

No. S 54

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

LOCAL NEWSPAPERS (AMENDMENT) ORDER, 2001

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CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

LOCAL NEWSPAPERS (AMENDMENT) ORDER, 2001

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation, commencement and application.

1. (1) This Order shall be cited as the Local Newspapers (Amendment) Order, 2001 and shall commence on such date as the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may appoint by notification in the *Gazette*.

(2) This Order shall also apply to newspapers registered before the date of commencement of this Order.

Amendment of long title of Chapter 105.

2. The long title of the Local Newspapers Act, in this Order referred to as the Act, is amended by deleting "provide for the registration of newspapers printed" and by substituting "regulate the printing, publishing, production and reproduction of newspapers" therefor.

Amendment of section 1.

3. Section 1 of the Act is amended by deleting "Local".

Amendment of section 2.

4. Section 2 of the Act is amended —

(a) in the definition of "local newspaper", by inserting "and includes a local magazine" immediately after "Brunei";

(b) in the definition of "newspaper", by inserting "or any magazine, comic or other form of periodical", immediately after "interest", in the fifth line;

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

"local magazine" means a magazine printed in Brunei Darussalam;

"Minister" means the Minister of Home Affairs;

"overseas newspaper" means a newspaper other than a local newspaper;".

Repeal of section 3.

5. The Act is amended by repealing section 3 and by substituting the following new section therefor —

" 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 the same."

Insertion of new sections 3A, 3B, 3C and 3D.

6. The Act is amended by inserting the following four new sections immediately after section 3 —

"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 subsection (1) of section 3 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 establish and maintain a place of business within Brunei Darussalam, that he shall 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 that he shall 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 subsection (1) of section 3 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.

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.

Funds from foreign source for the purposes of a 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 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."

Amendment of section 4.

7. Section 4 of the Act is amended —

(a) in subsection (1) —

(i) by deleting "registration" from the second line and by substituting "publication" therefor;

(ii) by inserting "and any overseas newspaper" immediately after "newspaper" in the third line;

(b) in subsection (3), by deleting "imprisonment for 6 months and a fine of \$5,000" from the last two lines and by substituting "a fine of not exceeding \$40,000, imprisonment for a term not exceeding 3 years or both" therefor;

(c) in the marginal note, by deleting "registration" and by substituting "publication" therefor.

Repeal of sections 5 and 6.

8. Sections 5 and 6 of the Act are repealed.

Substitution of section 7.

9. The Act is amended by repealing section 7 and by substituting the following therefor —

" 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."

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Amendment of section 8.

10. Subsection (1) of section 8 of the Act is amended by deleting "imprisonment for 6 months and a fine of \$5,000" from the last two lines and by substituting "a fine not exceeding \$40,000, imprisonment for a term not exceeding 3 years or both" therefor.

Amendment of section 9.

11. Section 9 of the Act is amended by inserting "or any overseas newspaper" immediately after "newspaper" in the second line.

Amendment of section 11.

12. Section 11 of the Act is amended by inserting "or any overseas newspaper" immediately after "newspaper" in the second line.

Amendment of section 12.

13. Section 12 of the Act is amended by inserting "or any overseas newspaper" immediately after "newspaper" in the third and fourth line.

Amendment of section 13.

14. Section 13 of the Act is amended —

(a) in subsection (1) —

(i) by inserting "Registrar," immediately after "the" in the fourth line;

(ii) by deleting "His Majesty in Council" from the last two lines and by substituting "the Minister" therefor;

(b) in subsection (2), by deleting "of \$500" and by substituting "not exceeding \$10,000" therefor;

(c) in the marginal note, by deleting "to the Director of Information".

Amendment of section 14.

15. Section 14 of the Act is amended by inserting "or any overseas newspaper" immediately after "newspaper" in the first line.

Amendment of section 15.

16. Section 15 of the Act is amended —

(a) by deleting "His Majesty in Council" from the first line and by substituting "The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan," therefor;

(b) in paragraph (a), by inserting ", overseas newspapers" immediately after "newspapers" in the first line;

(c) in paragraph (b), by adding "and overseas newspapers" immediately after "newspapers";

(d) in paragraph (c), by inserting "and overseas newspapers" immediately after "newspapers";

(e) in paragraph (k), by deleting the fullstop and by substituting ";" therefor;

(f) by adding the following new paragraph —

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

Addition of Schedules.

17. The Act is amended by adding the following two new Schedules —

"FIRST SCHEDULE	section 3(1)
Permit Fees	
1. Local newspapers	\$5,000
2. Overseas newspapers —	
(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

Amount of Deposit	
Local magazines	\$20,000 cash
Local newspapers	\$100,000 cash .".

Amendment of Local Newspaper Regulations.

18. The Local Newspaper Regulations is amended –

(a) in regulation 8 –

(i) by deleting "permit" from the first line and by substituting "print" therefor;

(ii) by deleting "news-newspaper" from the last line and by substituting "newspaper." therefor;

(b) by revoking regulation 12 and by substituting the following new regulation therefor –

"Registration fee.

12. A fee of \$100 shall be payable on registration under regulation 2."

Making of Newspapers (Permit) Regulations, 2001.

19. The following Regulations are hereby made –

"Citation.

1. These Regulations may be cited as the Newspapers (Permit) Regulations, 2001.

Application for permit.

2. Every application for a permit under the Act shall be made in such form as the Minister may determine.

Form of permit.

3. The permit granted under the Act shall be in the form prescribed in the Schedule.

SCHEDULE

regulation 3

Serial No.

GOVERNMENT OF BRUNEI DARUSSALAM

NEWSPAPERS ACT
(CHAPTER 105)

Newspapers (Permit) Regulations, 2001

PERMIT TO PRINT, PUBLISH, SELL OR DISTRIBUTE NEWSPAPER

In exercise of the power conferred by section 3, the Minister of Home Affairs hereby grants a permit to the person named below for the printing*, publication, sale and distribution within Brunei Darussalam of the newspaper described below, subject to the conditions on the reverse of this permit.

Name and address of permit holder	
Name and address of agent in Brunei Darussalam [for an overseas newspaper]	
Name of newspaper	
Nature of contents	
Place at which printed	
Language in which printed	
Date of issue	
Date of expiry	

.....
Minister of Home Affairs

Reference:

* Delete the word "printing" in the case of an overseas newspaper.

CONDITIONS."

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BRUNEI DARUSSALAM GOVERNMENT GAZETTE

Made this 5th. day of Jamadilawal, 1422 Hijriah corresponding to the 26th. day of July, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

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