

No. S 43

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

REGISTERED AGENTS AND TRUSTEES LICENSING (AMENDMENT) ORDER, 2016

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REGISTERED AGENTS AND TRUSTEES LICENSING (AMENDMENT) ORDER, 2016

In exercise of the power conferred by 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 Registered Agents and Trustees Licensing (Amendment) Order, 2016.

Amendment of section 2 of S 54/2000

2. Section 2 of the Registered Agents and Trustees Licensing Order, in this Order referred to as the principal Order, is amended in the definition of “valid licence”, by deleting the fullstop and by substituting a semicolon therefor.

Amendment of section 26

3. Section 26 of the principal Order is amended by inserting the following new paragraph immediately after paragraph *(d)* –

“*(da)* the Authority’s findings pursuant to an on-site inspection conducted under section 28A(4);”

Insertion of new section 28A

4. The principal Order is amended by inserting the following new section immediately after section 28 –

“Inspection powers

28A. (1) The Authority may under conditions of confidentiality, from time to time conduct an on-site inspection on a licensee to facilitate the discharge of its duties under this Order or any other written law.

(2) The licensee shall provide such information and facilities as the Authority may reasonably require to conduct such inspection and failure to comply with the Authority’s request is an offence punishable with a fine not exceeding \$20,000.

(3) For the purpose of an inspection under subsection (1), the licensee shall –

(a) give the Authority access to such books, documents, computers, computer programs including computer software (whether installed in a computer or otherwise) of the licensee as the Authority may reasonably require to conduct the inspection;

(b) procure a person who is in possession of such books, documents, computers, computer programs including computer software (whether installed in computer or otherwise) of the licensee as the Authority may reasonably require to conduct the inspection, to give the Authority access to them;

(c) provide such information (including but not limited to information relating to the identity and details of accounts of the directors, shareholders, owners and any other person the Authority deem necessary) and facilities as the Authority may reasonably require to conduct the inspection;

(d) procure a person who is in possession of such information (including but not limited to information relating to the identity and details of accounts of the directors, shareholders, owners and any other person the Authority deem necessary) and facilities as the Authority may reasonably require to conduct the inspection;

(e) allow the Authority, without fee, to make copies or extracts from any such books, documents, computers, computer program, computer software or computer output.

(4) The Authority may, as a result of the inspection carried out, produce a report a copy of which shall be given to the licensee underlining the Authority's findings and may issue directions to the licensee concerned.

(5) Subsection (2) has effect despite any obligation of confidentiality or other restrictions on the disclosure of information imposed on the licensee or any of its officers, or any requirement imposed under any rule of law, written law, contract, any trust instruments as defined under the International Trusts Order, 2000 (S 55/2000) or any rule of professional conduct.

(6) No civil or criminal liability is incurred by a licensee or any of its officers or any person referred to in subsection (2)(b) or (d), in respect of any obligation or restriction referred to in subsection (5), for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith and for the purpose of complying with subsection (2)."

Amendment of section 31

5. Section 31 of the principal Order is amended —

(a) by repealing subsection (3) and by substituting the following new subsection therefor —

“(3) Not earlier than after the receipt of any representations made in response to a notice served under subsection (2) or the expiration of the period specified in subsection (2)(a)(iii), if no such representation have been made, the Authority shall either —

(a) serve a notice in writing on the licensee stating —

- (i) that the licence has been revoked;
- (ii) the grounds on which it has been revoked (but subject to the same proviso in relation to confidentiality in subsection (2)(ii); and
- (iii) a reference to the Authority’s power under subsection (1) to revoke a licence;

(b) serve a notice in writing on the licensee that he no longer intends to revoke the licence.”.

(b) in subsection (5), by deleting “unless appealed against, in which case it shall not take effect until the date on which an appeal against the revocation is determined or withdrawn”.

Substitution of section 33

6. Section 33 of the principal Order is repealed and the following new section substituted therefor —

“Appeals

33. (1) There shall be a right of appeal to the Minister against any decision of the Authority —

(a) refusing an application for a licence in exercise of his powers under section 9;

(b) attaching, varying or adding any new condition to a licence under section 9, 12(1) or 12(2);

(c) giving directions under section 26;

(d) suspending a licence under section 30;

(e) revoking a licence under section 31.

- (2) An appeal under subsection (1) shall lie —
- (a) at the instance of any person aggrieved by the decision; and
 - (b) on the ground that the Authority's decision was unreasonable in all the circumstances.
- (3) An appeal must be made within one month from the date of receipt of notice in writing of the decision against which the appeal is made.
- (4) On an appeal under this section, the Minister may confirm, reverse, vary or modify the decision of the Authority or may direct the Authority to take any action which under this Order the Authority has power to take.
- (5) An appeal under this section shall not operate as a suspension of the decision of the Authority appealed against.
- (6) The decision of the Minister shall be final.”.

Amendment of section 35

7. Section 35 of the principal Order is amended, in subsection (1), by inserting “28A,” immediately before “34” in the first line therefor.

Amendment of section 36

8. Section 36 of the principal Order is amended, in subsection (1)(b), by inserting “under 28A” immediately after “Authority” in the third line.

Made this 28th. day of Syawal, 1437 Hijriah corresponding to the 2nd. day of August, 2016 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM