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**CONSTITUTION OF BRUNEI DARUSSALAM
(Order under Article 83(3))**

SMALL CLAIMS TRIBUNALS ORDER, 2006

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

SMALL CLAIMS TRIBUNALS ORDER, 2006

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

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Small Claims Tribunals Order, 2006 and shall commence on such date as the Chief Justice may determine, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*

(2) The long title of this Order is "An Order to provide for the establishment of Small Claims Tribunals in and for Brunei Darussalam having limited civil jurisdiction, and to make provision for the jurisdiction, procedure and practice thereof, and for matters connected therewith".

Interpretation.

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

"adjudicator" means an adjudicator and includes a deputy adjudicator appointed under section 4;

"claim" means a claim filed with a tribunal under section 15 and includes a proceeding in the tribunal between a claimant and a defendant;

"claimant" means a person who files a claim with a tribunal other than —

(a) a defendant entering a counterclaim; and

(b) a person who is being represented in a representative claim;

"defendant" means any person against whom a claim is made by a claimant other than —

(a) a claimant against whom relief is sought by way of counterclaim; and

(b) a person who is being represented in a representative claim;

"party" means a claimant or a defendant and any person joined as a third party;

"prescribed limit" means \$10,000 or such other sum as the Chief Justice may, by Order published in the *Gazette*, substitute therefor;

"Registrar" means the Registrar of the Small Claims Tribunals appointed under section 15 and includes a Deputy Registrar and an Assistant Registrar;

"Registry" means the Registry of Small Claims Tribunals established under section 13;

"representative claim" means a claim brought in the name of one claimant on behalf of himself and one or more other claimants under section 29;

"rules" means the rules made by the Chief Justice pursuant to section 54;

"work order" means an order to rectify a defect in goods or to make good any deficiency in the performance of services, by doing such work or attending to such matters (including the replacement of goods or parts thereof) as the case may be specified in the order.

PART II

CONSTITUTION OF TRIBUNAL

Establishment of tribunals.

3. (1) There is hereby established a tribunal or such number of tribunals to be known as the Small Claims Tribunals.

(2) The tribunal, which shall consist of such adjudicators and deputy adjudicators as may be appointed under this Order, shall be a Court of Record with such jurisdiction and powers as are conferred on it by this or any other Order.

(3) All proceedings in the tribunal shall be heard and determined by an adjudicator or a deputy adjudicator sitting alone.

(4) The tribunal shall have seal of a design approved by the Chief Justice, and all awards, orders, summonses and other processes of the tribunal shall be sealed therewith.

Appointment and qualification of adjudicator.

4. (1) His Majesty the Sultan and Yang Di-Pertuan may, on the recommendation of the Chief Justice appoint an adjudicator or such number of deputy adjudicators.

(2) No person shall be appointed to be an adjudicator or a deputy adjudicator unless he is a qualified person within the meaning of the Legal Profession Act (Chapter 132).

(3) Every person appointed as an adjudicator shall hold office for such term as may be specified in the instrument of his appointment and may be reappointed.

(4) Any appointment of an adjudicator made under subsection (1) may at any time be revoked by His Majesty the Sultan and Yang Di-Pertuan on the recommendation of the Chief Justice.

PART III

JURISDICTION

Jurisdiction of tribunal.

5. (1) Subject to the provisions of this Order, a tribunal shall have jurisdiction to hear and determine —

(a) any claim relating to a dispute arising from any contract for the sale of goods or the provision of services; and

(b) any claim in tort in respect of damage caused to any property.

(2) The jurisdiction of a tribunal shall not extend to a claim —

(a) in respect of damage caused to any property by an accident arising out of or in connection with the use of a motor vehicle; or

(b) which the subordinate courts have no jurisdiction to hear and determine.

(3) Except where this Order expressly provides otherwise, the jurisdiction of a tribunal shall not extend to a claim —

(a) which exceeds the prescribed limit; or

(b) after the expiration of one year from the date on which the cause of action accrued.

(4) Where a tribunal is of the opinion that a claim filed with it pursuant to subsection (1) of section 15 is beyond its jurisdiction, it shall discontinue all proceedings and advise the claimant and the defendant accordingly.

(5) A claim within the jurisdiction of the tribunal may be brought in another court if there is included in such claim a claim for some other relief, redress or remedy, other than a claim for costs.

(6) Subject to the Limitation Act (Chapter 14), the jurisdiction of the tribunal shall extend to a claim which arose before the commencement of this Order.

Exclusion of other jurisdictions.

6. (1) Where a claim has been filed with a tribunal, no proceedings relating to that claim shall be brought before any other court except –

(a) where the proceedings before that court were commenced before the claim was filed, with the tribunal; or

(b) where the claim before the tribunal has been withdrawn or abandoned.

(2) No claim shall be brought before a tribunal if proceedings relating to that claim are pending in or have been heard and determined by any other court.

(3) For the purposes of this section, a claim shall be deemed to have been filed with a tribunal when section 15 has been complied with.

Transfer of claims.

7. Notwithstanding section 5, a tribunal may at any stage of proceedings either of its own motion or upon the application of any party, transfer the proceedings to another court whereupon the practice and procedure of that other court shall apply.

No division of claims.

8. No claim shall be split or divided and pursued in separate proceedings in a tribunal for the sole purpose of bringing the sum claimed in each of such proceedings within the jurisdiction of the tribunal.

Abandonment of part of claim to give tribunal jurisdiction.

9. (1) Where the value of the claim exceeds the prescribed limit, the claimant may abandon the excess, and thereupon the tribunal shall have jurisdiction to hear and determine the claim.

(2) Where the tribunal has jurisdiction to hear and determine a claim by virtue of subsection (1), an order of the tribunal under this Order in relation to that claim shall be in full discharge of all demands in respect thereof, and judgment shall be deemed to be entered accordingly.

Jurisdiction as to counterclaim.

10. (1) Where any counterclaim or any set-off and counterclaim in proceedings in a tribunal is a monetary claim which is not within the jurisdiction of the tribunal, the tribunal shall order that the whole proceedings or the proceedings on the counterclaim or set-off and counterclaim be transferred to an appropriate court of competent jurisdiction.

(2) Where an order is made under subsection (1) and judgment on the claim is given for the claimant, execution thereon shall, unless the tribunal otherwise orders, be stayed until the proceedings transferred to that other court have been determined.

(3) Where a defendant has a counterclaim or set-off and counterclaim which exceeds the monetary jurisdiction of the tribunal and which, but for the excess, would be within its jurisdiction, the defendant may abandon the excess and thereupon the tribunal shall have jurisdiction to hear and determine the counterclaim or set-off and counterclaim but that the defendant shall not recover in the counterclaim or set-off and counterclaim an amount exceeding the monetary jurisdiction of the tribunal.

(4) Where a tribunal has jurisdiction to hear and determine a counterclaim or set-off and counterclaim by virtue of this section, the award of the tribunal on the counterclaim or set-off and counterclaim shall be in full discharge of all demands in respect thereof, and judgment shall be deemed to be entered accordingly.

Costs in transferred cases.

11. (1) Where any proceedings on a claim or counterclaim or set-off and counterclaim are transferred under section 7 or 10 from the tribunal to another court, the costs of the proceedings both before and after the transfer shall, subject to any order of the tribunal made in relation to any proceedings before the transfer, be in the discretion of the court to which the proceedings are transferred.

(2) The court referred to in subsection (1) may make orders with respect thereto and as to the scales on which the costs of the proceedings are to be taxed, and the costs of the whole proceedings shall be taxed in that court.

Functions of tribunal.

12. (1) The primary function of a tribunal is to attempt to bring all parties to a dispute to an agreed settlement.

(2) Where an agreed settlement is reached, a tribunal may make one or more of the orders which it is empowered to make under section 38.

(3) If it appears to a tribunal that it is impossible to reach a settlement under subsection (3.) within a reasonable time, the tribunal shall proceed to determine the dispute.

(4) A tribunal shall determine the dispute according to the substantial merits and justice of the case and in doing so shall have regard to the law but shall not be bound to give effect to strict legal forms or technicalities.

PART IV

COMMENCEMENT OF PROCEEDINGS

Registry.

13. (1) There shall be established and maintained a Registry of Small Claims Tribunals in which all records of the tribunals shall be kept.

(2) The record of a tribunal shall consist of —

- (a) claims filed with the tribunal by claimants;
- (b) summaries of the facts of the issues in dispute in respect of those claims as determined and recorded by the tribunal during the hearing of the claims; and
- (c) orders made by the tribunal in relation to those claims.

(3) Any party to the claim shall, upon payment of a prescribed fee, be entitled to a copy of the record of a tribunal and such record shall be admissible in evidence before any other court for the purposes of any proceedings before that court.

Appointment of Registrar, Deputy Registrar, Assistant Registrars and other officers.

14. (1) His Majesty the Sultan and Yang Di-Pertuan may, on the recommendation of the Chief Justice, appoint a Registrar, a Deputy Registrar, Assistant Registrars and such other officers as may be necessary for the proper functioning of the tribunal.

(2) All the powers and duties conferred and imposed on the Registrar may be exercised and performed by the Deputy Registrar or an Assistant Registrar.

Filing claims.

15. (1) Proceedings before a tribunal shall be commenced by filing a claim with the Registrar.

(2) Subject to subsection (3), a claim shall be in writing in the prescribed form in either the English or Malay language, and shall be signed by or on behalf of the claimant.

(3) The Registrar may permit a claim to be made orally and shall cause it to be reduced to writing in the language in which it is made and shall be read over and explained to the claimant, and if confirmed correct by the claimant, shall be signed by the claimant and a copy thereof shall be given to him.

(4) In any joint or representative claim –

(a) the Registrar may permit the claim to be filed notwithstanding that it has not been signed by all the claimants or persons represented on condition that all the claimants or such persons shall do so before the date of the hearing; and

(b) the name of a claimant or person represented who has not so signed the claim before the hearing may, if the tribunal so directs, be deleted from the claim and the amount of the claim reduced accordingly.

Contents of claim.

16. A claim shall contain –

(a) the name and address of each claimant and, in the case of a representative claim, the name and address of each person represented;

(b) the name and address of each defendant;

(c) the sum of money claimed by each claimant or person represented;
and

(d) such other particulars of the claim as are reasonably sufficient to inform the defendant of the ground for the claim and the manner in which the amount claimed by each claimant or person represented has been calculated.

Powers of Registrar.

17. (1) The Registrar shall, when a claim has been filed, invite all the parties to the dispute for consultation with a view to effecting a settlement acceptable to all the parties.

(2) Where such a settlement is made the Registrar shall, at the request of the claimant, make an order under section 38 that gives effect to the terms of the settlement and such order shall have effect as if it were an order of the tribunal made under that section.

(3) Where at the consultation the Registrar is of the opinion that a claim or counterclaim lodged is outside the jurisdiction of the tribunal, he shall discontinue all proceedings and advise the claimant and defendant accordingly.

(4) Any person aggrieved by a decision of the Registrar made under subsection (3) may within one month appeal to the tribunal which may make an order confirming, reversing or varying the decision of the Registrar.

(5) If a claimant fails to appear at the consultation, by himself or by a representative pursuant to subsection (2) of section 24, the Registrar may make an order dismissing the claim or, where there is a counterclaim by the defendant, make any order under section 38.

(6) If a defendant fails to appear at the consultation, by himself or by a representative pursuant to subsection (2) of section 24, the claimant may apply to the Registrar for any order under section 38 to be made against the defendant.

(7) Upon an application under subsection (6), the Registrar shall grant the claimant the order if the Registrar is satisfied that the claimant is entitled thereto and that a copy of the written claim and notice of consultation have been served on the defendant.

(8) Any order made by the Registrar under subsection (5) or (7) shall have effect as if it were an order of a tribunal made under section 38.

(9) Any person aggrieved by an order of the Registrar made under subsection (5), (6) or (7) may apply to the Registrar for the order to be set aside.

(10) An application made under subsection (9) shall be made within one month after the consultation or such further period as the Registrar may allow.

Consultation before Registrar by electronic means.

18. (1) The Registrar may, on such conditions as he may impose, permit the consultation to be conducted by telephone, videophone or any other electronic means (referred to in this section as electronic means).

(2) The Registrar may at any time direct any consultation by electronic means to cease and order the parties to appear in person at a designated place for the consultation.

(3) Any order made by the Registrar at the consultation by electronic means may be set aside on the application of any person aggrieved by that order if the Registrar is satisfied that either party has been impersonated or that any person who participated in the consultation did not have authority to represent the party concerned.

(4) An application made under subsection (3) shall be made within one month after the order was made or such further period as the Registrar may allow.

Service of claim and notice of hearing.

19. (1) Where the Registrar is unable to achieve a settlement acceptable to all the parties to the dispute, he shall —

(a) fix a place and date for hearing the claim and give notice thereof in the prescribed form to the claimant; and

(b) as soon as is reasonably practicable cause a copy of the written claim and a notice in the prescribed form of the date and place of hearing to be served on —

(i) the defendant; and

(ii) any person who appears from the claim form to have a sufficient interest in the settlement of the dispute to which the claim relates.

(2) The Registrar may summon any person to appear before the tribunal if, in his opinion, the presence of such a person is necessary to enable the tribunal to determine the questions in dispute in the claim.

(3) Service of a copy of the written claim and the notice of hearing and of a summons or any document that is to be served on any person in any proceedings before a tribunal may be effected by such person as may be appointed by the Registrar for the purpose.

Claim may be admitted by telephone or in writing.

20. (1) The Registrar may, on such condition as he may impose, permit a defendant, at any time before an order on the claim has been made by the Registrar or the tribunal, to admit the claim against him orally by telephone.

(2) The Registrar may accept any admission to the claim in writing by the defendant if such admission is received before any order on the claim had been made by the Registrar or the tribunal.

(3) The Registrar may, in his discretion, reject an admission purportedly made under subsection (1) or (2) and direct the defendant to appear in person at the consultation or before a tribunal.

(4) If the Registrar is satisfied that an admission under subsection (1) or (2) is in order, the Registrar may make an order under section 38 against the defendant and the order shall have effect as if it were an order of a tribunal under that section.

(5) Any order made by the Registrar under subsection (4) may be set aside on the application of the defendant if the Registrar is satisfied that the admission was not made by the defendant or with the defendant's authority.

(6) An application under subsection (5) shall be made within one month after the date of the order or such further period as the Registrar may allow.

Parties.

21. (1) Subject to subsection (2), the claimant, the defendant and every person to whom notice of a claim has been given under paragraph (b) of subsection (1) of section 19 shall be parties to the proceedings on that claim.

(2) A tribunal may, at any time, order that the name of a person who appears to it to have been improperly joined as a party be struck out from the proceedings.

PART V

PROCEDURE

Keeping of summary of evidence etc.

22. The adjudicator shall keep or cause to be kept a summary, whether by means of shorthand notes or mechanical, electronic or optical means or otherwise, of the evidence, submissions or statements made or given in proceedings in a tribunal and of any point of law and of his decision thereon.

Hearing to be informal.

23. (1) The hearing of proceedings in a tribunal shall be conducted in an informal manner.

(2) A tribunal may, of its own motion or at the request of any party, summon any witness and require the production of any document, record, book of account or other thing, which is relevant in any proceedings.

(3) A tribunal shall inquire into any matter which it may consider relevant to a claim, whether or not it has been raised by a party.

Right of audience.

24. (1) Subject to this section, a party to proceedings before a tribunal shall present his own case.

(2) Subject to subsection (3), where a party to proceedings before a tribunal is –

(a) a body corporate, an officer or one of its full-time employees may present the case on its behalf;

(b) a partnership, one of its partners or full-time employees may present the case on its behalf;

(c) a minor and is, in the opinion of the Registrar or tribunal, unable to present his own case, his parent or guardian or any other person as may be approved by the Registrar or tribunal may present his case on his behalf;

(d) a person who is not resident in Brunei Darussalam and who is unable to remain in Brunei Darussalam until the hearing of the case, any other person who is duly authorised by him in writing may, with the approval of the Registrar or tribunal, present the case on his behalf;

(e) a person who is, in the opinion of the Registrar or tribunal, unable to present his own case by reason of old age, illiteracy or infirmity of mind or body, any other person who is duly authorised by him in writing or who is approved by the Registrar or tribunal may present the case on his behalf; and

(f) a person, with the leave of the tribunal, other than counsel or solicitor, who is authorised in writing by a party to appear as his representative.

(3) No party to any proceeding before a tribunal shall be represented by an advocate and solicitor or, except as provided by subsection (2), an agent, whether paid or otherwise.

(4) A tribunal shall, before permitting a person to act as representative under subsection (2) satisfy itself that such person has sufficient knowledge of the case and sufficient authority to bind the party whom he represents.

Determination of claims.

25. (1) The tribunal shall determine a claim and make such award or order thereon as it thinks fit as soon as possible after the conclusion of the hearing of the claim.

(2) The reasons for an award or order may be given orally or in writing as the tribunal thinks fit.

(3) An adjudicator shall, when he has made an award or order orally, reduce it to writing as soon as possible, and in any case not later than 14 days after the date of the award or order.

(4) Every written award or order shall be served by the Registrar on the parties, and it shall not be necessary for the party in whose favour an award or order has been made to prove that it reached the party to be served.

(5) Service of an award or order under subsection (4) shall be effected –

(a) by delivering it personally to the party to be served;

(b) by leaving it with some person for him at his last known place of residence or at his place of business;

(c) by sending it by post addressed to him at his last known place of residence or at his place of business;

(d) in such other manner as the Registrar thinks fit.

Proceedings to be in private.

26. All proceedings before a tribunal shall be held in private.

Proceedings before tribunal conducted by electronic means etc.

27. (1) A tribunal may, on such conditions as it may impose, permit proceedings before the tribunal to be conducted by telephone, videophone or any other electronic means (referred to in this section as electronic means).

(2) The tribunal may at any time direct any proceedings before it conducted by electronic means to cease and order the parties to appear in person at a designated place for the hearing.

(3) Any order made by the tribunal at the proceedings before it by electronic means may be set aside on the application of a person aggrieved by that order if the tribunal is satisfied that either party has been impersonated or that any person who participated in the hearing did not have authority to represent the party concerned.

(4) An application made under subsection (3) shall be made within one month after the order was made or such further period as the tribunal may allow.

Claims may be heard together.

28. (1) Where 2 or more claims are filed and it appears to a tribunal that —

- (a) a common question of fact or law arises in both or all of them;
- (b) the claims arose out of the same cause of action; or
- (c) it would be in the interests of justice,

the tribunal may order that such claims be heard at the same time.

(2) The power conferred by this section may be exercised by a tribunal notwithstanding that the hearing of one or more of the claims has begun.

Representative claims.

29. (1) Subject to subsection (2), if 2 or more persons have claims against the same defendant, such claims may be brought in the name of one of such persons as the representative of some or all of them.

(2) The tribunal may, if at any stage of the proceedings it considers that a representative claim may prejudice the defendant, order that the claims of all or any of the persons represented shall be heard separately.

(3) Each person represented in a representative claim shall be deemed to have authorised the representative on his behalf to –

(a) call and give evidence and make submissions to a tribunal on any matter arising during the hearing of the claim;

(b) file affidavits, statements or other documents;

(c) agree to an adjournment or change of venue;

(d) agree to a settlement of the claim on such terms as he thinks fit;

(e) amend or abandon the claim; and

(f) act generally in as full and free a manner as such claimant may act on his own behalf.

(4) The authority deemed to be given to a representative by subsection (3) shall not be withdrawn except by leave of the tribunal.

(5) A tribunal may, at any time before determining any claim, grant leave to any person to join in the claim as a person represented on such terms as it may think fit.

(6) A tribunal may cause public notice to be given, in such manner as it may think fit, of the particulars of a representative claim which has been filed and of the date and place fixed for the hearing of the claim.

Joint defendants.

30. (1) If 2 or more persons are defendants in proceedings in the tribunal, as partners or otherwise, the claim may be heard and determined in relation to any of such defendants who have been duly served with a written claim notwithstanding that the other defendants have not been so served or are not within the jurisdiction of the tribunal.

(2) If an award is made against a defendant under subsection (1) and is satisfied by him, he shall be entitled to claim in proceedings in the tribunal contribution from any other person jointly liable with him.

(3) An award against a defendant in respect of a liability jointly with another person shall not discharge such other person from his liability.

(4) A person against whom a claim is made in respect of a liability jointly with any other person may set up any defence or counterclaim which he would have been entitled to set up if all the persons jointly liable with him were defendants.

(5) If 2 or more persons are joined as defendants, the claimant may obtain an award against any one or more of the defendants and may enforce the award without prejudice to his right to proceed with the claim against any other defendant.

Evidence.

31. (1) A tribunal shall not be bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.

(2) Evidence tendered to a tribunal by or on behalf of a party to any proceedings need not be given on oath but the tribunal may at any stage of the proceedings require that such evidence or any part thereof be given on oath whether orally or in writing.

(3) A tribunal may, on its own initiative, seek and receive such other evidence and make such other investigations and inquiries as it thinks fit. All evidence and information so received and ascertained shall be disclosed to every party.

(4) For the purposes of subsection (2), an adjudicator of a tribunal is empowered to administer an oath.

(5) An adjudicator may require any written evidence given in the proceedings before a tribunal to be verified by statutory declaration.

Judgment in default of appearance.

32. (1) If a defendant fails to appear at the hearing, by himself or by a representative pursuant to subsection (2) of section 24, the claimant may apply for judgment to be entered against the defendant.

(2) Such application for entry of judgment may be supported by an affidavit or affirmation verifying facts relied on.

(3) Upon application made by the claimant under subsection (1), the tribunal shall order for judgment to be entered against the defendant if it is satisfied that the claimant is entitled thereto.

(4) Judgment shall not be entered against a defendant under this section unless the tribunal is satisfied that a copy of the written claim and the notice of hearing have been served on the defendant under section 19.

Control of procedure.

33. Subject to this Order and to the rules made thereunder, the tribunal shall have control of its own procedure in the hearing of claims and, in the exercise of that control, shall have regard to the principles of natural justice.

Costs.

34. (1) Subject to subsection (2), the tribunal may award to a party costs and expenses which may include –

(a) any reasonable expenses necessarily incurred and any loss of salary or, wages suffered by that party; and

(b) any reasonable sum paid to a witness for expenses necessarily incurred and any loss of salary or wages suffered by him,

in attending the hearing.

(2) In making an award of costs under this section, the tribunal shall include a direction as to the amount to be paid by each party who is liable to pay costs.

(3) An award of costs shall be enforceable in the same manner as any other award of the tribunal.

Frivolous or vexatious claims.

35. A tribunal may at any time dismiss a claim which it considers to be frivolous or vexatious on such terms as to payment of costs as it thinks fit.

Adjournments.

36. A tribunal may at any time, either of its own motion or on the application of any party, adjourn the hearing of proceedings on a claim on such terms as it thinks fit.

Withdrawal of claim.

37. The tribunal may at any time allow a claimant to withdraw his claim whether or not the tribunal has heard the claim on such terms as it thinks fit in all the circumstances including the stage at which the proceedings had reached when the application is made.

Orders of tribunal.

38. (1) The tribunal may, as regards any claim within its jurisdiction, make one or more of the following orders and may include therein such stipulations and conditions (whether as to the time for, or made of, compliance or otherwise) as it thinks fit —

(a) the tribunal may order a party to the proceedings to pay money to another party;

(b) the tribunal may make a work order against any party to the proceedings;

(c) the tribunal may make an order requiring a party to the proceedings to do anything referred to in paragraph (b) within such time as may be specified in the order and in default of his complying with that order to pay money to a person specified in the order;

(d) the tribunal may make an order dismissing the claim to which proceedings relate; and

(e) the tribunal may make such ancillary orders as may be necessary to give effect to any order made by the tribunal.

(2) The following provisions shall apply to an order made under subsection (1)—

(a) an order made under paragraph (a) of subsection (1) shall not require payment of money which exceeds the prescribed limit;

(b) the value of the work required to be performed by the order shall not exceed the prescribed limit; and

(c) the order may provide that, in default of compliance with the order within the time specified in it, the claimant may have the work needed to rectify the defect done by a competent person.

(3) The Registrar shall arrange for a copy of an order made under subsection (1) to be served on the person against whom it is made as soon as practicable after the time that it is made.

Failure to comply with order of tribunal.

39. Where the tribunal directs a party to comply with an order within a specified time and the party fails to do so, the tribunal may dismiss the claim or counterclaim filed by the party, stay the proceedings or enter judgment against the party, as the case may be, on such terms as it thinks fit.

Enforcement of orders to pay money.

40. (1) Every order made by a tribunal or the Registrar requiring a party to pay money shall be deemed to be an order of a Court of a Magistrate and, subject to this section, may be enforced accordingly.

(2) Where application is made to a Court of a Magistrate for the issue of any process to enforce an order provided for by paragraph (c) of subsection (1) of section 38 (requiring a party to pay money to another as an alternative to compliance with a work order), the Registrar shall give notice of the application to the party against whom enforcement is sought.

(3) If that party does not file in the tribunal within the period prescribed for so doing a notice of objection in the prescribed form, the order may, after the expiry of that period, be enforced pursuant to subsection (1).

(4) The notice referred to in subsection (3) may only be given on the ground that it is the belief of the party that the order of the tribunal or the Registrar has been fully complied with and that the party therefore disputes the entitlement of the applicant to enforce it.

(5) If the party against whom enforcement is sought files the notice referred to in subsection (3) within the prescribed period, the Registrar shall refer the matter to the tribunal to be heard and determined under subsection (2) of section 41.

(6) No filing fee shall be payable by a person who seeks to enforce an order pursuant to subsection (1) but any fee which would otherwise be payable therefor shall be included in and be deemed as part of the award of the tribunal and shall be recoverable from the opposite party for the credit of the Consolidated Fund.

Enforcement of work orders.

41. (1) Where –

(a) a party in whose favour a work order has been made considers that the work order has not been complied with by the other party; and

(b) that other party has not complied with the alternative money order provided for by paragraph (c) of subsection (1) of section 38,

the party in whose favour the work order was made may, instead of applying to a Court of a Magistrate for issue of a process for enforcement pursuant to subsection (1) of section 40, file with the tribunal a request in the prescribed form that the work order be enforced.

(2) Subsequent proceedings shall be taken on a request for enforcement under subsection (1) and on notice under subsection (5) of section 40 as if such request or notice were a claim filed under section 15.

(3) Upon the hearing of the matter, the tribunal may –

(a) vary the work order, or make a further work order or any other order which is authorised by section 38;

(b) grant leave to the party in whose favour the work order was made to enforce the alternative money order provided for by section 38 or so much thereof as the tribunal may allow, and either subject to or without compliance with subsection (2) of section 40; or

(c) discharge any order previously made by the tribunal.

(4) After the expiration of 12 months from the date of a work order, it shall not be enforced without leave of the tribunal.

PART VI

REVIEW AND APPEAL

Review of awards and orders.

42. (1) Except where a party has filed an application for leave to appeal and does not agree to withdraw the application, an adjudicator may, within 14 days from the date of an award or order given or made by him, review the award or order and on such review may re-open and re-hear the claim wholly or in part and may call or hear fresh evidence and may confirm, vary or reverse his previous award or order.

(2) The power conferred by subsection (1) may be exercised –

(a) by an adjudicator of his own motion, by notice in the prescribed form to all parties;

(b) on the application of a party within 7 days, by notice in the prescribed form to all parties.

(3) The exercise of the power conferred by subsection (1) shall not operate as a bar to an appeal by a party against the award or order.

(4) On the application of a party for a review under this section, the adjudicator, having regard to the possibility of assets which may be available to satisfy an award being disposed of to the prejudice of any party, may make such order regarding payment into the tribunal, giving of security or otherwise as he may think fit.

Appeal on point of law.

43. (1) Any party to proceedings before a tribunal may appeal to the High Court against an order made by the tribunal under subsection (1) of section 38 or subsection (3) of section 41 –

(a) on any ground involving a question of law; or

(b) on the ground that the claim was outside the jurisdiction of the tribunal.

(2) Rules may be made under section 54 to regulate and prescribe the procedure to be followed on appeals from the tribunal to the High Court.

Powers of High Court on appeal.

44. (1) On an appeal under section 43, the High Court may –

(a) allow the appeal;

(b) dismiss the appeal; or

(c) remit the matter to the tribunal with such directions as it thinks fit which may include a direction to the tribunal for a new hearing.

(2) On an appeal under section 43, the High Court may –

(a) draw any inference of fact; and

(b) make such order as to costs and expenses as it thinks fit, but may not —

(i) reverse or vary any determination made by the tribunal on questions of fact; or

(ii) receive further evidence.

(3) A decision of the High Court under subsection (1) shall be final and shall not be subject to any appeal.

PART VII

MISCELLANEOUS

Order of tribunal to be final.

45. An order of the tribunal shall be final and binding on all parties to the proceedings in which the order is made and, except as provided in section 43, no appeal shall lie in respect thereof.

Setting aside award or order.

46. (1) Any award or order of —

(a) the tribunal made under subsection (3) of section 27 or subsection (1) of section 32;

(b) the Registrar made under subsection (9) of section 17, subsection (3) of section 18 or subsection (5) of section 20,

may, on the application of a person aggrieved by that order, be set aside by the tribunal and the tribunal may make such further order as it thinks fit.

(2) An application under subsection (1) shall be made within one month after the date on which such award or order was made or such further period as the tribunal may allow.

Stay of execution on appeal.

47. (1) The filing of a notice of appeal shall not operate as a stay of execution of an order unless the tribunal or the High Court, as the case may be, otherwise orders.

(2) Any stay of execution may be subject to such conditions as to costs, payment into the tribunal, the giving of security or otherwise as the tribunal or the High Court thinks fit.

Interest on awards.

48. (1) The tribunal may include in the amount of an award, interest at the rate specified in subsection (4) on the whole or any part of the sum claimed, for the whole or any part of the period between the date when the cause of action arose and the date of the award.

(2) The powers conferred by subsection (1) may be exercised —

(a) whether or not interest is expressly claimed;

(b) at any time after the date of the award if it appears to the tribunal that the failure to claim or to award interest was through inadvertence; and

(c) where an award is made against the defendant in his absence.

(3) An award shall carry interest at the rate specified in subsection (4) on the aggregate amount thereof, or on such part thereof as for the time being remains unsatisfied from the date of the award until satisfaction.

(4) The rate of interest specified for the purposes of subsections (1) and (3) shall be at the rate fixed by the Chief Justice by notice in the *Gazette*.

Payment of award.

49. (1) In a joint or representative claim the amount of an award shall be paid into the tribunal and there shall be allocated to the parties to the claim the sum of money claimed by each claimant or person represented.

(2) When money is paid into the tribunal by a defendant, in full or part discharge of an award made against him in a joint or representative claim, the defendant shall be deemed to have satisfied his liability under the award to the extent of the amount so paid and shall not be liable to any claimant as to the manner in which such money is allocated by the tribunal.

Penalty for neglect of witness summons.

50. (1) Any person on whom a summons under section 23 has been served, who —

(a) refuses or neglects, without sufficient cause, to appear or produce any documents required by the summons to be produced; or

(b) refuses to be sworn or give evidence,

shall forfeit such fine not exceeding \$500 as the adjudicator may direct.

(2) A person to whom subsection (1) applies shall not forfeit a fine under that subsection unless there has been paid or tendered to him at the time of service of the summons a reasonable sum in respect of his expenses including any loss of salary or wages.

(3) Any person present before the tribunal who is required to give evidence but refuses to be sworn or to give evidence shall forfeit a fine in accordance with subsection (1).

(4) The adjudicator may, in his discretion, direct that the whole or any part of any such fine shall, after deducting the costs, be applied towards indemnifying the party injured by the refusal or neglect but without prejudice to the right of the party so injured to institute civil proceedings in respect of the injury.

Contempt of tribunal.

51. (1) Any person who —

(a) assaults, wilfully insults or obstructs an adjudicator or any witness or officer of a tribunal during a sitting of a tribunal or while an adjudicator, witness or officer is on his way to or from such a sitting;

(b) assaults or wilfully insults or obstructs any person in attendance at a sitting of the tribunal;

(c) wilfully interrupts or otherwise misbehaves at a sitting of the tribunal; or

(d) without lawful excuse disobeys any order or direction of a tribunal (not being an order referred to in section 38) during a sitting of the tribunal,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months.

(2) For the avoidance of doubt, section 32 of the Supreme Court Act (Chapter 5) applies in the case of any exercise by the adjudicator of his power under subsection (1).

Power of adjudicator to enforce payment of fine etc.

52. For the purposes of enforcing the payment of any fine imposed or giving effect to any sentence of imprisonment, the adjudicator shall have the powers of a judge.

Person not precluded from filing claim in court.

53. Nothing in this Order shall be construed as precluding a person from filing a claim that is within the jurisdiction of a tribunal in any other court if that person elects to institute proceedings in that other court to hear and determine that claim.

Chief Justice may make rules.

54. (1) The Chief Justice may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules to —

(a) regulate the practice and procedure of the tribunal and the enforcement of orders of the tribunal;

(b) prescribe such thing, including fees or costs as are required by this Order to be prescribed; and

(c) prescribe such matters as are necessary for carrying out the provisions of this Order.

(2) Without limiting the generality of subsection (1), the rules made pursuant to subsection (1) may provide for the following —

(a) the form of documents to be issued by the tribunal and the sealing of documents;

(b) the form and content of documents to be used by parties and intending parties, and the service of documents and the giving of notices by such persons;

(c) the functions, powers and duties of the tribunal, the Registrar and other officers of the Registry in relation to —

(i) the service of documents and giving of notices;

(ii) the enlargement of dates of hearing; and

(iii) the adjournment of proceedings;

- (d) the withdrawal and amendment of claims;
- (e) the summoning of witnesses and the payment of witnesses from public funds or otherwise;
- (f) the commission of offences by, and punishment of, persons who refuse to give evidence or obey a summons to witness;
- (g) the transfer of proceedings from a court to the tribunal and from the tribunal to a court;
- (h) the manner and the conditions under which appeals may be brought against orders made by the tribunal; and
- (i) regulating and prescribing the procedure to be followed on appeals from a tribunal to the High Court.

Procedure generally.

55. Where no provision is made by this Order or rules made under section 54, the practice and procedure in the tribunal shall be such as the tribunal may determine, either generally or in any particular proceeding.

Protection of adjudicator etc.

56. (1) The adjudicator shall have and enjoy, in the exercise of his powers or duties under this Order, the same privileges and protection as a Magistrate has and enjoys under the Subordinate Courts Act (Chapter 6).

(2) For the avoidance of doubt as to the privileges and immunities of the adjudicator, parties, representatives and witnesses in the proceedings of the tribunal, it is declared that such proceedings are judicial proceedings.

(3) The privileges and immunities referred to in subsection (2) shall extend and apply to –

- (a) the tribunal acting under subsection (3) of section 31; and
- (b) a person who gives information or makes any statement to the Registrar or the tribunal on any such occasion.

BRUNEI DARUSSALAM GOVERNMENT GAZETTE

Made this 28th. day of Rejab, 1427 Hijriah corresponding to the 22nd. day of August, 2006 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM

Dicetak oleh AWANG MOHIDIN BIN HAJI DAUD, **Pengarah** Percetakan,
di **Jabatan** Percetakan Kerajaan, Bandar Seri Begawan BB3510, Negara Brunei Darussalam.

Harga B\$5.00