

No. S 33

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

**ARCHITECTS, PROFESSIONAL ENGINEERS AND
QUANTITY SURVEYORS ORDER, 2011**

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

**ARCHITECTS, PROFESSIONAL ENGINEERS AND
QUANTITY SURVEYORS ORDER, 2011**

In exercise of the power conferred by Article 83(3) 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 Architects, Professional Engineers and Quantity Surveyors Order, 2011 and shall commence on a date to be appointed by the Minister, 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 establish the Board of Architects, Professional Engineers and Quantity Surveyors, to provide for the registration of architects, professional engineers and quantity surveyors, to regulate the qualifications and practice of architects, professional engineers and quantity surveyors, and the supply of architectural, professional engineering and quantity surveying services in Brunei Darussalam by corporations and multi-discipline partnerships.

Interpretation.

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

"allied professional" means —

(a) an architect, other than a naval architect or a landscape architect, who is registered under this Order;

(b) a professional engineer who is registered under this Order; or

(c) a quantity surveyor who is registered under this Order;

"architectural services" includes selling or supplying for gain or reward any architectural plan, drawing, tracing or the like for use in the construction, enlargement or alteration of any building or part thereof;

"Board" means the Board of Architects, Professional Engineers and Quantity Surveyors established under section 4(1);

"building" means any permanent or temporary building or structure and includes —

(a) a hut, shed or roofed enclosure which includes a kiosk or stall, movable or otherwise;

(b) an earth retaining or stabilising structure, whether permanent or temporary;

(c) a dock, wharf or jetty;

(d) a floating structure, not being a boat or vessel, constructed or to be constructed on a floatation system that —

(i) is or is to be supported by water;

(ii) is not intended for or useable in navigation; and

(iii) is or is to be permanently moored;

(e) a culvert, crossing, access road, bridge, underpass or tunnel;

(f) a sewage treatment plant, sewer, drain, swimming pool or any non-proprietary type of concrete tank for the storage of any solid, liquid or gaseous product; and

(g) such other erection or structure (whether permanent or temporary) as the Minister may, by order published in the *Gazette*, declare to be a building;

"building authority" means any person empowered to approve plans of building works;

"building works" means —

(a) the erection, extension or demolition of a building;

(b) the alteration, addition or repair of a building;

(c) the provision, extension or alteration of any air-conditioning service or ventilating system in or in connection with a building;

(d) site formation works (which includes earthworks such as levelling, cutting and filling) which may or may not be connected with or carried out

for the purpose of paragraph (a), (b) or (c); and

(e) structural works.

"certificate of registration" means the certificate of registration issued under section 20(1);

"licence" means a licence to supply architectural, professional engineering or quantity surveying services in Brunei Darussalam granted under section 27;

"Minister" means the Minister for the time being charged with the responsibility for development;

"practising certificate" means an annual certificate issued under section 25 authorising the holder thereof to engage in the practice of architecture, professional engineering or quantity surveying in Brunei Darussalam;

"professional engineering services" means consultancy or advisory services that require a person to engage in professional engineering work;

"professional engineering work" includes any service, consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation in connection with any public or privately owned public utilities, buildings, machines, equipment, processes, works or projects wherein the public interest and welfare, or the safeguarding of life, public health or property is concerned or involved, and that requires the application of professional engineering principles and data;

"register of architects" means the register of architects referred to in section 8(1)(a);

"register of licensees" means the register of licensees referred to in section 8(1)(e);

"register of practitioners" means the register of practitioners referred to in section 8(1)(d);

"register of professional engineers" means the register of professional engineers referred to in section 8(1)(b);

"register of quantity surveyors" means the register of quantity surveyors referred to in section 8(1)(c);

"registered architect" means a person registered as an architect under section 17;

"registered professional engineer" means a person registered as a

professional engineer under section 17;

"registered quantity surveyor" means a person registered as a quantity surveyor under section 17;

"Registrar" means the Registrar of the Board appointed under section 9.

Order not to apply to Government.

3. (1) Nothing in this Order shall apply to anything done or omitted to be done by the Government or by a public officer under the authority of the Government.

(2) This Order shall not be construed as requiring any public authority which supplies architectural, professional engineering or quantity surveying services in Brunei Darussalam under the provisions of any written law to obtain a licence.

(3) In subsection (2), "public authority" means any body established by or under any written law and exercising powers vested therein by any written law for a public purpose.

PART II

**BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS AND
QUANTITY SURVEYORS**

Establishment of Board of Architects, Professional Engineers and Quantity Surveyors.

4. (1) There is hereby established a board known as the Board of Architects, Professional Engineers and Quantity Surveyors.

(2) The Board shall consist of the following members —

(a) the Permanent Secretary, Ministry of Development *ex-officio* who shall be the Chairman;

(b) 10 other members to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan who have the relevant qualifications, knowledge or experience in the following fields —

- (i) architecture;
- (ii) professional engineering;
- (iii) quantity surveying.

(3) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint one of the members to be the Deputy Chairman.

(4) If the Chairman is unable to exercise his functions under this Order due to illness, absence from Brunei Darussalam or for any other cause, his functions shall be exercised by the Deputy Chairman.

(5) The period of appointment of members under section 4(2)(b) shall be 3 years but he shall be eligible for re-appointment.

(6) A person shall not be appointed under section 4(2)(b) to be a member —

(a) if he is an undischarged bankrupt or has made any arrangement or composition with his creditors;

(b) if he is convicted of any offence involving fraud, dishonesty or moral turpitude, or of any other offence implying a defect in character which makes him unfit for the architectural, professional engineering or quantity surveying professions;

(c) if he is of unsound mind or incapacitated by physical illness; or

(d) if he has at any time, after due inquiry, been found guilty by the Board of improper conduct.

(7) The office of a member appointed under sections 4(2)(b) shall become vacant if he —

(a) resigns or is removed from office; or

(b) becomes in any manner disqualified from office within the meaning of subsection (6),

and any vacancy shall as soon as practicable be filled in the manner in which the appointment to the vacant office was made; and every person so appointed shall hold office for the residue of the term for which his predecessor was appointed.

(8) All acts done by the Board shall, notwithstanding any vacancy in the Board or that it is afterwards discovered that there was a defect in the appointment of any person purporting to be a member thereof, be valid as if no such vacancy or defect had existed.

(9) Any question as to whether a person has ceased to be a member of the Board shall be determined by the Minister whose decision shall be final.

Meetings of Board.

5. (1) In the absence of the Chairman from any meeting of the Board, the Deputy Chairman shall be the Chairman for that meeting and if the Deputy Chairman is also absent, the Minister shall elect any other member to be Chairman for that meeting.

(2) The *quorum* of the Board shall be 6.

(3) Decisions of the Board shall be taken by a simple majority of votes and in the event of equality of votes, the Chairman or, in his absence the Deputy Chairman or any other member presiding over the meeting, shall have a casting vote.

(4) Subject to the provisions of this Order, the Board may determine its own procedure.

(5) The Board shall cause proper records of its proceedings to be kept.

Functions of Board.

6. The functions of the Board shall be —

(a) to keep and maintain a register of architects, professional engineers and quantity surveyors, a register of the architectural, professional engineering and quantity surveying practitioners and a register of licensees;

(b) to hold or arrange for the holding of such examinations as the Board considers necessary for the purpose of enabling persons to qualify for registration under this Order;

(c) to approve or reject applications for registration under this Order or to approve any such application subject to such restrictions as the Board may consider fit to impose;

(d) to cancel, remove or reinstate any registration;

(e) to recommend, with the approval of the Minister, the scale of fees to be charged by architects, professional engineers and quantity surveyors for architectural, professional engineering and quantity surveying services rendered;

(f) to establish, maintain and develop standards of professional conduct and ethics of the architectural, professional engineering and quantity surveying professions;

(g) to promote learning and education in connection with architectural, professional engineering and quantity surveying;

(h) to hear and determine disputes relating to professional conduct or ethics of registered architects, professional engineers and quantity surveyors or to appoint a committee or arbitrator to hear and determine those disputes;

(i) to appoint arbitrators for the purpose of hearing and determining disputes between registered architects, professional engineers or quantity surveyors or licensed corporations or partnerships and other persons;

(j) to license corporations or multi-discipline partnerships which intend to supply architectural, professional engineering or quantity surveying services in Brunei Darussalam; and

(k) generally to do all such acts, matters and things as are necessary to be carried out under the provisions of this Order.

Committees.

7. The Board may appoint such committees from among its members, registered architects, registered professional engineers or registered quantity surveyors as it thinks fit to assist or advise the Board on such matters arising out of its functions under this Order as are referred to them by the Board.

Registers.

8. (1) The Board shall keep and maintain at its office —

(a) a register of architects in which shall be entered the names of all persons registered under this Order, the business addresses, the qualifications by virtue of which they are so registered and such other particulars as may be determined by the Board;

(b) a register of professional engineers in which shall be entered the names of all persons registered under this Order, the business addresses, the qualifications by virtue of which they are so registered and such other particulars as may be determined by the Board;

(c) a register of quantity surveyors in which shall be entered the names of all persons registered under this Order, business addresses, the qualifications by virtue of which they are so registered and such other particulars as may be determined by the Board;

(d) an annual register of architectural, professional engineering and quantity surveying practitioners in which shall be entered the particulars as contained in the declaration made under section 25(3)(a);

(e) an annual register of licensees in which shall be entered the names and addresses of all corporations and partnerships which have been issued a

licence and such other particulars as may be determined by the Board.

(2) There shall be indicated against each person's name in the register of professional engineers the branch or branches of professional engineering as in the opinion of the Board the registered professional engineer is qualified to practise.

Appointment and duties of Registrar.

9. (1) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may appoint a Registrar of the Board for the purposes of this Order.

(2) The Registrar shall —

(a) be under the general direction of the Board;

(b) sign all certificates of registration, practising certificates and licences; and

(c) record all entries of registration, cancellation and reinstatement in the register of architects, the register of professional engineers, the register of quantity surveyors, the register of architectural, professional engineering and quantity surveying practitioners or the register of licensees.

(3) The Registrar shall attend all meetings of the Board and record the proceedings thereof, and shall conduct the correspondence and deal with such matters as may be assigned to him by the Chairman or the Board.

(4) The Registrar shall —

(a) as soon as practicable after 1st. January each year, prepare and publish in the *Gazette* a list containing the names, qualifications and addresses of all registered architects, registered professional engineers (in the case of professional engineers, including the branch or branches of professional engineering to which the qualifications relate) and registered quantity surveyors who have in force practising certificates; and

(b) publish in the *Gazette* the names, qualifications and addresses of architects, professional engineers and quantity surveyors added to, removed from or reinstated into the register of architectural, professional engineering and quantity surveying practitioners.

(5) In any proceedings, a list published under subsection (4) shall be sufficient evidence that the persons whose names appear therein are registered architects, registered professional engineers and registered quantity surveyors who have in force practising certificates.

- (6) The Registrar may offer for sale copies of the Registers.

PART III

PRIVILEGES OF ARCHITECTS, PROFESSIONAL ENGINEERS AND QUANTITY SURVEYORS

Illegal architectural practice.

10. (1) Subject to the provisions of this Order, no person shall draw or prepare any architectural plan, drawing, tracing, design, specification or other document intended to govern the construction, enlargement or alteration of any building or part thereof in Brunei Darussalam unless he is —

(a) a registered architect who has in force a practising certificate;

(b) under the direction or supervision of a registered architect who has in force a practising certificate; or

(c) authorised by the Board to work in collaboration (but without a right to any independent practice) with a registered architect who has in force a practising certificate authorising the registered architect to engage in that architectural service.

(2) The Board may grant its authorisation to any person under subsection (1)(c) subject to such conditions as it thinks fit to impose.

(3) Subject to the provisions of this Order, no person shall sign and submit to a building authority or a public authority —

(a) any architectural plan, drawing, tracing, design, specification or other document intended to govern the construction, enlargement or alteration of any building or part thereof in Brunei Darussalam; or

(b) any report, certificate or other document relating to the construction, enlargement or alteration of any building or part thereof which is required by any written law to be signed by an architect,

unless he is a registered architect who has in force a practising certificate.

(4) Subject to the provisions of this Order, no person shall use verbally or otherwise —

(a) the word "architect" or any other derivatives in connection with his business designation;

(b) the abbreviation "Ar." or "Arch." as a title before his name; or

(c) any word, name or designation that might lead to the belief that he is a registered architect,

unless he is a registered architect.

(5) Where the Board has authorised any person under subsection (1)*(c)* to work in collaboration with a registered architect, the Board may allow that person to use such addition to or derivative of the word "architect" as may be approved by the Board.

(6) Subject to the provisions of this Order, no person shall advertise or hold himself out or conduct himself in any way or by any means as a person who is authorised to supply architectural services in Brunei Darussalam, unless he is —

(a) a registered architect who has in force a practising certificate;

(b) a licensed body corporate;

(c) a licensed partnership;

(d) a licensed limited liability partnership; or

(e) a partnership consisting wholly of registered architects.

(7) Nothing in subsection (6) shall apply to prevent a body corporate that ceases to have in force a licence from carrying on any activity necessary to the winding-up of that body corporate.

(8) Subject to the provisions of this Order, no person shall supply or offer to supply architectural services in Brunei Darussalam unless he is —

(a) a registered architect who has in force a practising certificate and is doing so on his own account or as a partner in a licensed partnership or a partnership consisting wholly of registered architects who each has in force a practising certificate;

(b) an allied professional and is doing so only by reason of being a partner in a licensed partnership; or

(c) a licensed body corporate or limited liability partnership.

(9) Any person who contravenes subsections (1), (3), (4), (6) or (8) is guilty of an offence and liable on conviction —

(a) in respect of a first offence, to a fine not exceeding \$10,000; and

(b) in respect of a second or subsequent offence, to a fine not exceeding

\$20,000, imprisonment for a term not exceeding one year or both.

(10) Nothing in this section shall be construed to permit or authorise any licensed body corporate or partnership to supply any architectural services which it is not licensed to supply.

Illegal professional engineering practice.

11. (1) Subject to the provisions of this Order, no person shall engage in any of the prescribed branches of professional engineering work in Brunei Darussalam or draw or prepare any plan, sketch, drawing, design, specification or other document relating to any of the prescribed branches of professional engineering work in Brunei Darussalam unless he is —

(a) a registered professional engineer who has in force a practising certificate authorising him to engage in that branch of professional engineering work;

(b) under the direction or supervision of a registered professional engineer who has in force a practising certificate authorising the registered professional engineer to engage in that branch of professional engineering work; or

(c) authorised by the Board to work in collaboration (but without a right to any independent practice) with a registered professional engineer who has in force a practising certificate authorising the registered professional engineer to engage in that branch of professional engineering work.

(2) The Board may grant its authorisation to any person under subsection (1)(c) subject to such conditions as it thinks fit to impose.

(3) Subject to the provisions of this Order, no person shall sign and submit to a building authority or to a public authority —

(a) any plan, sketch, drawing, design, specification or other document relating to any professional engineering work in Brunei Darussalam; or

(b) any report on or a certificate or other document relating to any professional engineering work in Brunei Darussalam which is required by any written law to be signed by a professional engineer,

unless he is a registered professional engineer who has in force a practising certificate authorising him to engage in such branch of professional engineering work.

(4) Subject to provisions of this Order, no person shall use verbally or otherwise —

(a) the words "professional engineer" or "engineer" or any additions to or derivative of those words in connection with his designation;

(b) the abbreviation "Ir." or "Er." as a title before his name; or

(c) any word, name or designation that might lead to the belief that he is a registered professional engineer,

unless he is a registered professional engineer.

(5) Where the Board has authorised any person under subsection (1)(c) to work in collaboration with a registered professional engineer, the Board may allow that person to use such addition to or derivative of the words "professional engineer" or "engineer" as may be approved by the Board.

(6) Subject to the provisions of this Order, no person shall advertise or hold himself out or conduct himself in any way or by any means as a person who is authorised to supply professional engineering services in Brunei Darussalam, unless he is —

(a) a registered professional engineer who has in force a practising certificate;

(b) a licensed body corporate;

(c) a licensed partnership;

(d) a licensed limited liability partnership; or

(e) a partnership consisting wholly of registered professional engineers.

(7) Nothing in subsection (6) shall apply to prevent a body corporate that ceases to have in force a licence from carrying on any activity necessary to the winding-up of that body corporate.

(8) Subject to the provisions of this Order, no person shall supply or offer to supply professional engineering services in Brunei Darussalam unless he is —

(a) a registered professional engineer who has in force a practising certificate authorising him to engage in professional engineering work to which those services relate, and is doing so on his own account or as a partner in a licensed partnership or a partnership consisting wholly of registered professional engineers who each has in force a practising

certificate;

(b) an allied professional and is doing so only by reason of being a partner in a licensed partnership; or

(c) a licensed body corporate or limited liability partnership.

(9) Any person who contravenes subsections (1), (3), (4), (6) or (8) is guilty of an offence and liable on conviction —

(a) in respect of a first offence, to a fine not exceeding \$10,000; and

(b) in respect of a second or subsequent offence, to a fine not exceeding \$20,000, imprisonment for a term not exceeding one year or both.

(10) Nothing in this section shall be construed to permit or authorise any licensed body corporate or partnership to supply any professional engineering services which it is not licensed to supply.

(11) In this section, "prescribed branches of professional engineering work" means —

(a) civil engineering;

(b) electrical engineering;

(c) mechanical engineering; and

(d) such other branches of engineering as may be prescribed.

Illegal quantity surveying practice.

12. (1) Subject to the provisions of this Order, no person shall prepare for construction projects in Brunei Darussalam, any cost feasibility study reports, preliminary estimates, cost plans, documents and reports for pre-qualification of contractors, bills of quantities and other tender documents, tender estimates and reports, contract documents and valuations of works for interim payments, variation and final accounts, unless he is —

(a) a registered quantity surveyor who has in force a practising certificate;

(b) under the direction or supervision of a registered quantity surveyor who has in force a practising certificate; or

(c) authorised by the Board to work in collaboration (but without a right to any independent practice) with a registered quantity surveyor who

