

No. S 31

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

EXIT AND ENTRY CHARGES ORDER, 2020

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

EXIT AND ENTRY CHARGES ORDER, 2020

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 —

PART 1

PRELIMINARY

Citation, commencement and long title

1. (1) This Order may be cited as the Exit and Entry Charges Order, 2020 and shall commence on such date as the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint by notification published in the *Gazette*.

(2) The long title of this Order is “An Order to make provision for the imposition of charges on persons intending to leave or enter, or leaving and entering Brunei Darussalam, by land and for matters connected therewith or incidental thereto”.

Non-derogation

2. The provisions of this Order are in addition to and not in derogation of any other written law in relation to the imposition of charges upon leaving Brunei Darussalam.

Application of Order

3. (1) This Order applies within and outside Brunei Darussalam.

(2) This Order does not apply to a persons or class of persons specified in Schedule 1.

Interpretation

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

“charges” means the exit charges and entry charges payable under section 6(1);

“Controller” means the Controller of Customs and Excise appointed under section 3(1) of the Customs Order, 2006 [S 39/2006];

“driver” means a driver of a vehicle and includes a rider;

“electronic transaction form” means a form on the system for the purpose of carrying out a transaction with the Controller;

“Minister” means the Minister responsible for the administration of this Order;

“officer of customs” has the same meaning assigned to it in section 2(1) of the Customs Order, 2006 [S 39/2006];

“senior officer of customs” has the same meaning assigned to it in section 2(1) of the Customs Order, 2006 [S 39/2006];

“system” means the electronic transaction system established by the Controller under section 8(1);

“transaction” means, in relation to the system, the making of any application or submission to the Controller;

“vehicle” has the same meaning assigned to it in section 2(1) of the Road Traffic Act (Chapter 68).

PART 2

ADMINISTRATION

Functions of Controller

5. (1) The Controller of Customs and Excise shall be responsible for the general administration of this Order and shall be subject to any general or special direction of the Minister.

(2) Subject to the general direction and supervision of the Controller, a senior officer of customs shall have and exercise all powers conferred on the Controller by or under this Order.

PART 3

EXIT AND ENTRY CHARGES

Exit and entry charges

6. (1) An exit charge and an entry charge shall be payable on every occasion any person intends to enter or leave, or enters or leaves, Brunei Darussalam by land respectively.

(2) Where the intended entry into or leaving Brunei Darussalam, or the entry into or leaving Brunei Darussalam, is by means of a vehicle, the driver of the vehicle shall be liable to pay the charges imposed on the occupants of the vehicle.

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

Rates of charges and modes of payment

7. (1) The charges shall be payable to the Controller and shall be in accordance with the rates specified in Schedule 2.

(2) Subject to section 8(7), payment of the charges under subsection (1) shall be made by any of the following modes of payment —

(a) by charging the payment to a debit card or credit card of the payer;

(b) by electronic fund transfer where payment is effected by directing the transfer of funds electronically from the bank account of the payer to a bank account designated by the Controller;

(c) by automated collection machines.

(3) Subject to section 9, any money paid to the Controller in accordance with subsection (1) shall not be refundable.

Establishment and requirement to use electronic transaction system

8. (1) The Controller may establish an electronic transaction system for the purposes of this Order —

(a) to enable any person to carry out a transaction with the Controller;

(b) to enable the provision of any information or the submission of documents to the Controller;

(c) to enable the Controller to issue any approval or other document.

(2) Except as provided in subsection (7) or as the Controller otherwise requires or permits, any transaction with the Controller under this Order shall be carried out using the electronic transaction system on the electronic transaction form provided for that purpose.

(3) A person may carry out a transaction with the Controller using the system on behalf of another person.

(4) Where any information is provided, or any document is submitted, on behalf of any person under subsection (3) —

(a) it is deemed to have been provided or submitted with the authority of that person; and

(b) that person is deemed to be cognisant of all matters therein.

(5) Notwithstanding any other written law, in any proceedings under this Act —

(a) an electronic record of any information or document that was provided or submitted through the system; or

(b) any copy or print-out of that electronic record,

shall be admissible as evidence of the facts stated or contained therein.

(6) Where the electronic record of any information or document, or a copy or print-out of that electronic record, is admissible under subsection (5), it shall be presumed, until the contrary is proved, that the electronic record, copy or print-out reproduces the contents of the information or document.

(7) If a transaction with the Controller cannot be carried out using the electronic transaction system, the person seeking to carry out the transaction shall carry out the transaction with the Controller in such other form and manner as the Controller may determine.

(8) The Controller may refuse to process a transaction if the person seeking to carry out the transaction —

(a) does not comply with subsection (2) or (7);

(b) being required to complete an electronic transaction form or other form provided by the Controller for that purpose, fails to properly complete the form in accordance with the instructions contained in the form; or

(c) being required to attach any document to, or provide any information required in, an electronic transaction form or other form provided by the Controller for that purpose, fails to attach the document or provide the information, as the case may be.

(9) For the avoidance of doubt, a reference to a refusal to process a transaction with the Controller in subsection (8) includes, where the transaction relates to the submission of a document to the Controller, a refusal to accept the document for submission.

Return of charges erroneously paid

9. It shall be lawful for the Controller, if it is proved to his satisfaction that any money has been erroneously paid as charges under this Order, to order the refund of the money erroneously paid:

Provided that no such refund shall be allowed unless a claim in respect thereof is made within one year after the erroneous payment was made.

Charges to be payable notwithstanding proceedings

10. The institution of proceedings for any offence under this Order shall not relieve any person from liability to payment of any charges for which he is or may be liable.

PART 4

ENFORCEMENT

Powers of enforcement

11. For the purposes of this Order, every officer of customs shall have all powers conferred under the Customs Order, 2006 (S 39/2006), and such powers shall be in addition to the powers provided for under this Order and not in derogation thereof.

Power to prohibit entry into or leaving Brunei Darussalam

12. Where a person has committed or reasonably believed by the Controller or an officer of customs to have committed an offence under section 6, the Controller or officer of customs may prohibit such person from entering or leaving Brunei Darussalam.

PART 5

GENERAL

False or misleading information

13. Any person who, being required to provide any information or document under this Order —

(a) provides any information or document which is false or misleading in a material particular; and

(b) knows or ought reasonably to know that, or is reckless as to whether, it is false or misleading in a material particular,

is guilty of an offence and liable on conviction to a fine not exceeding \$8,000, imprisonment for a term not exceeding one year or both.

Obstruction etc. of officer of customs

14. Any person who obstructs, hinders, resists or deceives any officer of customs in the performance and execution of his duty or anything which he is empowered or required to do by virtue of or under this Order is guilty of an offence and liable on conviction to a fine not exceeding \$16,000, imprisonment for a term not exceeding 9 months or both.

Protection from personal liability

15. No suit or other legal proceedings shall lie personally against the Controller, any officer of customs or any person acting under the direction of the Controller which is done in good faith or intended to be done in the execution or purported execution of this Order.

Composition of offences

16. (1) The Controller or any person authorised in writing in that behalf by the Controller may compound any offence against this Order by collecting from the person reasonably suspected of having committed that offence a sum not exceeding \$500.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

Power to waive charges

17. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, waive the charges payable under this Order.

Jurisdiction of Courts of Magistrates

18. Notwithstanding the provision of any written law to the contrary, the Court of a Magistrate shall have jurisdiction to try any offence under this Order and to award the full penalty for such offences.

Offences committed by bodies corporate and by agents and servants

19. (1) Where an offence against this Order or any regulations made thereunder has been committed by a body corporate, a partnership or an unincorporated association of persons, any person who at the time of the commission of the offence was a director, manager, partner, secretary or other similar officer thereof, or was purporting to act in any such capacity is guilty of that offence unless he proves —

(a) that the offence was committed without his consent or connivance;
and

(b) that he had exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where an offence against this Order or any regulations made thereunder is committed by any person acting as an agent or servant of another person, or being otherwise subject to the supervision or instruction of another person for the purposes of any employment in the course of which the offence was committed, that other person, without prejudice to the liability of the first-mentioned person, is liable under this Order or any regulations made thereunder in the same manner and to the same extent as if he had personally committed the offence if it is proved that the act which constituted the offence was committed with his consent or connivance or that it was attributable to any neglect on his part.

Amendment of Schedules

20. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, amend the Schedules to this Order.

Regulations

21. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as he considers necessary or expedient for giving effect to and carrying out the provisions of this Order, including the prescription of fees and other things required to be or which may be prescribed under this Order, and for the due administration thereof.

Consequential amendment to S 32/2000

22. The Road Traffic (Collection of Tolls) Order, 2000 is amended by repealing Schedule 2.

SCHEDULE 1 (sections 3(2) and 20)

PERSONS OR CLASS OF PERSONS TO WHICH THIS ORDER DOES NOT APPLY

1. Occupants of the following vehicles —

(a) a vehicle which belongs to the Government or a government of another country when it is being used for official purpose;

(b) a vehicle which belongs to the military forces raised and maintained under the Royal Brunei Armed Forces Act (Chapter 149);

(c) a vehicle when it is being used for fire fighting, ambulance or police purposes;

(d) a vehicle when it is being used for the purpose of a funeral.

2. Public officer in the execution of their duties.
3. A child of the age of 2 years or below.
4. Consular officers and consular employees as defined in Article 1 in the First Schedule to the Consular Relations Act (Chapter 118) and members of their families.
5. A diplomatic agent as defined in the Schedule to the Diplomatic Privileges (Vienna Convention) Act (Chapter 117).
6. Any person or class of persons as the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, exempt from the provision of this Order.

SCHEDULE 2
(sections 7 and 20)

EXIT CHARGES AND ENTRY CHARGES

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|------------------|----------------|
| 1. Exit charges | \$3 per person |
| 2. Entry charges | \$3 per person |

Made this 1st. day of Zulkaedah, 1441 Hijriah corresponding to the 23rd. day of June, 2020.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.