

LAWS OF BRUNEI

CHAPTER 5 SUPREME COURT

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**CHAPTER 5
SUPREME COURT**

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SUPREME COURT ACT

An Act to provide for the establishment of a Supreme Court in and for Brunei Darussalam and to provide for the hearing of appeals from such Court

Commencement: 16th September 1963
[S 154/63]

Short title.

1. This Act may be cited as the Supreme Court Act.

Interpretation.

2. In this Act —

“Court” means a Court established by this Act;

“Registrar” means the Chief Registrar, Deputy Chief Registrar, Senior Registrar and Registrar of the Supreme Court;

“Director” means the Director of Financial Services;

“Judge” means a Judge of the Supreme Court and includes the President of the Court of Appeal, the Chief Justice and a Commissioner of the Supreme Court;

“Rules of Court” means rules of court made under this Act and includes forms.

Supreme Court.

3. There shall be a Supreme Court in Brunei Darussalam with such jurisdiction as is conferred by this Act.

Constitution of the Supreme Court.

4. The Supreme Court shall consist of the President, the Chief Justice, the Judges and the Judicial Commissioners of the Supreme Court.

Seal.

5. The Supreme Court shall have and use as occasion may require a seal of such nature and patent as the Chief Justice may, by notification in the *Gazette*, prescribe.

Divisions and jurisdiction of the Supreme Court.

6. (1) The Supreme Court shall be a Court of Record and shall consist of —

(a) the High Court which shall exercise original and appellate criminal and civil jurisdiction; and

(b) the Court of Appeal which shall exercise appellate criminal and civil jurisdiction.

(2) The Judges of the High Court shall be the Chief Justice and such number of Judges as may be prescribed from time to time by His Majesty the Sultan and Yang Di-Pertuan in Council.

(3) The Judges of the Court of Appeal shall be the President and 2 Judges.

(4) Whenever during any period, owing to illness or absence from Brunei Darussalam or any other cause, the President is unable to exercise the powers or perform the duties of his office such powers shall be had and may be exercised and such duties shall be performed by the Judge having precedence next after the President who is present in Brunei Darussalam and able to act during that period.

(5) (*Repealed*).

[S 19/91]

(6) (*Repealed*).

[S 19/91]

Appointment of Judges.

7. (1) The Judges of the Supreme Court shall be appointed by His Majesty by instrument under His Sign Manual and the State Seal.

(2) A person shall not be qualified for appointment as a Judge of the Supreme Court unless —

- (i) he is, or has been, a judge of a Court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a Court having jurisdiction in appeals from any such Court; or
- (ii) he is entitled to practice as an advocate in such a Court and has been entitled for not less than 7 years to practice as an advocate or solicitor in such a Court.

Tenure of Office.

8. (1) Subject to the provisions of this section, a person holding the office of a Judge of the Supreme Court shall vacate that office on attaining the age of 65 years or such later time as His Majesty may approve.

(2) A Judge of the Supreme Court may be removed from office only for inability to perform the functions of his office or for misbehaviour and shall not be so removed except in accordance with this section.

(3) A Judge of the Supreme Court shall be removed from office by His Majesty if the question of the removal of that Judge has been referred by Her Britannic Majesty at the request of His Majesty to the Judicial Committee of Her Britannic Majesty's Privy Council and the Judicial Committee has advised that the Judge ought to be removed from office for inability or misbehaviour.

(4) Where His Majesty has made such request as set out in subsection (3) His Majesty may suspend a Judge for performing the functions of his office pending the advice of Her Britannic Majesty's Privy Council.

Remuneration of Judges.

9. (1) The remuneration of the Judges of the Supreme Court shall be prescribed by His Majesty in Council and such remuneration shall be charged upon the Consolidated Fund.

(2) Remuneration for the purposes of subsection (1) of this section shall include any monies which may become payable in respect of the services of the Judges of the Supreme Court under any agreement entered into by Brunei Darussalam for the provision of such Judges and of their services.

Oath of Office.

10. A Judge of the Supreme Court shall not enter upon the duties of his office unless he has taken and subscribed the oath of office in such form as may be prescribed by His Majesty in Council.

Appointment of Judicial Commissioner.

11. (1) His Majesty may from time to time by instrument under His Sign Manual appoint a person qualified under section 7(2) of this Act to be a Judicial Commissioner of the Supreme Court.

(2) The terms of the appointment of any such Judicial Commissioner shall be set out in his Instrument of Appointment and he shall hold office for such period as may be specified in that Instrument.

(3) For the duration of his appointment the provisions of subsection (1), (2), (3) and (4) of section 8 shall apply to a Judicial Commissioner appointed under this section as they apply in relation to a Judge of the Supreme Court.

(4) The provisions of section 9 of the Act shall apply to the remuneration of such Judicial Commissioner.

(5) A Judicial Commissioner appointed under this section shall have power to act as a Judge of the Supreme Court and all things done by him in accordance with the terms of his appointment shall have the same validity and effect as if they had been done by a judge and in respect thereof he shall have the same powers and enjoy the same immunities as if he had been a judge.

(6) Section 10 of this Act shall apply to a Judicial Commissioner appointed under this section.

Rules of Court.

12. (1) Subject to the provisions of this Act the Judges of the Supreme Court may with the approval of His Majesty make Rules of Court for regulating the practice and procedure of the Supreme Court.

(2) All Laws or Rules of Court in force in Brunei Darussalam immediately before this Act came into force relating to practice and procedure in the Courts referred to in section 6(5) of this Act shall, except insofar as they may be inconsistent with the provisions of this Act or any

Rules of Court made thereunder or amended, or revoked by any such Rules of Courts, apply in relation to the practice and procedure of the High Court and Court of Appeal established by this Act and for that purpose shall be construed subject to such modifications as may be necessary to bring them into conformity with the provisions of this Act.

Enabling Power.

13. His Majesty in Council may by order make such provisions as may appear to him to be necessary or expedient —

(a) for giving effect to the provisions of this Act;

(b) for the purpose of bringing the provisions of any written law (other than the Constitution of Brunei Darussalam) into accord with the provisions of this Act or any other order made thereunder.

Appeals from the Court. [S 19/91; S 1/95]

14. (1) Subject to, and in accordance with, any Order in Council or any other law or rule for the time being in force relating to appeals from the Court, an appeal in any civil cause or matter shall, with the leave of the Court, lie from the Court to His Majesty and shall be referred by His Majesty to the Judicial Committee of Her Britannic Majesty's Privy Council.

(2) Notwithstanding any Order in Council or any other law or rule for the time being in force relating to appeal from the Court, no appeal in any criminal cause or matter shall lie from the Court to His Majesty.

Sitting of Supreme Court. [S 23/91; S 11/93]

15. (1) The Chief Justice may appoint such places as he thinks fit as Court houses for the Supreme Court.

(2) Any place in which the Supreme Court is held is deemed to be an open Court to which the public generally may have access:

Provided that —

(a) the Supreme Court shall have power to hear any proceedings or any part thereof in camera if the Court is satisfied that it is expedient in the interests of justice, public security or propriety or for other sufficient reason so to do;

(b) the Supreme Court shall ordinarily exclude a witness until he has given evidence in proceedings where the Court is exercising a criminal jurisdiction.

(3) The Supreme Court may at any time order that no person shall publish the name, address or photograph of any witness in any proceedings or any evidence or any other thing liable to lead to the identification of any such witness; and any person who acts in contravention of any such order shall, notwithstanding any other written law, be liable to a fine of \$5,000 and to imprisonment for one year or both.

PART II

[S 19/91]

JURISDICTION AND POWERS OF THE SUPREME COURT

Civil Jurisdiction of High Court.

16. (1) The civil jurisdiction of the High Court shall consist of —
- (a) original jurisdiction and authority of a like nature and extent to that held and exercised by the Chancery, Family and Queen's Bench Divisions of the High Court in England; and
 - (b) such other jurisdiction, whether original or appellate, as may be conferred upon it by this or any other written law.

Criminal Jurisdiction of High Court.

17. The criminal jurisdiction of the High Court shall consist of such jurisdiction, whether original or appellate, as may be conferred upon it by this or any other written law.

Civil Jurisdiction of Court of Appeal.

18. The civil jurisdiction of the Court of Appeal shall consist of —
- (a) appeals from a judgment or order of the High Court in a civil cause or matter; and

(b) such other jurisdiction as may be conferred upon it by this or any other written law.

Criminal jurisdiction of Court of Appeal.

19. The criminal jurisdiction of the Court of Appeal shall consist of —

(a) appeals from the High Court; and

(b) *(Repealed)*.

[S 11/92]

(c) such other jurisdiction as may be conferred upon it by this or any other written law.

When civil appeal lies to Court of Appeal.

20. (1) Subject to subsection (2), an appeal shall lie as of right to the Court of Appeal from every judgment or order of the High Court in a civil cause or matter.

(2) No such appeal shall lie —

(a) from any order allowing an extension of time for appealing against a judgment or order; or

(b) from any judgment or order expressed to be final by any law; or

(c) from any order made with consent of the parties thereto; or

(d) from any order relating only to costs; or

(e) without leave of the High Court or Court of Appeal, if the amount or value of the subject matter of the trial does not exceed 10 thousand dollars; or

(f) without leave of the High Court or Court of Appeal, from any interlocutory order of judgment.

(3) Any reference in this section to the High Court shall include a reference to any other Court, person or tribunal from which appeal lies to the Court of Appeal.

21. (Repealed). [S 11/92]
22. (Repealed). [S 11/92]
23. (Repealed). [S 11/92]
24. (Repealed). [S 11/92]

Decision and reasons.

25. (1) The High Court and the Court of Appeal, as the case may be, shall pronounce a decision at the conclusion of the hearing or at some time thereafter.

(2) Such court may give reasons for its decision, if it so wishes, at the conclusion of the hearing or at any time thereafter.

(3) The decision, and reasons if any, may be given orally or in writing.

(4) Such decision, and reasons if any, may be sent to the parties and it shall not be necessary for them to appeal in person or by counsel.

Absence of judge of Court of Appeal.

26. (1) If at any time before delivery of a decision, or of the reasons if any therefor, a Judge of the Court of Appeal is unable, for any reason, to attend the proceedings or otherwise exercise his functions as a Judge, the hearing of the appeal shall continue, if the parties consent.

(2) In such an event, the appeal shall be decided in accordance with the opinion of a majority of the remaining judges. If there is no majority, the decision appealed against shall stand.

Authority of Courts.

27. For the purposes of and incidental to the hearing and determination of any appeal, the High Court and Court of Appeal, as the case may be, shall have the powers and jurisdiction of the Court, person or tribunal from which

or whom the appeal was brought, in addition to any powers which may be conferred upon it by this or any written law.

28. (Repealed).

[S 85/00]

Powers of Registrar.

29. (1) In addition to such powers and duties as may by this or any other written law be conferred or imposed upon him, the Registrar, whenever there is no Judge present in Brunei Darussalam or no Judge present and able to exercise his functions as a Judge, shall have and may exercise all the powers of the Court or a Judge under this and any other written law.

(2) The Registrar may also exercise such powers and perform such duties as are exercised and discharged by a Master or like officer of the Supreme Court in England, subject to the provisions of any written law.

(3) (Repealed).

[S 85/00]

Chief Registrar, Deputy Chief Registrar, Senior Registrars and Registrars.

30. (1) His Majesty may appoint a Chief Registrar, a Deputy Chief Registrar, Senior Registrars and Registrars for the Supreme Court.

(2) The Chief Registrar, Deputy Chief Registrar, Senior Registrars and Registrars shall be *ex-officio* commissioners for oaths and notaries public.

Subordinate officers.

31. There shall be attached to the Supreme Court such interpreters, clerks, bailiffs, process-servers and other officers as, from time to time, appear to the Chief Justice to be necessary for the administration of justice and the due execution of all powers and duties which are vested in the Supreme Court.

Contempt.

32. Notwithstanding any other written law, where any contempt is committed in the face of the Supreme Court, the court may at any time

before rising on the same day, take cognizance of the offence, record the facts constituting the offence and the statement, if any, made by the offender and sentence the offender to a fine not exceeding \$10,000 or to imprisonment not exceeding one year or to both:

Provided that the court may, in its discretion —

(a) discharge the offender or remit the punishment on his making an apology to the satisfaction of the court;

(b) in lieu of taking cognizance of the offence, authorise a prosecution.

Protection of judicial and other officers.

33. (1) A judicial officer shall not be liable to be sued in any court for any act done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction, provided that he at the time in good faith believed himself to have jurisdiction to do that act.

(2) No officer of the Supreme Court or other person charged with the duty of executing any writ, summons, warrant, order, notice or other mandatory process of the Supreme Court shall be liable to be sued for the execution of or attempting to execute such writ, summons, warrant, order, notice or other mandatory process, or in respect of any damage caused to any property in effecting or attempting to effect execution, unless he knowingly acted in excess of the authority conferred upon him by such writ, summons, warrant, order, notice or other mandatory process in question, and he shall not be deemed to have acted knowingly in excess of his authority merely by reason of the existence of a dispute as to the ownership of any property seized under any writ or order or execution.