gaming machines.

4A. Any person who —

(a) deals with or in any manner transacts in, any gaming machine or any part of any gaming machine or any interest of any kind in any gaming machine; or

(b) imports, manufactures, assembles, supplies, sells, assigns, charges, leases, hires, services, repairs, adapts or modifies, or carries out any combination of those activities in relation to, a gaming machine or any part for any gaming machine,

is guilty of an offence and liable on conviction to a fine of not less than \$10,000 and not exceeding \$100,000, imprisonment for a term not exceeding 5 years or both for every gaming machine seized."

Amendment of section 9.

6. Section 9 of the Act is amended, in subsection (1), by deleting "to or with any person concerned in the business of a common gaming house" from the second and third lines.

Amendment of section 13.

7. Section 13 of the Act is amended, in subsection (1), by deleting "written information on oath" from the second line and by substituting "receiving information" therefor.

Insertion of new section 13A.

8. The Act is amended by inserting the following new section immediately after section 13 —

"Forfeiture of seized gaming machines.

13A. (1) Without prejudice to section 13(2), any gaming machine seized in exercise of any power conferred by this Act shall be liable to forfeiture.

(2) An order for the forfeiture or for the release of any gaming machine seized in exercise of any power conferred by this Act shall be made by the court before which the prosecution with regard to it has been held.

(3) An order for the forfeiture of the gaming machine shall be made if it is proved to the satisfaction of the court —

(a) that an offence under this Act has been committed; and

(b) that the gaming machine was the subject-matter of or was used in the commission of the offence,

notwithstanding that no person has been convicted of such offence.

(4) If there is no prosecution with regard to any gaming machine seized in exercise of any power conferred by this Act, such gaming machine shall be taken and deemed to be forfeited at the expiration of 14 days from the date of service to the last-known address of the person from whom the gaming machine was seized indicating that there is no prosecution in respect

of such gaming machine, unless before that date a claim to the gaming machine is made in the manner specified in subsection (5).

(5) Any person asserting that he is the owner of the gaming machine referred to in subsection (3) and that it is not liable to forfeiture may personally or by his agent authorised in writing give notice to the Commissioner of Police that he claims the gaming machine.

(6) Upon receipt of the notice referred to in subsection (4), the Officer Commanding a Police District shall refer the matter to a magistrate for a decision.

(7) The magistrate to whom a matter is referred under subsection (6) shall issue a summons requiring the person asserting that he is the owner of the gaming machine and the person from whom it was seized, to appear before him and on his appearance or default of appearance, due service of the summons having been proved, the magistrate shall proceed to the examination of the matter and on proof that an offence under this Act has been committed and that such gaming machine was the subject-matter of or was used in the commission of such offence, shall order the gaming machine to be forfeited and shall in the absence of such proof, order its release.

(8) Any gaming machine forfeited or deemed to be forfeited shall be delivered to the Officer Commanding a Police District and shall be disposed of in accordance with the directions of the Magistrate.

(9) The Officer Commanding a Police District shall not be liable to any person for any damage, however caused, to a gaming machine seized under this Act."

Amendment of section 14.

9. Section 14 of the Act is amended —

(a) by deleting "information on oath" from the second line and by substituting "receiving information" therefor;

(b) by inserting "or a Senior Police Officer" immediately after "magistrate" in the sixth line.

Insertion of new section 14A.

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

"Arrest without warrant.

14A. Notwithstanding section 14, any police officer having reasonable grounds to believe that any instrument or appliance mentioned in that section may be found on any person, may arrest and search that person and if any instrument or appliance is found on him he shall be taken before a magistrate to be dealt with according to law."

Amendment of section 15.

11. Section 15 of the Act is amended —

(a) in subsection (1) —

(i) by deleting "(1)" from the first line;

(ii) by deleting "either on oath or not on oath" from the first and second lines of paragraph (d);

(b) by repealing subsection (2).

Insertion of new sections 19A and 19B.

12. The Act is amended by inserting the following 2 new sections immediately after section 19 —

"Protection of police officers.

19A. No action or prosecution shall be brought, instituted or maintained in any court against any police officer duly authorised under this Act for or on account of or in respect of any act ordered or done for the purpose of carrying into effect the provisions of this Act.

Obstruction of police officers.

19B. Any person who obstructs any police officer in the exercise of his powers under this Act is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding one year or both."

Insertion of new section 20A.

13. The Act is amended by inserting the following new section immediately after section 20 —

"Agent to secure evidence.

20A. Notwithstanding any rule of law, any provision of this Act or of any other written law, any person or agent found gaming together with the person charged with any offence under this Act shall not be presumed to be unworthy of credit by reason only of his having admitted to abetting the commission of an offence under this Act if his abetment or attempt to abet or his participation in the gaming was solely for the purpose of securing evidence against the person charged with that offence."

Amendment of section 23.

14. Section 23 of the Act is amended by deleting "section 4 is again convicted of the same offence under that section, the Court of a Magistrate may, in addition to the punishment provided by that section," from the first 3 lines and by substituting "sections 4, 4A, 6, 7 or 9 is again convicted of the same offence or of any other offence under any of those sections, the Court of a Magistrate may, in addition to the punishment provided by that section," therefor.

Amendment of section 26.

15. Section 26 of the Act is amended by deleting "or combination of penalties provided for an offence under this Act not exceeding respectively 12 months imprisonment and a fine of \$20,000" from the last 2 lines and by substituting "provided by this Act" therefor.

Addition of new Schedule.

16. The Act is amended by adding the following new Schedule —

"SCHEDULE

(Sections 2 and 3A(2))

Name of Game

1. Bacarat
2. Bandat
3. Belangkas
4. Blackjack or Twenty-One
5. Chap Jee Kee
6. Dadu Belangkas Mata

7. Dadu Kata Ular or Dadu Kodok Ulo
8. Dadu Muka Enam
9. Dhor Tai Tze
10. Fan Tan
11. French Bull or Bolek Golek
12. High/Low
13. Hoo Hey How
14. Jin Rummy
15. Katam-katam
16. Luk Kow 69
17. Mah Jong
18. Main Cabut or Main Colek or Angkat Turun
19. Main Trope (Main Daun)
20. Minta Daun
21. Ngau (card)
22. Opeh
23. Pa Kau or 3 Cards or Sam Cheong or Daun Tiga
24. Pai Kow (Tau Gnau/Tien Kow)
25. Pasar Malam
26. Pek Bin
27. Phey or Pair
28. Poh or Lien Poh or Ewok or Pok
29. Poker
30. Race

31. Rajah Kena
32. Roulette
33. Russian Poker or Sap Sam Cheong or Thirteen Cards
34. See Ghor Lak
35. See Kee Puah or Daun Empat
36. See Sik
37. Sek Chai Tan or Kok Kok
38. Sek Poh
39. Sepat
40. Tai Kai
41. Tiew Yee or Pancing Ikan or Ang Tiam
42. Tong It
43. Traffic Light
44. Yew Yee Sam (Domino).".

Made this 11th. day of Safar, 1429 Hijriah corresponding to the 18th. day of February, 2008 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM