

No. S 29

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

OLD AGE AND DISABILITY PENSIONS ACT (AMENDMENT) ORDER, 2021

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(Order made under Article 83(3))

OLD AGE AND DISABILITY PENSIONS ACT (AMENDMENT) ORDER, 2021

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 and commencement

1. This Order may be cited as the Old Age and Disability Pensions Act (Amendment) Order, 2021 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*.

Substitution of long title of Chapter 18

2. The long title of the Old Age and Disability Pensions Act, in this Order referred to as the Act, is repealed and the following new long title is substituted therefor —

“An Act to provide for pecuniary benefit by way of old age pensions and allowances for persons suffering from blindness, Hansen’s disease, mental disorder and disability and for their care providers and such other pensions and allowances as prescribed and for all matters incidental thereto”.

Amendment of section 1

3. Section 1 of the Act is amended by deleting “and Disability Pensions” and by substituting “Pensions and Disability Allowances” therefor.

Amendment of section 2

4. Section 2 of the Act is amended —

(a) by deleting the definition of “dependant”;

(b) by deleting the definition of “member of the family”;

(c) in the definition of “statutory conditions”, by deleting the semicolon and by substituting a full stop therefor;

(d) by deleting the definition of “system of personal law”;

(e) by inserting the following new definitions in the appropriate alphabetical order —

“benefit” means the pension and allowance referred to in section 7;

“Competent Authority” means the Competent Authority appointed under section 12(4);

“medical practitioner” means a medical practitioner registered under the provisions of the Medical Practitioners and Dentists Act (Chapter 112) and includes a Government Medical Officer or Government Medical Practitioner;

“mental disorder” has the same meaning as in the Mental Health Order, 2014 (S 25/2014);

“no national status” means the status in which a person is neither a national or citizen of Brunei Darussalam nor a national or citizen of any other State or country;

“old age pension” means the old age pension referred to in section 7(a);”.

Amendment of section 3

5. Section 3 of the Act is amended, in subsection (1), by inserting “or rules” immediately after “regulations” in the last line.

Substitution of section 4

6. Section 4 of the Act is repealed and the following new section is substituted therefor —

“Pensions etc. to be charged on Retirement Fund etc.

4. (1) There shall be charged on and paid out of the Retirement Fund such sums of money as may from time to time be granted by way of old age pensions in pursuance of this Act.

(2) There shall be charged on and paid out of the Consolidated Fund such sums of money as may from time to time be granted by way of allowances in pursuance of this Act.”.

Substitution of section 7

7. Section 7 of the Act is repealed and the following new section is substituted therefor —

“Description of pensions and allowances

7. The following pensions and allowances may, in accordance with the regulations contained in the Schedule, be granted in pursuance of this Act —

- (a) old age pensions;
- (b) allowances for the blind;
- (c) allowances for any person suffering from Hansen's disease;
- (d) allowances for mental disorder;
- (e) disability allowances;
- (f) care provider allowances;
- (g) such other pensions and allowances as the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, prescribe.”.

Amendment of section 9

8. Section 9 of the Act is amended by deleting “A pension or other” from the first line and by substituting “Any pension or” therefor.

Amendment of section 10

9. Section 10 of the Act is amended —

- (a) in subsection (1) —
 - (i) by deleting “other” from the first line;
 - (ii) by deleting “, subject to section 11,” from the last line;
- (b) in subsection (2) —
 - (i) by deleting the colon from the line immediately before the proviso and by substituting a full stop therefor;
 - (ii) by deleting the proviso.

Repeal of section 11

10. Section 11 of the Act is repealed.

Substitution of section 12

11. Section 12 of the Act is repealed and the following new section is substituted therefor —

“Eligibility conditions for benefit

12. (1) No pension or allowance shall be granted or payable in pursuance of this Act unless —

(a) the person to whom such pension or allowance is granted —

(i) is a citizen of Brunei Darussalam;

(ii) is a person who was born in Brunei Darussalam and has no national status; or

(iii) is a permanent resident and has no national status; and

(b) he maintains a physical presence in Brunei Darussalam for 183 days or more within a specified period.

(2) No old age pension shall be granted or payable to any permanent resident who was born outside Brunei Darussalam and has no national status unless he has residence within Brunei Darussalam for a period of at least 20 years immediately preceding the date on which he became eligible for such pension.

(3) For the purposes of this section, physical presence in or residence within Brunei Darussalam shall include any period —

(a) of absence spent in service on board a vessel registered in Brunei Darussalam by a person who before his absence on that service was living in Brunei Darussalam;

(b) spent abroad in any service under the Government, or as the wife or servant of a person in any such service;

(c) spent abroad by any person during which that person has maintained or assisted in maintaining any dependant in Brunei Darussalam;

(d) spent abroad by any person for reasons of health;

(e) spent abroad by any person for the purpose of education.

(4) The Minister of Home Affairs shall, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint such person or body of persons as he thinks fit to be the Competent Authority responsible for the certification that a person claiming the benefit has no national status and has physical presence in or residence within Brunei Darussalam for the purposes of subsections (1) and (2) and notice of such appointment shall be published in the *Gazette*.

(5) Any person aggrieved by any decision of the Competent Authority pursuant to the exercise of the function of the Competent Authority under subsection (4) may appeal to the Minister of Home Affairs within 21 days of being notified of such decision, and the decision of the Minister of Home Affairs shall be final.

(6) In this section —

“dependant” means any person who satisfies the Pensions Officer that —

(a) he is a member of the family of any person fulfilling the statutory conditions; and

(b) his requirements are normally mainly provided for by the person fulfilling such statutory conditions;

“specified period” means a period of 12 months commencing from any one of the following —

(a) from 1st January of the year in which a claim is made;

(b) from 1st January of the year immediately preceding the year in which a claim is made.”.

Amendment of section 15

12. Section 15 of the Act is amended, in subsection (1), by deleting “, to the Secretary to the Council of Ministers within 21 days, or such longer time as His Majesty in Council may allow, of being notified of such order, action or decision, as the case may be” from the last three lines and by substituting “within 21 days of being notified of such order, action or decision” therefor.

Amendment of section 16

13. Section 16 of the Act is amended, in subsection (2), by deleting “Government Medical Officer, or by any qualified medical practitioner approved by the Director-General of Medical Services” from the fourth, fifth and sixth lines and by substituting “medical practitioner” therefor.

Amendment of section 18

14. Section 18 of the Act is amended —

(a) in the section heading, by deleting “Medical Officer’s certificate” and by substituting “Certificate” therefor;

(b) by inserting “or Government Medical Practitioner” immediately after “Officer” in the second line.

Substitution of section 20

15. Section 20 of the Act is repealed and the following new section is substituted therefor —

“Double benefit payable

20. Where any person fulfils the statutory conditions relating to —

(a) the old age pensions; and

(b) any one of the allowances referred to in section 7(b), (c), (d), (e) and (f).

both benefits shall be payable to that person.”.

Amendment of section 21

16. Section 21 of the Act is amended by deleting “, a Deputy Public Prosecutor or the Controller”.

Amendment of section 23

17. Section 23 of the Act is amended —

(a) by deleting “Controller, with the approval of the Minister, may” from the first line and by substituting “Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan,” therefor;

(b) in paragraph (e), by deleting “and the allowances to be paid to members of such committees”.

Consequential amendment to Chapter 208

18. Section 5 of the Sustainability Fund Act is amended, in subsection (4), by deleting paragraph (a) and by substituting the following new paragraph therefor —

“(a) all pensions granted by the Old Age Pensions and Disability Allowances Act (Chapter 18);”.

Made this 12th. day of Zulkaedah, 1442 Hijriah corresponding to the 23rd. day of June, 2021 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

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