



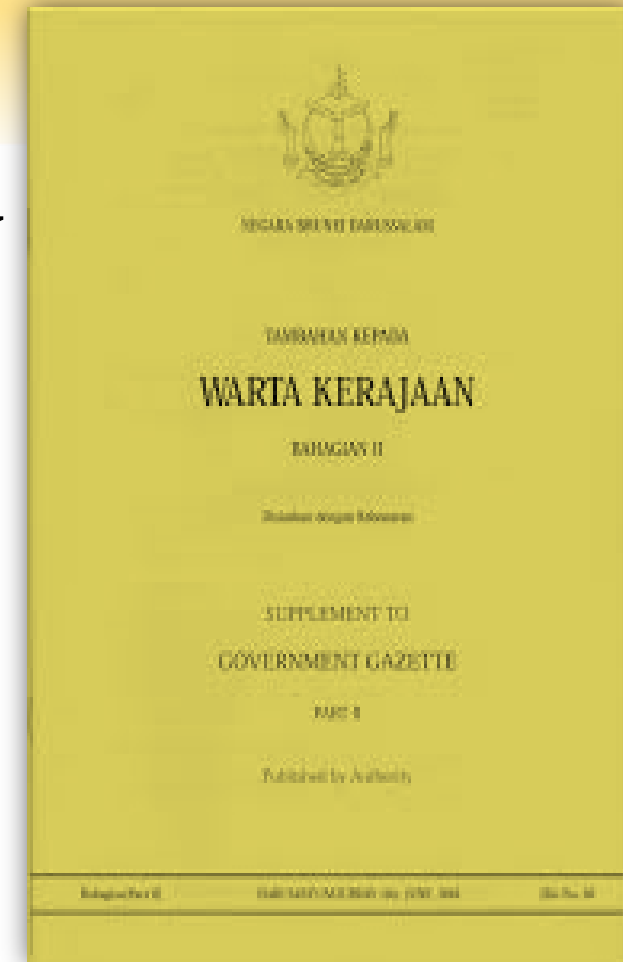
UNDERSTANDING THE LAW : ROLE AND RESPONSIBILITIES OF THE GOVERNMENT

NOTIFICATIONS



WHAT IS A NOTIFICATION

- An announcement in the *Government Gazette* to notify the public
- Types of notification
 - a) Date of commencement of law
 - b) Minister responsible for law
 - c) Delegation of power of Minister
 - d) Officer(s) appointed under the provisions of the laws – authorised officers, enforcement officers, inspectors and others.





PLANT VARIETIES PROTECTION ORDER, 2015
(S 17/2015)

Notification of commencement

In exercise of the power conferred by section 1(1) of the Plant Varieties Protection Order, 2015, the Minister of Energy and Industry in the Prime Minister's Office, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby appoints 1st April 2015 as the date on which that Order shall be deemed to have commenced.

Dated this 3rd. day of Safar, 1438 Hijriah corresponding to the 3rd. day of November, 2016.

AWANG ADI SHAMSUL BIN HAJI SABLI
Permanent Secretary,
Office of the Prime Minister,
Brunei Darussalam.



**No. 343 — EMERGENCY (INDUSTRIAL DESIGNS) ORDER, 1999
(S 7/2000)**

Notification of appointment of Minister responsible for the Industrial Designs

It is hereby notified for public information that for the purposes of the Industrial Designs Order, 1999, His Majesty the Sultan and Yang Di-Pertuan has been graciously pleased to appoint the Minister of Energy and Industry in the Office of the Prime Minister to be the Minister responsible for the Industrial Designs with effect from 22nd. October, 2015.

Dated this 17th. day of Jamadilakhir, 1437 Hijriah corresponding to the 26th. day of March, 2016.

Permanent Secretary,
Office of the Prime Minister,
Brunei Darussalam.



No. 465 – CRIMINAL PROCEDURE CODE (*Chapter 7*)

Section 374(3)

Delegation of Powers

In exercise of the powers conferred by subsection (3) of section 374 of the Criminal Procedure Code, I, Datin Seri Paduka Hajah Hayati binti Pehin Orang Kaya Shahbandar Dato Seri Paduka Haji Mohd. Salleh, Public Prosecutor, do hereby delegate all the powers vested in me by the Criminal Procedure Code to Awang Haji Abdullah Soefri bin Pehin Orang Kaya Saiful Mulok Dato Seri Paduka Haji Abidin, Deputy Public Prosecutor.

Dated this 11th. day of May, 2016.

Public Prosecutor,
Brunei Darussalam.



**No. 466 – WORKPLACE SAFETY AND HEALTH ORDER, 2009
(S 44/2009)**

Notification of appointment of authorised officer

In exercise of the powers conferred by section 7(3) and (5) of the Workplace Safety and Health Order, 2009, the Commissioner of Workplace Safety and Health has appointed Dr. Alice Lai Swee Chaen as authorised officer to assist in the administration of that Order with effect from 15th. April, 2015.

Dated this 24th. day of Rejab, 1437 Hijriah corresponding to the 2nd. day of May, 2016.

Commissioner of Workplace Safety and Health,
Brunei Darussalam.



REASONS FOR NOTIFICATION

- Legally required
- For public information





BENEFITS OF PUBLICATION IN GAZETTE

- Transparency
- Legal backup – Section 45 of the Interpretation and General Clauses (Chapter 4)

Gazette to be evidence of matters therein:

“45. All printed copies of the Gazette, purporting to be published by authority and printed by the Government Printer, **shall be admitted in evidence** by all courts, and in all legal proceedings whatsoever, without any proof being given that such copies were so published and printed, and shall, until the contrary is proved **be taken and accepted as evidence of** the Proclamations, regulations, orders, appointments, notices and other publications therein printed, and of the **matters and things contained or necessarily implied in any of them.**”





NOTIFICATION OF APPOINTMENTS BY NAME OR OFFICE

INTERPRETATION AND GENERAL CLAUSES (Chapter 4)

Appointment of officers by name or office

22. Whenever, by or under any written law, power is given to appoint or name a person to have and exercise any powers or discharge any duties, the power may be lawfully exercised either by appointing a person by name, or by directing that the person for the time being holding a designated office shall have and exercise such powers and discharge such duties.



NOTIFICATION OF APPOINTMENTS BY NAME OR OFFICE

INTERPRETATION AND GENERAL CLAUSES (Chapter 4)

| NAME | OFFICE |
|---|---|
| Appoints specifically that person | <ul style="list-style-type: none">• Whoever holds the office can exercise the power and discharge the duties.• No necessity for further notification of holder if the office changes |
| <p>Potential problem</p> <ul style="list-style-type: none">• That officer no longer holds the position• That officer no longer works in the same organisation. | <p>Potential problem</p> <ul style="list-style-type: none">• Name of office changes |



WHEN IS NOTIFICATION LEGALLY REQUIRED?



- *This Order may be cited as the Competition Order, 2015 and **shall commence on a date to be appointed** by the Minister, with approval of His Majesty the Sultan and Yang Di-Pertuan, **by notification published in the Gazette.***
- ***The Commission shall** consist of a Chairman and such other members, not being less than 6 or more than 12, **appointed** by His Majesty the Sultan and Yang Di-Pertuan, **by notification published in the Gazette.***
- ***All appointments to the Board shall be notified in the Gazette.***



PERIOD OF APPOINTMENT LEGALLY PROVIDED IN THE LAW

➤ *The directors shall –*

*(b) **hold office for a term of 3 years** and shall be eligible for reappointment.*



➤ *His Majesty the Sultan and Yang Di-Pertuan may, on the advice of the President of the Majlis and after consultation with the Majlis, **appoint and re-appoint, for a period of not exceeding 3 years**, not more than 5 Muslims to form a standing panel of Judges, and the Chief Syar'ie Judge shall elect 2 of them to constitute a quorum of Judges in the Syariah Appeal Court for each proceedings.*



OTHER LEGAL REQUIREMENTS: SPECIFIED TIME FRAME FOR NOTIFICATION TO BE MADE



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.



FREQUENCY OF PUBLICATION

- *Subject to and in accordance with this Act, the Register shall be in such form as the Board may determine and the names of all persons included in the Register shall be published **annually in the Gazette**.*
- *3.(1) The Registrar shall maintain a register of midwives.*
 - (2) The Registrar shall as soon as may be after the **first day of March of every year prepare and publish in the Gazette** a list of the names and addresses of all the persons whose names appear in the register on the first day of February immediately preceding such publication.*





WHO SIGNS THE NOTIFICATION?

- Minister
- Permanent Secretary





INTERPRETATION AND GENERAL CLAUSES (Chapter 4)

Signification of orders of His Majesty the Sultan and Yang Di-Pertuan or His Majesty the Sultan and Yang Di-Pertuan in Council

*17. Whenever any written law confers upon **His Majesty the Sultan and Yang Di-Pertuan or His Majesty the Sultan and Yang Di-Pertuan in Council** power to –*

(d) authorise any thing or matter to be done;

(g) exercise any power,

*it shall be sufficient if the exercise of such power be signified, in the case of His Majesty the Sultan and Yang Di-Pertuan, under the hand of any **Minister** or the **Permanent Secretary to the Office of the Prime Minister**, and, in the case of His Majesty the Sultan and Yang Di-Pertuan in Council, under the hand of any **Minister** or the **Secretary to the Council of Ministers**:*

***Provided that** this section shall not apply to the power of His Majesty the Sultan and Yang Di-Pertuan to issue any **warrant** or **Proclamation**, which shall be made or issued only under the **hand of His Majesty the Sultan and Yang Di-Pertuan himself**.*



INTERPRETATION AND GENERAL CLAUSES (Chapter 4)

Signification of orders etc. of Minister

17A. Where any written law confers upon a Minister power to –

(d) authorise any thing or matter to be done;

(g) exercise any power,

*it shall be sufficient, unless in such written law it is otherwise provided, if the exercise of such power by the **Minister** be signified under the hand of the **Permanent Secretary to the Ministry for which the Minister is responsible**.*

Signing of documents

*17B. Where in any written law any document is required to be under the hand of or countersigned by a **Minister** in exercise of any powers conferred thereby, it shall be sufficient for such document to be under the hand of or signed or countersigned by the **Permanent Secretary to the Ministry for which the Minister is responsible** or by any **public officer duly authorised in writing by the Minister**.*



| Office conferred with power | Signed by |
|---|---|
| <ul style="list-style-type: none">■ His Majesty the Sultan and Yang Di-Pertuan | <ul style="list-style-type: none">■ Minister or the Permanent Secretary to the Office of the Prime Minister |
| <ul style="list-style-type: none">■ His Majesty the Sultan and Yang Di-Pertuan in Council | <ul style="list-style-type: none">■ Minister or the Secretary to the Council of Ministers |
| <ul style="list-style-type: none">■ Minister | <ul style="list-style-type: none">■ Permanent Secretary to the Ministry |



EXERCISE OF LAW PRIOR TO PUBLICATION

- Publication of gazette is not a prerequisite to the officer appointed or authorised from exercising his duties and powers.
- More important is –
 - to inform the individual concerned or holder of office;
 - to inform the effective date and tenure;
 - to inform scope of his duties and powers.
- Individual concerned can be informed by administrative means either by providing copy of signed notification or internal correspondence.





WAY FORWARD



- Softcopy required to send to AGC for the names of officers to expedite process and reduce errors
- AGC initiates project to prepare template notifications since 2017
- Request can be made to AGC for templates to be prepared



THANK YOU