

# **LAWS OF BRUNEI**

## **CHAPTER 105**

### **NEWSPAPERS ACT**

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## LAW OF BRUNEI

## REVISED EDITION 2013

## CHAPTER 105

## NEWSPAPERS

## ARRANGEMENT OF SECTIONS

## Section

1. Citation.
2. Interpretation.
3. Permit.
- 3A. No newspaper to be published without permit.
- 3B. Permit required for sale and distribution in Brunei Darussalam of overseas newspaper.
- 3C. Local newspaper company.
- 3D. Funds from foreign source for purposes of newspaper other than commercial purposes prohibited.
4. Suspension of publication.
5. *Repealed.*
6. *Repealed.*
7. Publication of false news.
8. Unlawful to furnish incorrect particulars.
9. Certified extract from newspaper register to be admissible in evidence.
10. Search, seizure and forfeiture.
- 10A. Power to seize and detain illegal newspapers.

11. Vicarious responsibility of proprietor, printer, publisher and editor.
12. Service of process.
13. Copies of newspapers to be delivered.
14. Cessation of publication etc.
15. Regulations.
16. Exemption.

FIRST SCHEDULE — PERMIT FEES

SECOND SCHEDULE — AMOUNT OF DEPOSIT

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## NEWSPAPERS ACT

**An Act to regulate the printing, publishing, production and reproduction of newspapers in Brunei Darussalam including matters relating to the collection and publication of news and the distribution of newspapers**

*Commencement: 1st January 1959*

### **Citation.**

1. This Act may be cited as the Newspapers Act.

### **Interpretation.**

2. In this Act —

“local magazine” means a magazine printed in Brunei Darussalam;

“local newspaper” means a newspaper printed in Brunei Darussalam and includes a local magazine;

“Minister” means the Minister of Home Affairs;

“newspaper” means any publication containing news, intelligence, reports of occurrences, or any remarks, observations or comments, in relation to such news, intelligence or occurrences, or to any other matter of public interest, or any magazine, comic or other form of periodical, printed for sale or free distribution at regular or irregular intervals and includes a supplement thereto but does not include any publication issued by or under the authority of the Government or of any public body;

“overseas newspaper” means a newspaper other than a local newspaper;

“Registrar” means such officer as may be appointed by His Majesty the Sultan and Yang Di-Pertuan to act as Registrar of Newspapers, and includes any person appointed by His Majesty to act as Deputy Registrar of Newspapers.

**Permit.**

3. (1) Upon receiving an application to obtain a permit under this Act and on payment of the fee prescribed in the First Schedule and of any deposit of the amount prescribed in the Second Schedule, the Minister may grant a permit subject to such conditions as he may determine, which shall be endorsed thereon.

(2) Without prejudice to the generality of subsection (1), the Minister may, in determining the conditions of the permit, specify that the maximum number of copies for each issue of the newspaper which may be printed, published, sold or distributed in Brunei Darussalam shall be determined by him.

(3) Every such permit, unless sooner revoked or suspended, shall be valid for one year from the date of its issue, and may be renewed for further periods not exceeding 12 months in respect of each renewal.

(4) The Minister may, after giving the applicant or permit holder, as the case may be, an opportunity to be heard, at any time and on any grounds and without assigning a reason therefor, refuse to grant or revoke, or may suspend for such period as he thinks fit, a permit to any local newspaper or any overseas newspaper.

(5) Any decision of the Minister to refuse to grant, revoke or suspend the permit shall be final and shall not be called in question by any court on any ground whatsoever.

(6) Notice of the grant, refusal to grant, revocation or suspension of a permit under this section shall be published in the *Gazette*.

(7) The deposit under subsection (1) shall be available to pay any fine which may be imposed upon the proprietor, printer, publisher or editor of the newspaper in question, either under this Act or in respect of any matter appearing in the newspaper, and shall also be available to pay any damages that may be awarded in any action for libel in respect of any matter appearing in the newspaper and the costs of any such action.

(8) The Registrar may direct that the whole of such deposit or such part as may be necessary shall be paid out in respect of such fine, damages or costs and that the deposit shall be maintained to the amount prescribed in the Second Schedule.

(9) The proprietor, printer, publisher or editor may, at any time, give notice to the Registrar that he does not desire to renew the permit and the Registrar may, after the expiry of the permit, direct that the sum deposited in respect of the newspaper, or so much of such sum as remains deposited, shall be paid to the person entitled to receive it.

**No newspaper to be published without permit.**

**3A.** (1) Subject to subsection (2), no person shall print, publish or assist in the printing or publishing of any newspaper in Brunei Darussalam unless the proprietor, printer, publisher or editor of the newspaper has previously obtained a permit granted by the Minister authorising the publication thereof.

(2) No permit shall be granted to the proprietor, printer, publisher or editor of any newspaper whose publication would constitute an offence under section 3C.

(3) Any person who contravenes this section or fails to comply with any condition imposed under section 3(1) is guilty of an offence and liable on conviction to a fine not exceeding \$40,000, imprisonment for a term not exceeding 3 years or both.

**Permit required for sale and distribution in Brunei Darussalam of overseas newspaper.**

**3B.** (1) No overseas newspaper shall be published, sold, offered for sale or printed for distribution in Brunei Darussalam unless the proprietor of the newspaper or his agent has previously obtained a permit granted by the Minister authorising the publication, sale or distribution of the newspaper in Brunei Darussalam.

(2) Every such permit shall have effect in respect of the proprietor to whom it was granted or his agent.

(3) The Minister may impose as conditions of the grant of a permit that the proprietor shall —

(a) establish and maintain a place of business within Brunei Darussalam;

(b) appoint persons within Brunei Darussalam authorised to accept service of any notice or legal process on his behalf and on behalf of the printer, publisher or editor; and

(c) furnish the Registrar with the names and addresses of the persons so appointed.

(4) Any person who contravenes this section or fails to comply with any condition imposed under section 3(1) is guilty of an offence and liable on conviction to a fine not exceeding \$4,000, imprisonment for a term not exceeding 3 years or both.

**Local newspaper company.**

**3C.** (1) No local newspaper shall be printed or published in Brunei Darussalam except by a company formed and registered under the Companies Act (Chapter 39).

(2) In every such company, the directors shall constitute citizens of Brunei Darussalam or persons to whom a Residence Permit has been granted under regulations made under the Immigration Act (Chapter 17) or both.

(3) No printer, publisher, editor, editor-in-chief or journalist, not being a citizen of Brunei Darussalam or a person to whom a Residence Permit has been granted under regulations made under the Immigration Act (Chapter 17), shall be connected in any such capacity with any such company unless he has previously obtained approval from the Office of the Prime Minister.

(4) Any person who contravenes this section is guilty of an offence and liable on conviction to a fine not exceeding \$40,000, imprisonment for a term not exceeding 3 years or both.

(5) This section shall apply to any newspaper published at intervals not exceeding one week.

[S 86/2008]

**Funds from foreign source for purposes of newspaper other than commercial purposes prohibited.**

**3D.** (1) Subject to this section, no person shall, on or after the grant or renewal of a permit under section 3, receive on behalf or for the purposes of any newspaper any funds from a foreign source without the prior approval of the Minister.

(2) The Minister may grant such approval if he is satisfied, on such information as he may require to be furnished to him, that the funds from a foreign source are intended for *bona fide* commercial purposes.

(3) Notwithstanding subsection (1), where any funds from a foreign source are sent to any person without his prior knowledge, consent or solicitation and the funds are intended for or given by the donor for the purposes of the newspaper, that person shall, within 3 days of the receipt thereof, report the circumstances and particulars of the receipt of the funds and the purposes for which the funds were received to the Minister.

(4) Where funds from a foreign source have been received by any person for the purposes of the newspaper under subsection (3) and the Minister refuses his approval for the retention of those funds, that person shall, within such time as is specified by the Minister, return them to the sender thereof or, if the sender cannot be traced, the funds shall be donated to any charity specified by the Minister.

(5) Any person who contravenes or fails to comply with subsection (1), (3) or (4) is guilty of an offence and liable on conviction to a fine not exceeding \$40,000, imprisonment for a term not exceeding 3 years or both and the Court may, in addition to any other penalty that it may impose, order the forfeiture to the Government of any funds which are the subject of the charge.

(6) (a) Any journalist who, having received any funds from a foreign source for printing or publishing any news item or article or for adopting a particular line or bias in respect of any news item or article, fails to report in writing within 7 days to the managing director of his newspaper

company the receipt of those funds is guilty of an offence and liable on conviction to a fine not exceeding \$40,000, imprisonment for a term not exceeding 3 years or both.

(b) Any funds received from outside Brunei Darussalam by a journalist shall be presumed to be from a foreign source unless proved to the contrary.

(7) Nothing in this section shall apply to any dealing by any person in the shares of a newspaper company quoted on a stock exchange in Brunei Darussalam.

(8) For the purposes of this section —

“foreign source” includes —

(a) the government of a country outside Brunei Darussalam or the agent of any such government, whether resident in Brunei Darussalam or otherwise;

(b) any company, association or society incorporated or constituted under any law in force outside Brunei Darussalam whether or not it has a branch office or place of business in Brunei Darussalam;

(c) any person who is not a citizen of Brunei Darussalam whether or not he is resident in Brunei Darussalam; or

(d) such other source outside Brunei Darussalam as the Minister may, by notification published in the *Gazette*, declare to be a foreign source for the purposes of this section;

“funds” means money, securities, movable or immovable property or other valuable consideration.

#### **Suspension of publication.**

4. (1) A Magistrate may, upon the application of the Public Prosecutor, order the suspension of the publication of any local newspaper and any overseas newspaper for a period not exceeding 6 months if —

(a) the newspaper concerned has published any matter calculated or tending to persuade or induce any person or persons whether individually or as members of the general public or as a class or section thereof —

- (i) to commit an offence; or
- (ii) to become a member of, contribute to the support of, recruit for, proselytize on behalf of or otherwise support any unlawful society within the meaning of the Societies Act (Chapter 203);

(b) the printer, publisher, or editor has been convicted of committing, in respect of anything published in that newspaper —

- (i) any offence punishable under Chapter VI of the Penal Code (Chapter 22);
- (ii) any offence against section 4 of the Sedition Act (Chapter 24);
- (iii) any offence against section 4 of the Undesirable Publications Act (Chapter 25);
- (iv) any offence of a nature prejudicial to the security of Brunei Darussalam; or
- (v) any offence of a nature prejudicial to the maintenance within Brunei Darussalam of peace or public order.

(2) A Magistrate may, upon the application of the Public Prosecutor, order that pending the determination of any proceedings against the printer, publisher or editor of a newspaper for any offence mentioned or referred to in subsection (1) —

(a) the publication of that newspaper shall be suspended; or

(b) that newspaper shall not publish any matter relating to such topics as may be specified in the order, being topics in respect of or in connection with which the offence for which proceedings are pending is alleged to have been committed or being similar or related topics.

(3) It shall be an offence —

(a) to contravene an order made under subsection (2);

(b) to print, sell or offer for sale or distribute any newspaper the publication of which, or any publication of matter in which, constitutes an offence by virtue of this subsection;

(c) during the validity of any such order to remove from the premises anything which the Commissioner of Police is directed by subsection (4) to seize upon an order suspending the registration:

Penalty, a fine of not exceeding \$40,000, imprisonment for a term not exceeding 3 years or both.

(4) When an order is made under subsection (1), the Commissioner of Police, or any police officer authorised by him in writing under his hand shall seize and detain all the machinery, type, appliances, paper, printing materials, writing materials, books, documents, writings, effects and things used to produce the newspaper the registration of which has been suspended.

(5) The Commissioner of Police or any police officer authorised by him in writing under his hand may remove anything which he is directed by subsection (4) to seize to such place or places within Brunei Darussalam as he may see fit and to keep the thing in such place or places so long as the order subsists.

(6) No order under this section shall be made unless the proprietor or editor of the local newspaper in relation to which an application is made has been given an opportunity to show cause against the making of the order.

5. *(Repealed).*

6. *(Repealed).*

#### **Publication of false news.**

7. (1) Where in any publication there is maliciously published any false news, the printer, publisher, editor and the writer thereof is guilty of an offence and liable on conviction to a fine not exceeding \$40,000, imprisonment for a term not exceeding 3 years or both.

(2) For the purposes of this section, malice shall be presumed in default of evidence showing that, prior to publication, the accused took reasonable measures to verify the truth of the news.

(3) No prosecution for an offence under this section shall be initiated without the consent in writing of the Public Prosecutor.

**Unlawful to furnish incorrect particulars.**

8. (1) Any person who certifies the correctness of any particular furnished pursuant to any requirement made under this Act shall, if such particular is incorrect, be guilty of an offence and liable on conviction to a fine not exceeding \$40,000, imprisonment for a term not exceeding 3 years or both.

(2) It shall be a defence to a charge under subsection (1) to prove that —

(a) the person charged believed the particular to be correct; and

(b) he could not with the exercise of reasonable diligence have discovered its incorrectness.

**Certified extract from newspaper register to be admissible in evidence.**

9. In any proceedings against the proprietor, printer, publisher or editor of any local newspaper or any overseas newspaper, it shall be lawful for the complainant or plaintiff to tender in evidence any entry in or certified extract from any local newspaper register, either —

(a) as proof of the truth of the matters stated in such entry or extract; or

(b) as proof that the particulars appearing in such entry or extract were furnished and certified by the informant by whom they purport to have been furnished and certified.

**Search, seizure and forfeiture.**

10. (1) It shall be lawful for any Magistrate to grant a warrant to any police officer to enter any place or board any vessel or aircraft in or on board which any contravention of this Act or of any regulations made thereunder may appear to have been committed, and to search the place, vessel or aircraft.

(2) Every such warrant shall have the effect of empowering all police officers to enter such place or board such vessel or aircraft and to search the place, vessel or aircraft and to seize anything with respect to which any contravention of this Act or of regulations made thereunder may appear to have been committed or which may appear to be or to contain evidence of any such contravention.

(3) It shall be lawful for a Magistrate, upon such notice, if any, as he may think fit, to order to be forfeited anything with respect to which an offence against this Act or against any regulations made thereunder has been committed.

(4) Anything so forfeited shall be disposed of in such manner as the Commissioner of Police may direct.

(5) It shall be lawful for the Registrar and any person appointed by the Registrar in writing under his hand at all reasonable times to enter upon any premises from which newspapers are distributed or sold and to inspect, peruse and take away a copy of any newspaper found upon such premises.

(6) Any police officer who is lawfully upon any premises or place whether in pursuance of any warrant or otherwise may seize, remove and detain anything with respect to which any offence against this Act or against any regulations made thereunder may appear to have been committed or which may appear to be or contain evidence of the commission of any such offence.

(7) Where it appears to any police officer not below the rank of Inspector that there is reasonable cause to believe that in any premises there is concealed or deposited any newspaper the printing, publication, sale or distribution of which is unlawful under any of the provisions of this Act and he has reasonable grounds for believing that by reason of the delay which

would be entailed by obtaining a search warrant the object of the search is likely to be frustrated, he may enter and search the premises as if he were empowered to do so by a warrant.

[S 36/2005]

**Power to seize and detain illegal newspapers.**

**10A.** (1) A senior officer of customs, as defined in section 2(1) of the Customs Order, 2006 (S 39/2006), a police officer not below the rank of Inspector, the Postmaster-General and the Deputy Postmaster-General may detain, open and examine any package or article which he suspects to contain any newspaper which is being or has been brought into Brunei Darussalam for the purposes of publication, sale or distribution in contravention of any of the provisions of this Act or of any condition imposed in respect of any permit.

(2) Any police officer or any officer of customs, as defined in section 2(1) of the Customs Order, 2006 (S 39/2006), may seize and detain any newspaper found in the possession of any person which the police officer or officer of customs has reasonable cause to believe has been printed, published, sold or distributed or is intended to be printed, published, sold or distributed in contravention of any of the provisions of this Act or of any condition imposed in respect of any permit.

(3) Any such newspaper which has been printed, published, sold or distributed shall, whether or not any person has been convicted of any offence in respect thereof —

(a) be forfeited by order of a court; and

(b) be destroyed or otherwise disposed of as the court directs.

[S 36/2005]

**Vicarious responsibility of proprietor, printer, publisher and editor.**

**11.** On the trial of the proprietor, printer, publisher or editor, of any local newspaper or any overseas newspaper, for any offence in which an ingredient is the publication of matter contained in any issue of such newspaper, the accused person shall be presumed to have published all matter contained in the issue, as the case may be, unless he proves that —

(a) the publication was made without his authority, consent or knowledge; and

(b) the publication did not arise from want of due care or caution on his part.

### **Service of process.**

12. Without prejudice to any other method of service, any process, civil or criminal, addressed to the proprietor, printer, publisher or editor of any local newspaper or any overseas newspaper shall, for all purposes, be deemed to be duly served if left with some adult at, or sent by registered post to, the registered address of the office of the newspaper.

### **Copies of newspapers to be delivered.**

13. (1) The publisher of every local newspaper shall, as soon as reasonably possible after any edition or varied impression of such newspaper is published, cause to be delivered to the Registrar, Director of Information, or such other officer as may be authorised in that behalf by the Minister, three copies thereof.

(2) A publisher who fails to comply with subsection (1) is guilty of an offence and liable on conviction to a fine of not exceeding \$10,000.

### **Cessation of publication etc.**

14. If any local newspaper or any overseas newspaper ceases publication, or any news agency ceases to issue bulletins, for a consecutive period of not less than 6 months, the registration thereof under any regulations for the time being in force shall be deemed to have lapsed.

### **Regulations.**

15. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for carrying this Act into effect and in particular and without prejudice to the generality of the foregoing such regulations may provide for —

(a) the registration of local newspapers, overseas newspapers and news agencies and their proprietors, printers, publishers and editors;

(b) the licensing of distributors of local newspapers and overseas newspapers;

(c) the prohibition of the distribution of local newspapers and overseas newspapers except by licensed distributors;

(d) the regulation of the distribution with or in newspapers of documents not forming an integral part thereof;

(e) the particulars to be furnished in connection with registration or licensing, notification of any change in the required particulars and the manner in which and the conditions upon which effect may be given or refused to be given, to any such change;

(f) the manner in which the identity of the printer of any local newspaper and the time of printing or publication shall be established and, in particular, for the printing of the printer's and publisher's name and address on any such newspapers;

(g) the identification of press representatives on their request by the issue of passes or otherwise by such authority as may be prescribed;

(h) granting exemption from all or any of the provisions of this Act or of any of the regulations made thereunder;

(i) fees and deposits;

(j) forms either in addition to or in substitution for the form in the Schedule;

(k) prescribing anything which is required by this Act to be prescribed;

(l) the nature and form of any document necessary for the purposes of this Act.

**Exemption.**

16. (1) The Minister may, subject to such conditions as he may impose, by order published in the *Gazette*, exempt —

- (a) any person or class of person; or
- (b) any document or class of document,

from all or any of the provisions of this Act.

(2) Nothing in this Act shall extend to the impression of any engraving or to the printing of any visiting or business card, bill-head or letter heading.

[S 36/2005]

**FIRST SCHEDULE**

(section 3(1))

## PERMIT FEES

1.	Local newspapers	\$5,000
2.	Overseas newspaper —	
	(i) less than 200 copies	\$50
	(ii) 200 to 500 copies	\$200
	(iii) 501 to 1,000 copies	\$500
	(iv) 1,001 to 4,000 copies	\$1,000
	(v) more than 4,000 copies	\$15,000

**SECOND SCHEDULE**

(section 3(1))

## AMOUNT OF DEPOSIT

1.	Local magazines	\$20,000 cash
2.	Local newspapers	\$100,000 cash

