

THE CONSTITUTION OF THE STATE OF
BRUNEI, 1959

THE CONSTITUTION (ADMINISTRATIVE APPEALS
RULES) ORDER, 1959

(Made under section 80)

In exercise of the powers conferred on him by section 80 of the Constitution of the State of Brunei, 1959, the Sultan has made the following Order—

1. (1) This Order may be cited as the Constitution (Administrative Appeals Rules) Order, 1959, and shall come into force on the same day as Part V of the Constitution.

(2) Notwithstanding anything in any other written law contained, wherever, in any written law, provision is made for an appeal to the Sultan in Council otherwise than by petition—

(a) this Order shall apply to the extent that specific provision is not contained in such written law;

(b) nothing therein contained shall be deemed to prevent any person from applying to the High Court for a *mandamus*, injunction, prohibition or any other order should he elect to do so, instead of appealing to the Sultan in Council, but no proceedings by way of *mandamus*, injunction, prohibition or other order shall be taken against the Sultan in Council in respect of any such provision; and

(c) every order of the Sultan in Council on any appeal under such provision shall be final and may be enforced by the High Court as if it had been an order of that court.

2. In this Order—

“applicant” means the person who initiates an appeal to the Sultan in Council;

“Clerk” means Clerk to the Executive Council;

“Constitution” means the Constitution of the State of Brunei, 1959;

Citation,
commencement
and application.

Interpretation.

“respondent” means any public servant who is concerned in such an appeal and, where no such person is specified in any written law, means the head of any department which is concerned;

“written law” means a written law in which an appeal to the Sultan in Council is provided.

No appeal in certain cases.

3. No appeal shall lie if proceedings have already been taken or initiated before the High Court or a magistrate in respect of the matter of the appeal.

Grounds of appeal.

4. A person may appeal who—

- (a) is dissatisfied with the exercise of the discretion of any person to whom discretionary power is given under a written law in respect of any act, matter or thing which is, by the written law, made subject to the exercise of the discretion of such authority;
- (b) is dissatisfied with any action or decision of any such person, either as to the carrying out of or the meaning of any of the provisions of the written law; or
- (c) considers that any of the provisions of the written law are, owing to special conditions, undesirable.

Statement of grounds of appeal in writing.

5. The grounds of such appeal shall be concisely stated in writing in the Malay or English language, and shall be delivered to the Clerk for transmission to the Sultan in Council.

Discretion of Sultan in Council as to obtaining further information.

6. The Sultan in Council may—

- (a) require the respondent to give his reasons for the exercise of his discretion, or for the action or decision, as the case may be, and to supply any further information which the Sultan in Council may require, including the record of any proceeding or hearing held in pursuance of any such written law; and
- (b) make or cause to be made such other inquiries as he may deem necessary or expedient.

Notice of hearing.

7. The Clerk shall, upon the direction of the Sultan in Council, give the applicant seven days' notice of the hearing of the appeal, and shall at the same time furnish the applicant with a copy of this Order.

Appearance.

8. The applicant may, if he so desires, be present at the hearing of such appeal and be heard in its support either in person or by his representative:

Provided that, if he elects to be heard by his representative, he shall not himself be heard except by special leave of the Sultan in Council.

Committee of Executive Council.

9. It shall be lawful for the Sultan in Council to appoint a committee consisting of members of the Executive Council for the purpose of hearing any such appeal and of advising him as to the decision that should be made thereon:

Provided that the Sultan in Council shall not be bound to accept such advice.

Power to make such order as may be just.

10. (1) If, in the opinion of the Sultan in Council, the exercise of such discretion, or such action or decision, requires modification, revocation or setting aside, or such special conditions exist as render any such provision undesirable, he may make such order in respect thereof as may be just.

(2) In such event, or if the appeal be dismissed, the applicant shall be informed of such order or such dismissal by the Clerk in writing within fourteen days of the determination of the appeal, or within such time and in such manner as the Sultan in Council shall otherwise specify.

Case stated.

11. (1) In any appeal, the Sultan in Council may at any time, in his discretion, direct a case to be stated for the opinion of the Court of Appeal on any question of law involved in any appeal submitted to him.

(2) The terms of any such case shall be agreed upon by the parties concerned or, in the event of their failure to agree, shall be settled by the Court of Appeal.

(3) The Court of Appeal shall hear and determine the question of law arising on any case stated as aforesaid, and shall remit the matter to

the Sultan in Council who shall give effect by Order to the finding of the Court. The costs of such hearing shall be in the discretion of the Court.

(4) Any party to the appeal shall be entitled to be represented by an advocate or appear in person at the hearing of any case so stated.

Made this 29th day of September, 1959,
at Our Istana Darul Hana, Brunei, Darul-Salam.

OMAR ALI SAIFUDDIN
Sultan