

No. S 16

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

SYARIAH COURTS EVIDENCE (AMENDMENT) ORDER, 2014

ARRANGEMENT OF SECTIONS

Section

1. Citation and commencement.
 2. Amendment of section 3 of S 63/2001.
 3. Amendment of section 23.
 4. Amendment of section 103.
 5. Amendment of section 106.
 6. Substitution of section 151.
 7. Amendment of section 161.
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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 —

Citation and commencement.

1. This Order may be cited as the Syariah Courts Evidence (Amendment) Order, 2014 and shall commence on 1st May 2014.

Amendment of section 3 of S 63/2001.

2. Section 3 of the Syariah Courts Evidence Order, 2001, in this Order referred to as the principal Order, is amended, in subsection (1), in the definition of “*syahadah*”, by inserting “or its synonymous words in any language” immediately after “*asyhadu*”.

Amendment of section 23.

3. Section 23 of the principal Order is amended —

(a) in subsection (10), by deleting “penalty in accordance with *Hukum Syara’*” and by substituting “or *qisas* penalty” therefor;

(b) in subsection (11), by inserting “or *qisas*” immediately after “*hudud*”.

Amendment of section 103.

4. Section 103 of the principal Order is amended, in subsection (1)(b), by inserting “or *qisas*” immediately after “*hudud*”.

Amendment of section 106.

5. Section 106 of the principal Order is amended —

(a) by repealing subsection (3) and by substituting the following new subsection therefor —

“(3) *Syahadah* in the cases of *sariqah*, *hirabah*, *qazaf*, drinking intoxicating drinks, *irtidad* and *qisas* in order to convict an offence of *hudud* or *qisas* is inadmissible unless it is given by at least 2 male *syahid* who have seen it.”;

(b) by repealing subsection (6) and by substituting the following new subsection therefor —

“(6) In matters other than as referred to in the preceding subsections, *syahadah* shall be given by —

(a) 2 male *syahid*;

(b) one male and 2 female *syahid*; or

(c) one male *syahid* and oath of the complainant.”.

Substitution of section 151.

6. Section 151 of the principal Order is repealed and substituted by the following new section therefor —

“Open *tazkiyah*.

151. An open *tazkiyah* shall be conducted in the following manner —

(a) 2 *muzakki* and each *syahid* shall be brought before the Court in the presence of the parties to the proceedings; and

(b) the Judge shall ask each *muzakki* with a question of “is this *syahid* *adil* or otherwise” and the *muzakki* shall explicitly answer with an answer of “this *syahid* is *adil*” or “this *syahid* is not *adil*”.

Amendment of section 161.

7. Section 161 of the principal Order is amended, in subsection (1), by inserting “or *qisas*” immediately after “*hudud*”.

Made this 26th. day of Jamadilakhir, 1435 Hijriah corresponding to the 26th. day of April, 2014 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM