

LAWS OF BRUNEI

CHAPTER 184

SYARIAH COURTS

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LAWS OF BRUNEI

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CHAPTER 184

SYARIAH COURTS

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SYARIAH COURTS ACT

An Act to make specific provisions in respect of the establishment of Syariah Courts, appointments, powers of Syar'ie Judge and jurisdiction of Syariah Courts and other matters connected with the proceedings of Syariah Courts, and for the determination and confirmation of the new moon

Commencement: 26th March 2001

[S 29/2001]

29th September 2004

[S 39/2019]

PART 1

PRELIMINARY

Citation

1. This Act may be cited as the Syariah Courts Act.

Interpretation

2. In this Act, unless the context otherwise requires —

“Chief Syar'ie Judge” means the Chief Syar'ie Judge appointed under section 8(1);

“Chief Syar'ie Prosecutor” means an officer appointed under section 25(1);

“Judge” means a Syar'ie Judge appointed under sections 9(1), 10(1) and 11 and includes the Chief Syar'ie Judge;

“Kadi” means a Kadi appointed under section 45(1) of the Religious Council and Kadis Courts Act (Chapter 77) and includes the Chief Kadi and the Deputy Chief Kadi;

“Majlis” means Majlis Ugama Islam constituted under section 5 of the Religious Council and Kadis Courts Act (Chapter 77);

“President of the Majlis” means a person appointed under section 13 of the Religious Council and Kadis Courts Act (Chapter 77);

“Religious Enforcement Officer” means an officer appointed under section 26 and includes the Chief Religious Enforcement Officer;

“Syariah Appeal Court Judge” means a Judge of Syariah Appeal Court appointed under section 9(1);

“Syariah Courts” means the Syariah Subordinate Courts, the Syariah High Court or the Syariah Appeal Court, as the case may be, established under section 6(1);

“Syariah High Court Judge” means a Judge of Syariah High Court appointed under section 10(1);

“Syariah Subordinate Court Judge” means a Judge of Syariah Subordinate Court appointed under section 11;

“Syar’ie Judge” means a Syar’ie Judge appointed under sections 9(1), 10(1) and 11 and includes the Chief Syar’ie Judge;

“Syar’ie Lawyer” means a person admitted as Syar’ie Lawyer under section 27(1).

(2) All words and expressions used in this Act and not defined therein but defined in the Interpretation and General Clauses Act (Chapter 4) shall have the same meanings respectively assigned thereto in that Act to the extent that they do not conflict with *Hukum Syara’*.

(3) If any conflict or doubt arises when interpreting any word or expression relating to *Hukum Syara’*, the meaning of such word or expression shall be decided according to the accepted views (*qaul muktamad*) of the *Mazhab Syafie*.

Text in Malay language shall prevail

3. If any conflict or doubt arises as to the meaning or requirement of a provision under this Act, the text in the Malay language shall prevail.

Saving of prerogative

4. Nothing contained herein shall derogate from or affect the prerogative rights and powers of His Majesty the Sultan and Yang Di-Pertuan as the Head of the Religion of Brunei Darussalam.

Exclusive jurisdiction of Syariah Courts

5. For the avoidance of doubt, it is hereby declared that no court other than a court established under Part 2 shall hear or determine any claim or proceeding under the jurisdiction of the Syariah Courts.

PART 2

SYARIAH COURTS

*Constitution and Jurisdiction***Syariah Courts**

6. (1) There are hereby established Syariah Courts consisting of Syariah Subordinate Courts, the Syariah High Court and the Syariah Appeal Court, with such jurisdiction, powers, duties and authority as are conferred and imposed by this Act and by any other written law.

(2) The Syariah Subordinate Courts, Syariah High Court and Syariah Appeal Court shall have jurisdiction throughout Brunei Darussalam.

(3) Notwithstanding subsection (2), the Syariah Courts shall have criminal jurisdiction in respect of offences committed outside Brunei Darussalam by a citizen or permanent resident of Brunei Darussalam.

Court's seal, language and record

7. (1) Every Syariah Court shall have and use where necessary a seal of such form and format as may be approved by the Majlis.

(2) (a) The Malay language shall be the language of the Syariah Courts but the Syariah Courts may in the interests of justice allow the use of any other language.

(b) All documents or records of proceedings may be written in jawi or rumi script.

(c) Every Syariah Court shall keep and maintain full and proper records relating to all actions or proceedings before it, full and proper accounts relating to all financial matters of the Syariah Court and shall account for all monies received in a manner provided by the

Financial Regulations (S 1/1983) or in such other manner as His Majesty the Sultan and Yang Di-Pertuan may direct.

(d) Any process issued by the Syariah Courts shall bear its seal and shall be signed by an authorised officer.

(e) All summonses, warrants, orders, regulations, notices and processes whatsoever, whether civil or criminal, issued or made by any Syariah Court having power in relation to matters within its jurisdiction shall have full power and effect and may be served or executed anywhere within Brunei Darussalam.

Sitting of Syariah Courts

7A. (1) The Chief Syar'ie Judge may appoint such places as he thinks fit as Court houses for the Syariah Courts.

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

Provided that —

(a) a Syariah Court shall have power to hear any proceeding 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 any other sufficient reason to do so;

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

(3) A Syariah Court may at any time order that no person shall publish the name, address or photograph of any witness in any proceeding 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 not exceeding \$5,000, imprisonment for a term not exceeding one year or both.

Subordinate officers

7B. (1) There shall be attached to the Syariah Courts such interpreters, clerks, bailiffs, process-servers and other officers as, from time to time, appear to the Chief Syar'ie Judge to be necessary for the administration of

justice and the due execution of all powers and duties which are vested in the Syariah Courts.

(2) Bailiffs, process-servers and any person generally or specially authorised by the Chief Syar'ie Judge to do so shall execute all writs, summonses, warrants, orders, notices and other mandatory processes of a Syariah Court given to them, and shall make a return of the same together with the manner of the execution thereof to the Court from which the process was issued, and shall arrest and receive all such persons and property as are committed to the custody of a Syariah Court.

(3) A bailiff or other person in executing any writ of seizure and sale or any other writ of execution or of distress may effect an entry into any building, and for that purpose, if necessary, may break open any outer or inner door or window of the building or any receptacle therein, using such force as is reasonably necessary to effect an entry.

Decision and reasons

7C. (1) A Syariah Court shall pronounce a decision at the conclusion of the hearing or at some time thereafter.

(2) A Syariah 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 appear in person or by counsel.

Appointment of Chief Syar'ie Judge

8. (1) His Majesty the Sultan and Yang Di-Pertuan may, on the advice of the President of the Majlis and after consultation with the Majlis, appoint a Chief Syar'ie Judge.

(2) A person is qualified to be appointed under subsection (1) if —

(a) he is a citizen of Brunei Darussalam; and

(b) he —

- (i) has, for a cumulative period of not less than 7 years prior to his appointment, served as either a Judge of a Syariah Court, or Kadi, or in both capacities; or
- (ii) is a person learned in *Hukum Syara'*.

Appointment of Syariah Appeal Court Judges

9. (1) His Majesty the Sultan and Yang Di-Pertuan may, on the advice of the President of the Majlis and after consultation with the Majlis, appoint and re-appoint, for a period of not exceeding 3 years, not more than five Muslims to form a standing panel of Judges, and the Chief Syar'ie Judge shall elect two of them to constitute a *quorum* of Judges in the Syariah Appeal Court for each proceedings.

(2) A person is qualified to be appointed under subsection (1) if —

(a) he is a citizen of Brunei Darussalam; and

(b) he —

- (i) has, for a cumulative period of not less than 7 years prior to his appointment, served as either a Judge of a Syariah Court, or Kadi, or in both capacities; or
- (ii) is a person learned in *Hukum Syara'*.

Appointment of Syariah High Court Judges

10. (1) His Majesty the Sultan and Yang Di-Pertuan may, on the advice of the President of the Majlis and after consultation with the Majlis, appoint Judges of the Syariah High Court.

(2) A person is qualified to be appointed under subsection (1) if —

(a) he is a citizen of Brunei Darussalam; and

(b) he —

- (i) has, for a cumulative period of not less than 7 years prior to his appointment, served as either a Judge of a Syariah Subordinate Court, or Kadi, or Registrar, or

Syar'ie Prosecutor, or in more than one of such capacities; or

(ii) is a person learned in *Hukum Syara'*.

Appointment of Syariah Subordinate Courts Judges

11. His Majesty the Sultan and Yang Di-Pertuan may, on the advice of the President of the Majlis and after consultation with the Majlis, appoint Judges of the Syariah Subordinate Courts.

Tenure of office, termination and removal of service of Syariah Courts Judge

12. (1) The Chief Syar'ie Judge and Syar'ie Judges appointed under section 8(1) or 10(1) respectively shall hold office until the age of 65 years or until such later time as may be approved by His Majesty the Sultan and Yang Di-Pertuan.

(2) The Chief Syar'ie Judge and any Syar'ie Judge appointed under sections 8(1), 9(1) and 10(1), as the case may be, may at any time resign from his office by sending to His Majesty the Sultan and Yang Di-Pertuan a letter of resignation under his hand, through the Majlis or the Chief Syar'ie Judge, as the case may be, but he may not be removed from office or his service terminated except in accordance with the provisions of subsections (3), (4) and (5).

(3) Where the Majlis or the Chief Syar'ie Judge refers a representation to His Majesty the Sultan and Yang Di-Pertuan that the Chief Syar'ie Judge, or any Syar'ie Judge appointed under sections 8(1), 9(1) and 10(1), as the case may be, should be removed or his service terminated on grounds of —

(a) misconduct; or

(b) disability, due to mental or bodily weakness or other causes, to properly perform his duty,

His Majesty the Sultan and Yang Di-Pertuan shall appoint a tribunal in accordance with subsection (4) and refer the representation to it, and may on the recommendation of the tribunal terminate the service of the Chief Syar'ie Judge or the Syar'ie Judge, as the case may be.

(4) The tribunal shall consist of not less than three Muslims who are or have been a Syar'ie Judge or Supreme Court Judge or who have been appointed as a member of the Judicial Committee of the Majlis under section 44 of the Religious Council and Kadis Courts Act (Chapter 77), and the tribunal shall be presided by the member who is the most senior:

Provided that His Majesty the Sultan and Yang Di-Pertuan may appoint any other person as he thinks fit or who is learned in *Hukum Syara'* to be a member of the tribunal.

(5) Pending any reference and report under subsection (3), His Majesty the Sultan and Yang Di-Pertuan may, on the recommendation of the Majlis or the Chief Syar'ie Judge, suspend the Chief Syar'ie Judge or the Syar'ie Judge, as the case may be, from performing his duties.

(6) Notwithstanding the provisions of subsection (1), the validity of anything done by a Syar'ie Judge shall not be questioned on ground that the Syar'ie Judge has reached the retiring age limit.

Appointment of Chief Registrar, Deputy Chief Registrar, Registrar and Assistant Registrars

13. His Majesty the Sultan and Yang Di-Pertuan may, on the advice of the Chief Syar'ie Judge, appoint a Chief Registrar of the Syariah Appeal Court, a Deputy Chief Registrar of the Syariah Appeal Court and Registrars of the Syariah High Court and Assistant Registrars of the Syariah Subordinate Courts.

Appointments to be notified

14. Notice of all appointments under this Part shall be published in the *Gazette*.

Jurisdiction of Syariah High Court

15. The Syariah High Court shall —

(a) in its criminal jurisdiction, try any offence punishable under —

- (i) the Syariah Penal Code Order, 2013 (S 69/2013);
- (ii) any written law which provides for syariah criminal offences;

- (iii) any written law relating to Islamic family law; or
- (iv) any other written law which confers on the Syariah High Court jurisdiction to try any offence,

and may impose any punishment provided therefor; and

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(b) in its civil jurisdiction, hear and determine all actions and proceedings which relate to —

- (i) betrothal, marriage (including *ta'at balik*), divorce, *khulu'*, *fasakh*, *cerai ta'liq*, determination of turns, *li'an*, *illa* or any matrimonial matter;
- (ii) any disposition of or claim to any property arising out of any matter set out in sub-paragraph (i);
- (iii) maintenance of dependants, legitimacy (*ithbatun nasab*) or guardianship or custody (*hadanah*) of infants;
- (iv) division of or claims to *harta sepencarian*;
- (v) wills or gifts during *maradal-maut* of a deceased Muslim;
- (vi) gift *inter vivos* (*hibah*), or settlement (*sulh*) made without adequate monetary consideration or value by a Muslim;
- (vii) *waqaf* or *nazar*;
- (viii) division of and inheritance of property, testate or intestate;
- (ix) determination of persons entitled to all or any part of the estate of a deceased Muslim and the parts thereof which such persons are respectively entitled to; or
- (x) other matters in respect of which jurisdiction is conferred by any written law.

Jurisdiction of Syariah Subordinate Courts

16. (1) The Syariah Subordinate Courts shall —

(a) in their criminal jurisdiction —

- (i) try any offence punishable under the Syariah Penal Code Order, 2013 (S 69/2013) where the maximum punishment provided for does not exceed \$28,000, imprisonment for a term not exceeding 7 years or both, and to whipping, and may impose any punishment provided therefor; or
- (ii) try any offence punishable under any written law which provides for syariah criminal offences, under any written law relating to Islamic family law or under any other written law which confers on the Syariah Subordinate Courts jurisdiction to try any offence, where the maximum punishment provided for does not exceed \$10,000, imprisonment for a term not exceeding 7 years or both, and may impose any punishment provided therefor;

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(b) in their civil jurisdiction, hear and determine all actions and proceedings which the Syariah High Court is empowered to hear and determine, where the amount or value of the subject matter in dispute does not exceed \$500,000 or is not capable of estimation in terms of money.

(2) His Majesty the Sultan and Yang Di-Pertuan may, on the recommendation of the Chief Syar'ie Judge from time to time, by notification published in the *Gazette*, increase the civil jurisdiction of the Syariah Subordinate Courts.

Appeal to Syariah High Court

17. (1) An appeal shall lie to the Syariah High Court from any decision of the Syariah Subordinate Courts.

(2) In its criminal jurisdiction, an appeal may be made by a Syar'ie Prosecutor or by an accused person and such appeal may be made against an acquittal, or against a conviction or sentence or both, or any part of it, or against any order of the trial Court.

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- (3) In its civil jurisdiction, an appeal may be made —
- (a) by any person aggrieved by or dissatisfied with any decision;
 - (b) in all cases involving any decision as to personal status, by any person aggrieved by or dissatisfied with the decision; and
 - (c) in all cases relating to maintenance of dependants, by any person aggrieved by or dissatisfied with the decision:

Provided that no such appeal shall lie against a decision made by consent.

(4) In any case not provided for in subsection (2) or (3), an appeal may be made if the Syariah High Court grants leave to appeal.

(5) On any appeal, the Syariah High Court may —

(a) in a criminal matter, dismiss the appeal, convict and sentence the appellant, order the trial Court to call for the defence or order further investigation, enhance or vary the sentence, order a re-trial, or vary or reverse any order of the trial Court;

(b) in a civil matter, confirm, reverse or vary the decision of the trial Court, exercise any such power as the trial Court could have exercised, make such order as the trial Court ought to have made, or order a re-trial.

Appeals and applications for leave to appeal

18. (1) An appeal or application for leave to appeal under section 17(4) shall be made to the Syariah High Court in accordance with the prescribed procedure, but shall, in any case, be within 14 days from the date of the judgment, order or decision in respect of which the appeal or application is made.

(2) The Syariah High Court, on hearing any application for leave to appeal may, on special ground, extend the period of appeal, notwithstanding that the time has expired.

Supervisory and revisionary jurisdiction of Syariah High Court

19. (1) The Syariah High Court shall have supervisory and revisionary jurisdiction over all Syariah Subordinate Courts and may, if it appears

necessary, in the interests of justice, either on its own motion or on application by any party or interested person, at any stage in any matter or proceedings, whether civil or criminal, in any Syariah Subordinate Court, call for and examine any record relating to it and may make any order necessary in the interests of justice.

(2) Whenever the Syariah High Court calls for the record under subsection (1), all proceedings in the Syariah Subordinate Courts relating to the matter or proceedings shall be suspended pending further order from the Syariah High Court.

Jurisdiction of Syariah Appeal Court

20. (1) The Syariah Appeal Court shall have jurisdiction to hear and determine any appeal against any decision made by the Syariah High Court in the exercise of its original jurisdiction.

(2) Whenever an appeal against a decision of the Syariah Subordinate Court has been determined by the Syariah High Court, the Syariah Appeal Court may, on application by any party, grant leave for any question of law in the public interest which has arisen in the course of the appeal, and where the decision of the Syariah High Court has affected the determination of the appeal, to be referred to the Syariah Appeal Court for its decision.

(3) Whenever leave is granted by the Syariah Appeal Court, it shall hear and determine the questions allowed to be referred for its decision and make any order which the Syariah High Court might have made, and as it thinks just for the disposal of the appeal.

Appeals and applications for leave to appeal

20A. (1) An appeal or application for leave to appeal under section 20(2) shall be made to the Syariah Appeal Court in accordance with the prescribed procedure, but shall, in any case, be within 30 days from the date of the judgment, order or decision in respect of which the appeal or application is made.

(2) The Syariah Appeal Court, on hearing any application for leave to appeal may, on special ground, extend the period of appeal, notwithstanding that the time has expired.

Supervisory and revisionary jurisdiction of Syariah Appeal Court

21. (1) The Syariah Appeal Court shall have supervisory and revisionary jurisdiction over the Syariah High Court and may, if it appears necessary in the interests of justice, either on its own motion or on application by any party or interested person, at any stage in any matter or proceedings, whether civil or criminal, in the Syariah High Court, call for and examine any record relating to it and may give any direction necessary in the interests of justice.

(2) Whenever the Syariah Appeal Court calls for the record under subsection (1), all proceedings in the Syariah High Court relating to the matter or proceedings shall be suspended pending further order from the Syariah Appeal Court.

No revision at instance of party who could have appealed

21A. Where an appeal lies from any decision in any civil matter and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of a party who could have appealed.

Discretion of Syariah High Court or Syariah Appeal Court as to hearing parties

21B. (1) Subject to the provisions of any written law, no party shall have any right to be heard before the Syariah High Court or the Syariah Appeal Court when exercising its powers of revision and supervision.

(2) No final order shall be made to the prejudice of any person unless that person has had an opportunity of being so heard.

Membership of Syariah Appeal Court

22. (1) An appeal in the Syariah Appeal Court shall be heard and determined by a Chairman and any two of the Syariah Appeal Court Judges as specified by the Chief Syar'ie Judge.

(2) The Chief Syar'ie Judge may appoint any Syariah High Court Judge to become a member of the Syariah Appeal Court in any specific proceeding if the Chief Syar'ie Judge thinks necessary to do so.

(3) The two persons appointed to be members of the Syariah Appeal Court under subsections (1) and (2) shall not include the Syar'ie Judge who tried or made decision on the case appealed against.

(4) The Chief Syar'ie Judge shall be the Chairman in every proceeding in the Syariah Appeal Court, and in case he is unable to perform his duty, the Chief Syar'ie Judge shall appoint the most senior amongst the Syariah Appeal Court Judges to become the Chairman.

Majority decision

23. An appeal shall be determined in accordance with the decision of the majority of the members of the Syariah Appeal Court.

Continuation of proceedings in Syariah Appeal Court notwithstanding absence of Syar'ie Judge

24. (1) If, in the course of any proceeding in an appeal or at any time before the pronouncement of judgment, any Syariah Appeal Court Judge who hears the case is unable, due to sickness or any other reason, to attend and conclude the proceedings or otherwise carry out his function as a Judge of the Court, then, if both parties agree, the hearing shall be proceeded with and judgment or reserved judgment, as the case may be, shall be given by the remaining two Syar'ie Judges available, and for the purpose of the appeal, the Court is deemed to have been duly constituted.

(2) In any such case as mentioned in subsection (1), if there is no unanimous decision, the appeal shall be re-heard.

(3) If under subsection (1), both parties do not give their consent, or more than one Syar'ie Judge is unable, due to sickness or any other reason, to attend and carry out their function as Judges of the Court, the appeal shall be re-heard.

Authority of Courts

24A. For the purposes of and incidental to the hearing and determination of any appeal, the Syariah High Court and the Syariah Appeal Court, as the case may be, shall have the powers and jurisdiction of the court, person or tribunal from which or from whom the appeal was brought, in addition to any power which may be conferred upon it by this Act or by any written law.

PART 3

PROSECUTION, INVESTIGATION AND REPRESENTATION

Appointment of Syar'ie Prosecutors

25. (1) His Majesty the Sultan and Yang Di-Pertuan may, on the advice of the President of the Majlis and after consultation with the Majlis, appoint a person who is qualified to become a Syariah High Court Judge, to be the Chief Syar'ie Prosecutor.

(2) The Chief Syar'ie Prosecutor shall have powers exercisable at his discretion to commence and carry out any proceedings for an offence before a Syariah Court.

(3) In exercise of this power the Chief Syar'ie Prosecutor shall not be subject to the direction or control of any other person or authority.

(4) His Majesty the Sultan and Yang Di-Pertuan may, on the advice of the President of the Majlis and after consultation with the Chief Syar'ie Prosecutor, appoint fit and suitable persons from members of the public service to be Syar'ie Prosecutors who shall act under the supervision and direction of the Chief Syar'ie Prosecutor and may exercise all or any right and power vested in or exercisable by the Chief Syar'ie Prosecutor himself.

Appointment of Religious Enforcement Officers

26. His Majesty the Sultan and Yang Di-Pertuan may, on the advice of the President of the Majlis and after consultation with the Majlis, appoint a fit and suitable person or persons from members of the public service to be —

(a) Chief Religious Enforcement Officer; and

(b) Religious Enforcement Officers,

to conduct an investigation into the offences under this Act or under any other written law which provides for offences against *Hukum Syara'*.

Syar'ie Lawyer

27. (1) The Chief Syar'ie Judge may, on payment of the prescribed fee, admit a person who possesses sufficient knowledge about *Hukum Syara'* and

suitable to become a Syar'ie Lawyer to represent the parties in any proceeding before any Syariah Court.

(2) No person other than a Syar'ie Lawyer shall have the right to appear as a *bil-khusumah* representative in any Syariah Court on behalf of any party to any proceeding before it.

Right of audience

27A. Subject to any written law which provides for syariah criminal procedure, in any proceeding in a Syariah Court, whether in the exercise of its criminal or civil jurisdiction, any of the following may address the Court —

- (a) any party to the proceedings;
- (b) any Syar'ie Lawyer and any person deemed to be a Syar'ie Lawyer;
- (c) any other person allowed by leave of the Court to appear instead of a party to the proceedings.

Powers of Courts and His Majesty

27B. (1) Whenever any party or any Syariah Court in any proceedings or any part thereof —

- (a) makes a reference, whether orally or in writing, directly or indirectly, to any act, decision, grant, revocation or suspension, or refusal or omission to do so, or to any exercise of or refusal or omission to exercise any power, authority or discretion by His Majesty the Sultan and Yang Di-Pertuan; or
- (b) intends to refer to any issue or matter that may, directly or indirectly, pertain to or concern the inviolability, sanctity or interests of the position, dignity, standing, honour, eminence or sovereignty of His Majesty the Sultan and Yang Di-Pertuan,

that Syariah Court shall hold such proceedings or such part thereof in camera:

Provided that His Majesty the Sultan and Yang Di-Pertuan may issue a direction in writing to that Syariah Court that such proceedings or such part thereof shall not be heard in camera.

(2) Without prejudice to His Majesty the Sultan and Yang Di-Pertuan's power in subsection (1), His Majesty the Sultan and Yang Di-Pertuan may issue a direction in writing to that Syariah Court to hold the hearing of any proceedings or any part thereof in camera.

(3) His Majesty the Sultan and Yang Di-Pertuan may issue a direction in writing to that Syariah Court to hold the hearing of any proceedings or any part thereof at such time and venue as His Majesty the Sultan and Yang Di-Pertuan may determine.

(4) Any direction issued by His Majesty the Sultan and Yang Di-Pertuan under subsection (1), (2) or (3) shall not be called in question in or be subject to any judicial review by or appeal to any Court.

(5) No person shall publish or reproduce in Brunei Darussalam or elsewhere any or any part of proceedings, including but not limited to any evidence, exhibit, judgment or document produced in any proceedings, that may have the effect of lowering or adversely affecting, directly or indirectly, the position, dignity, standing, honour, eminence or sovereignty of His Majesty the Sultan and Yang Di-Pertuan; and any person who acts in contravention of this subsection is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding one year or both.

His Majesty not compellable to attend Court

27C. (1) For the avoidance of doubt, it is hereby declared that His Majesty the Sultan and Yang Di-Pertuan shall not be compellable to attend any proceedings in or be summoned before any Syariah Court.

(2) His Majesty the Sultan and Yang Di-Pertuan may, in writing, exempt any person who is required to attend any proceedings in or summoned before any Syariah Court, from having to comply with such requirement or summons; and such exemption shall not be called in question in or be subject to any judicial review by or appeal to any Court.

PART 4

GENERAL

Rules of Court

28. The Chief Syar'ie Judge may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make Rules of Court —

(a) for regulating the practice and procedure of the Syariah Courts;

(aa) prescribing the scales of allowances, costs and fees to be taken, paid or refunded to any party or witness in any proceedings in the Syariah Courts, and to regulating any matters relating to the costs of such proceedings;

(b) to provide for the procedure, qualifications and fees for admission of Syar'ie Lawyers;

(c) to regulate, control and supervise the conduct of Syar'ie Lawyers;

(d) generally as he considers necessary or expedient for carrying into effect the provisions of this Act.

Contempt

28A. Notwithstanding any other written law, where any contempt is committed in the face of a Syariah Court, the Court may at any time before rising on the same day, take cognisance of the offence, record the facts constituting the offence and the statement, if any, made by the offender and sentence the offender —

(a) in the case of a Syariah Subordinate Court, to a fine not exceeding \$2,000, imprisonment for a term not exceeding 6 months or both;

(b) in the case of the Syariah High Court and the Syariah Appeal Court, to a fine not exceeding \$10,000, imprisonment for a term not exceeding one year or both:

Provided that the Court may —

- (i) discharge the offender or remit the punishment on his making an apology to the satisfaction of the Court;
- (ii) *in lieu* of taking cognisance of the offence, authorise a prosecution.

Remuneration of Judges

28B. (1) The remuneration of the Syar'ie Judges shall be prescribed by His Majesty the Sultan and Yang Di-Pertuan and such remuneration shall be charged upon the Consolidated Fund.

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

Protection of judicial and other officers

28C. (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 at the time in good faith he believed himself to have jurisdiction to do that act.

(2) No officer of a Syariah Court or other person charged with the duty of executing any writ, summons, warrant, order, notice or other mandatory process of a Syariah 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.

Determination and confirmation of new moon

29. (1) It shall be the duty of the Chief Syar'ie Judge at or about the beginning or end of each lunar month to make the enquiry in determining the dates of new moons on which *rukayah* may occur and also to make the

enquiry on any specified day when the new moon may be sighted and then to determine and confirm the result of *rukya* under his hand.

(2) After the enquiries mentioned in subsection (1), the Chief Syar'ie Judge shall forthwith inform the President of the Majlis who shall submit the determination and confirmation of *rukya* to His Majesty the Sultan and Yang Di-Pertuan.

(3) The determination and confirmation which has been made by the Chief Syar'ie Judge in respect of *rukya* shall be final.