

No. S 43

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

ENERGY EFFICIENCY (STANDARDS AND LABELLING) ORDER, 2021

ARRANGEMENT OF SECTIONS

Section

PART 1

PRELIMINARY

1. Citation, commencement and long title
2. Interpretation
3. Order to bind Government

PART 2

ADMINISTRATION

4. Appointment of Authority and authorised officers
5. Public servants

PART 3

REGISTRATION OF SUPPLIERS AND REGISTRABLE GOODS

6. Registrable goods
7. Duties of persons on registrable goods
8. Registration of suppliers and registrable goods
9. Modification of registered goods
10. Register of registered suppliers and registered goods
11. Notification of change in particulars, information or documents submitted
12. Duration and renewal of registration

13. Withdrawal or revocation of registration
14. Appeal

PART 4
STANDARDS AND LABELLING

Division 1
Energy Efficiency Standards

15. Energy efficiency standards
16. Accredited testing laboratories
17. Test report

Division 2
Energy Labels

18. Energy efficiency ratings, energy labels and other labelling requirements
19. Duty of registered suppliers in labelling
20. Obscures etc. of energy label

PART 5
ENFORCEMENT

21. Improvement notice
22. Prohibition notice
23. Cancellation notice
24. Entry into premises
25. Power to require test or provide sample for testing or analysis
26. Power to obtain information
27. False statements, forging of documentation etc.

PART 6
GENERAL

28. Power of court to order cause of contravention to be remedied
 29. General penalty
 30. Composition of offences
 31. Offences by bodies corporate etc.
 32. Saving of prosecutions under other written laws
 33. Protection from personal liability
 34. Exemption
 35. Regulations
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CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))

ENERGY EFFICIENCY (STANDARDS AND LABELLING) ORDER, 2021

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 1
PRELIMINARY

Citation, commencement and long title

1. (1) This Order may be cited as the Energy Efficiency (Standards and Labelling) Order, 2021 and shall commence on a date to be appointed by the Minister, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*.

(2) The long title of this Order is “An Order to provide for energy efficiency standards and labelling and for matters connected therewith or incidental thereto”.

Interpretation

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

“accredited testing laboratory” means a testing laboratory that is accredited by the Authority under section 16;

“authorised officer” means a person appointed as such under section 4(3);

“Authority” means the Authority appointed under section 4(1);

“effective date”, in relation to any goods, means the date on which the goods become registrable goods as specified in the order under section 6;

“energy efficiency” means the energy performance measured by an accredited testing laboratory;

“energy efficiency rating” means the energy efficiency level in compliance with the requirements specified under section 18;

“energy efficiency standard” means any minimum energy efficiency standard, test standard and other performance requirements that are specified or updated under section 15;

“energy label” means a label that contains information about the energy efficiency rating and other performance characteristics of the registrable goods;

“goods” means any device, appliance, equipment, article or thing the use or operation of which consumes electricity or fuel;

“labelling” in relation to any registrable goods, means marking or affixing an energy label to the registrable goods;

“manufacture” means to make, fabricate, produce or process any goods and includes —

(a) the adapting for sale of any goods; and

(b) the altering, ornamenting or finishing or the assembling or processing in any form of any goods;

“minimum energy efficiency standard” means the minimum performance requirements for registrable goods that are specified or updated under section 15;

“Minister” means the Minister of Energy;

“model” means the design or structure of goods which many copies or reproduction are to be made by an importer or manufacturer;

“registrable goods” means any goods declared as such by an order under section 6;

“registered goods” means any registrable goods registered as such under section 8(4)(b);

“registered model” means a model of registrable goods that is included in the register kept and maintained under section 10;

“registered supplier” means any importer or manufacturer registered as such under section 8(4)(a);

“supply”, in relation to any goods, includes —

- (a) the supply of the goods by way of sale, lease, loan, hire or hire-purchase;
- (b) the supply of the goods in connection with any agreement; and
- (c) the offer to supply the goods;

“test standard” means the standard requirements for registrable goods that are specified or updated under section 15.

Order to bind Government

3. (1) Except as provided in subsection (2), this Order shall bind the Government.

(2) Nothing in this Order shall render the Government liable to prosecution for an offence.

(3) For the avoidance of doubt, no person shall be immune from prosecution for any offence under this Order by reason that the person is engaged to provide services to the Government.

PART 2 ADMINISTRATION

Appointment of Authority and authorised officers

4. (1) The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, appoint a person or body of persons to be the Authority for the purposes of this Order.

(2) The Authority shall, subject to any general or special directions of the Minister, be responsible for the administration of this Order, and may exercise such powers as are conferred and perform such duties as are imposed on it by this Order.

(3) The Authority may, with the approval of the Minister, by notification published in the *Gazette*, appoint any person to be an authorised officer to assist in the administration of this Order.

(4) The Authority may, with the approval of the Minister, delegate the exercise of all or any of the powers conferred or duties imposed on it by this Order (except the power of delegation conferred by this subsection) to any

authorised officer, subject to such conditions or limitations as the Authority may specify.

Public servants

5. The Authority and any authorised officer appointed under section 4 are deemed to be public servants for the purposes of the Penal Code (Chapter 22).

PART 3

REGISTRATION OF SUPPLIERS AND REGISTRABLE GOODS

Registrable goods

6. The Minister may, by order published in the *Gazette*, declare any class, description or type of goods to be registrable goods for the purposes of this Order to take effect from the date specified in the order.

Duties of persons on registrable goods

7. A person shall not make available for sale, lease, loan, hire or hire-purchase any registrable goods in Brunei Darussalam unless the energy efficiency or performance characteristics of those goods comply with the energy efficiency standards.

Registration of suppliers and registrable goods

8. (1) No importer or manufacturer shall, in the course of any trade or business, supply any registrable goods in Brunei Darussalam on or after the effective date for those goods, unless the importer or manufacturer —

(a) is a registered supplier of those goods; and

(b) has registered those registrable goods.

(2) Any importer or manufacturer who intends to supply any registrable goods in Brunei Darussalam shall apply to the Authority, in such form and manner as the Authority may determine —

(a) to be registered as a registered supplier; and

(b) to register the registrable goods which the importer or manufacturer intends to supply in Brunei Darussalam.

(3) Every application under subsection (2) shall be accompanied by such particulars, information and documents as the Authority may determine.

(4) The Authority may register, subject to such conditions as it thinks fit to impose, or refuse to register —

(a) any applicant as a registered supplier; or

(b) any registrable goods which the applicant intends to supply in Brunei Darussalam as registered goods.

(5) The registration of any registered supplier or any registered goods shall not be transferable from one person to another without the approval in writing of the Authority.

(6) Any importer or manufacturer who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

Modification of registered goods

9. If, after a registered supplier has submitted such particulars, information and documents as the Authority may determine in respect of a model of a registered goods (in this section referred to as the first-mentioned model) under section 8(3), the model has been modified (in this section referred to as the modified model) to such an extent that its energy efficiency and performance characteristics differ from those submitted, section 8 applies to the modified model from the date of modification, as if it were a new model different from the first-mentioned model, and the registered supplier shall obtain a new registration for the modified model.

Register of registered suppliers and registered goods

10. (1) The Authority shall keep and maintain a register in which shall be entered such particulars of the registered suppliers and the registered goods as the Authority may determine.

(2) Where the registration of any registered supplier or any registered goods has been withdrawn or revoked or has expired, as the case may be, the Authority may —

(a) remove the particulars of the registered supplier or the registered goods from the register; or

(b) indicate the fact of such withdrawal, revocation or expiry of registration against the particulars of the registered supplier or the registered goods in the register, as the case may be.

Notification of change in particulars, information or documents submitted

11. (1) A registered supplier shall, within 21 days after any change in the particulars, information or documents required to be submitted to the Authority under section 8(3) occurs, notify the Authority in writing of the change.

(2) Any person who contravenes any requirement of the Authority under subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

(3) The Authority shall, after receiving a notification under subsection (1), make such amendment in the register as it considers necessary to record the changes.

Duration and renewal of registration

12. (1) The registration of any registered supplier shall remain valid unless withdrawn or revoked under section 13.

(2) The registration of any registered goods, including any renewal thereof, shall be valid for 3 years unless earlier withdrawn or revoked under section 13.

(3) An application to renew the registration of any registered goods shall be made before the expiry of the registration, and in such form and manner as the Authority may determine.

(4) Every application under subsection (3) shall be accompanied by such particulars, information and documents as the Authority may determine.

(5) The Authority may renew the registration of any registered goods subject to such conditions as it thinks fit to impose, or refuse to renew such registration.

Withdrawal or revocation of registration

13. (1) The Authority may withdraw the registration of —

(a) any registered supplier where the registered supplier applies to the Authority to withdraw his registration as such; or

(b) any registered goods which a registered supplier ceases to supply in Brunei Darussalam, where the registered supplier applies to the Authority to withdraw such registration.

(2) The Authority may revoke the registration of any registered supplier after giving notice to the registered supplier and after such inquiry as the Authority thinks fit —

(a) if the registered supplier procured the registration by providing any particulars, information or document, or by making any statement or representation, to the Authority which is false or misleading in any material particular;

(b) if the Authority is satisfied that the registered supplier has contravened any condition of the registration; or

(c) in the event of such other occurrence or in such other circumstances as the Authority may determine.

(3) The Authority may revoke the registration of any registered goods after giving notice to the registered supplier supplying those goods and after such inquiry as the Authority thinks fit, if it is satisfied that —

(a) the registered goods do not conform with the results of any test or examination furnished by the registered supplier to the Authority under this Order;

(b) the registered goods do not meet the energy efficiency standards;

(c) a modification to the registered goods has resulted in a change that affects the energy efficiency of the registered goods;

(d) the registered supplier has procured the registration of the registered goods by providing any particulars, information or document, or by making any statement or representation, to the Authority which is false or misleading in any material particular;

(e) the registered supplier has contravened any condition of the registration of the registered goods; or

(f) the registered supplier has contravened any provision of this Order in relation to the registered goods.

(4) The Authority shall, after revoking any registration under subsection (2) or (3), inform the registered supplier in writing of the revocation and the grounds for the revocation.

(5) Where the registration of any registered goods has been withdrawn under subsection (1)(b) or revoked under subsection (3), it shall be the duty of every registered supplier of those goods to notify every other person —

(a) to whom the registered supplier has supplied those goods; and

(b) who, in the course of any trade or business, supplies those goods in Brunei Darussalam,

of such withdrawal or revocation of the registration of the goods.

(6) Where the registration of any registered goods has been withdrawn under subsection (1)(b) or revoked under subsection (3), it shall be the duty of every person notified under subsection (5) to return those goods to the registered supplier.

(7) All costs relating under subsection (6) shall be borne by the registered supplier.

Appeal

14. (1) Any importer or manufacturer who is aggrieved by a decision of the Authority —

(a) refusing to register him as a registered supplier, or refusing to register any registrable goods as registered goods, under section 8(4);

(b) refusing to renew the registration of any registered goods under section 12(5);

(c) to impose any condition under section 8(4) or 12(5); or

(d) to revoke the registration of any registered supplier under section 13(2) or the registration of any registered goods under section 13(3),

may, within 14 days after the date of receipt of the notice informing him of the decision of the Authority, appeal in writing to the Minister against the decision.

(2) The Minister may confirm, vary or reverse the decision of the Authority appealed against, or give such directions in the matter as the Minister thinks fit.

(3) Any decision made by the Minister under subsection (2) is final.

(4) Notwithstanding that any appeal under subsection (1) is pending —

(a) any condition imposed by the Authority under section 8(4) or 12(5);

(b) any revocation of the registration of any registered supplier under section 13(2); or

(c) any revocation of the registration of any registered goods under section 13(3),

as the case may be, shall take effect from the date specified by the Authority in its decision, unless the Minister otherwise directs.

PART 4 STANDARDS AND LABELLING

Division 1

Energy Efficiency Standards

Energy efficiency standards

15. (1) The Minister may prescribe any minimum energy efficiency standards, test standards and such other performance requirements for the registrable goods as applicable under this Order.

(2) The Minister may declare the update of minimum energy efficiency standards, test standards and such other performance requirements prescribed for the registrable goods as applicable under this Order.

Accredited testing laboratories

16. (1) The Authority shall have power in its discretion to accredit testing laboratories, within Brunei Darussalam or outside Brunei Darussalam, which are qualified to test the energy efficiency performance of registrable goods.

(2) The Authority may remove a laboratory from the list of accredited testing laboratories if the laboratory is found to have breached the scopes of its accreditation or of such other reasons as the Authority thinks fit.

(3) The Authority shall make available to the public a list of accredited testing laboratories.

Test report

17. (1) A test report from an accredited testing laboratory in accordance with the test requirements that may be specified by the Authority shall be treated as sufficient evidence for verifying energy efficiency performance.

(2) The Authority may request for further testing to be done by the accredited testing laboratory and submit the test report to the Authority.

(3) All costs relating to the test under subsection (2) shall be borne by the registered supplier regardless of the results of the test report.

Division 2 *Energy Labels*

Energy efficiency ratings, energy labels and other labelling requirements

18. The Minister may prescribe the requirements to be complied in respect of energy efficiency ratings, energy labels and such other labelling requirements for the registrable goods as applicable under this Order.

Duty of registered suppliers in labelling

19. (1) A registered supplier shall ensure there is marked or affixed an energy label to each product for each registered model according to the test report conducted by an accredited testing laboratory in the manner that may be specified by the Authority.

(2) The registered supplier referred to in subsection (1) shall not engage in any conduct that deceives or misleads, or is likely to deceive or mislead, another person as to —

(a) the physical characteristics of any product of the registered model that affect its energy efficiency; or

(b) the energy efficiency or performance characteristics of any product of the registered model.

(3) If a registered supplier contravenes subsection (1) or (2) in respect of a registered model, the Authority may —

(a) serve an improvement notice under section 21; or

(b) withdraw or revoke the registration of that model from the register under section 13.

Obscures etc. of energy label

20. (1) Where an energy label is marked or affixed to any registered goods or anything with which those goods are supplied, any person who, without reasonable excuse —

(a) obscures the display of the energy label; or

(b) defaces or removes the energy label,

is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

(2) Any person who forges or alters to make false any energy label is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 3 months or both.

PART 5
ENFORCEMENT

Improvement notice

21. (1) The Authority may serve an improvement notice on a registered supplier if it is of the opinion that the registered supplier —

(a) is contravening a requirement under this Order; or

(b) has contravened such a requirement in circumstances that make it likely that the contravention will continue or be repeated.

(2) In an improvement notice, the Authority shall —

(a) state the Authority's opinion under subsection (1);

(b) specify the requirement that is being or has been contravened; and

(c) direct the registered supplier to remedy, within a period specified in the notice, the contravention or the matters occasioning it.

(3) An improvement notice may include directions as to the remedial measures to be taken and those directions may be framed —

(a) wholly or partly by reference to any requirement under this Order as the Authority may determine; and

(b) so as to afford the registered supplier on whom the notice is served a choice between different ways of remedying the contravention or the matters occasioning it.

(4) A registered supplier who contravenes any direction specified in an improvement notice is guilty of an offence and liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

Prohibition notice

22. (1) The Authority may serve a prohibition notice on a registered supplier who supplies registered goods prohibiting that registered supplier from supplying the registered goods, if it reasonably believes that —

(a) the registered goods do not comply with any energy efficiency standard;

(b) the energy label is not marked or affixed in accordance with this Order; or

(c) the registered goods bear an energy label containing false or misleading information about the energy efficiency or performance characteristics of the goods.

(2) A prohibition notice shall specify the date on which the prohibition takes effect and shall, if necessary, specify any condition in respect of the prohibition.

(3) A person who fails to comply with a prohibition notice is guilty of an offence and liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

Cancellation notice

23. (1) If the Authority is satisfied that the matter constituting the basis on which a prohibition notice is served on a registered supplier has been rectified, the Authority may serve on that registered supplier a cancellation notice that cancels the prohibition notice.

(2) A cancellation notice shall specify the date on which the cancellation takes effect.

Entry into premises

24. (1) For the purposes of ascertaining compliance to this Order, an authorised officer may, if he reasonably believes that there is a registrable goods in any premises other than a dwelling, enter such premises at any reasonable time.

(2) After entering any premises under subsection (1), an authorised officer may, at the premises, exercise any or all of the following powers —

(a) inspect and examine any registrable goods;

(b) examine any process or procedure in connection with the testing of registrable goods;

(c) require any person carrying on, or employed in connection with, a trade or business to produce —

(i) any notification issued in respect of registrable goods;

(ii) any book or document relating to registrable goods; or

(iii) any other document or information or any other thing that he reasonably believes to be a contravention of a requirement under this Order or relevant to an offence;

(d) take and make copies of any notification, book, document or information referred to in paragraph (c); and

(e) if the authorised officer has reasonable grounds to suspect that, in relation to a registrable goods —

(i) a requirement under this Order has been contravened; or

(ii) an offence under this Order has been committed,

seize and detain the registrable goods or any thing that is likely to be of value to the investigation of the contravention or offence.

(3) A person who, without reasonable excuse —

(a) fails to comply with a requirement made under subsection (2)(c);
or

(b) obstructs an authorised officer in the exercise of any power conferred under subsection (1) or (2),

is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 6 months or both.

Power to require test or provide sample for testing or analysis

25. (1) The Authority may require any person carrying on a trade or business which consists of or includes the supply of any registrable goods —

(a) to test a model of the registered goods in such manner as the Authority may specify; or

(b) to provide samples of the registrable goods for the purpose of testing or analysis to the Authority.

(2) All costs relating to the test required under subsection (1)(a) shall be borne by the person regardless of the test results.

(3) Any person who contravenes any requirement of the Authority under subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

Power to obtain information

26. (1) A person who manufactures in Brunei Darussalam or imports into Brunei Darussalam —

(a) registrable goods; or

(b) an assembly that incorporates that product in a registrable goods,

shall provide the Authority with the information under subsection (2) no later than 4 months after the end of each year.

(2) The information mentioned in subsection (1) are —

(a) the number of products of each model that the person —

(i) sold in Brunei Darussalam in that year;

(ii) exported from Brunei Darussalam in that year;

(iii) imported into Brunei Darussalam in that year;

(b) the name of each model that the person discontinued —

(i) manufacturing in that year;

(ii) exporting in that year;

(iii) importing in that year; and

(c) a copy of any existing test report, or other energy performance data specified by the Authority, for each model named under paragraph (b).

(3) The Authority may, by notice in writing, require any person carrying on a trade or business which consists of or includes the supply of any registrable goods to furnish to the Authority such documents or information as the Authority may determine within such period as specified in the notice.

(4) Any person who, without reasonable excuse, fails to do any thing required of him under subsections (1) and (2) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

False statements, forging of documentation etc.

27. Any person who —

(a) in relation to —

(i) an application for registration made under section 8(2); or

(ii) the renewal of the registration made under section 12(5),

makes or causes to be made any statement or declaration which is false or misleading in any material particular;

(b) makes or causes to be made any entry in a record, register or other document required to be kept under this Order which to his knowledge is false or misleading in any material particular; or

(c) in response to any request of the Authority under section 26, furnishes any document or information which to his knowledge is false or misleading in any material particular,

is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 3 months or both.

PART 6
GENERAL

Power of court to order cause of contravention to be remedied

28. (1) Where any person is convicted of an offence under this Order, the court may, in addition to or instead of imposing any penalty, order him to take, within the period specified in the order (or within such further period as the court may allow), such steps as may be so specified for remedying the matters in respect of which the contravention occurred.

(2) Subject to subsection (3), where an order is made under subsection (1), the convicted person shall not be liable under this Order in respect of the continuation of the contravention during the period specified in the order or allowed by the court to remedy the matters in respect of which the contravention occurred.

(3) If, after the expiration of the period specified in the order or allowed by the court under subsection (1) following a conviction of an offence, the order is not complied with, the person referred to in that subsection is guilty of an offence and liable on conviction to a fine not exceeding \$1,000 for every day or part thereof during which the non-compliance continues after the date of conviction for that first-mentioned offence.

General penalty

29. Any person who contravenes or fails to comply with any provision of this Order for which no penalty is expressly provided is guilty of an offence and liable —

(a) on the first conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction; and

(b) on a second or subsequent conviction to a fine not exceeding \$4,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part thereof during which the offence continues after conviction.

Composition of offences

30. (1) The Authority or any authorised officer may compound any offence against this Order which is prescribed as a compoundable offence by collecting from the person reasonably suspected of having committed the offence a sum of money not exceeding \$1,000.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

Offences by bodies corporate etc.

31. (1) Where an offence against this Order committed by a body corporate is proved —

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he was a director of that body corporate.

(3) Where an offence against this Order is committed by a partnership, every partner of the partnership is guilty of that offence and liable to be proceeded against and punished accordingly unless he proves that —

(a) the offence was committed without his consent or connivance; and

(b) he had exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(4) Where an offence against this Order is committed by an unincorporated association (other than a partnership), any officer of the unincorporated association or member of its governing body is guilty of that offence and liable to be proceeded against and punished accordingly unless he proves that —

(a) the offence was committed without his consent or connivance; and

(b) he had exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(5) In this section —

“officer” —

(a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate, and includes a person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary or a member of the committee of the unincorporated association or a person holding a position analogous to that of president, secretary or member of a committee, and includes a person purporting to act in any such capacity;

“partner”, in relation to a partnership, includes a person purporting to act as a partner.

Saving of prosecutions under other written laws

32. Nothing in this Order or any regulations made thereunder shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an offence under this Order or any regulations made thereunder, or from being liable under that other written law to any punishment or penalty higher or other than that provided by this Order or the regulations, but no person shall be punished twice for the same offence.

Protection from personal liability

33. No liability shall lie personally against the Authority, any authorised officer or other persons acting under the direction of the Authority for anything done or intended to be done in good faith and with reasonable care in the execution or purported execution of this Order.

Exemption

34. (1) The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette* and with or without conditions, exempt —

(a) any goods or class or description of goods; or

(b) any person or class or description of persons,

from all or any of the provisions of this Order.

(2) The Minister may suspend or withdraw an exemption granted under subsection (1) on the ground that the conditions subject to which the exemption was granted have not been complied with or for any other reason.

Regulations

35. (1) The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as he considers necessary or expedient for giving effect to and carrying out the provisions of this Order, including the prescription of fees or other things required to be or which may be prescribed under this Order, and for the due administration thereof.

(2) Such regulations may include such incidental, consequential and supplementary provisions as the Minister considers necessary or expedient.

(3) Any regulations made under this section may provide a penalty on conviction for the contravention thereof of a fine not exceeding \$2,000, imprisonment for a term not exceeding 3 months or both.

Made this 3rd. day of Zulkaedah, 1442 Hijriah corresponding to the 14th. day of June, 2021 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.