No. S 68

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

TOURISM ORDER, 2016

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Citation and long title
2. Interpretation
3. Application

PART II

BRUNEI DARUSSALAM TOURISM BOARD

4. Establishment and membership of Board
5. Meetings of Board
6. Functions of Board
7. Director
8. Authorised officers
9. Public servants

PART III

TRAVEL AGENTS

10. Business of travel agent
11. Persons carrying business of travel agents to be licensed
12. Application for travel agent licence
13. Limit as to numbers of licences granted

14. Annual travel agent licence fee

15. Display of travel agent licence

16. Revocation or suspension of travel agent licence

17. Effect of revocation or suspension of travel agent licence

18. Duty to submit information etc.

PART IV

TOURIST GUIDES

19. Interpretation of this Part

20. Licence required to act as tourist guide etc.

21. Employment of unlicensed tourist guide

22. Presumption of guiding services for remuneration

23. Application for tourist guide licence

24. Tourist guide badge

25. Code of practice

26. Information etc. to be provided by licensed tourist guide

27. Suspension, revocation or cancellation of tourist guide licence

28. Appeal

29. Surrender of tourist guide badge

PART V

REGISTRATION OF TOURIST ACCOMMODATION PREMISES

30. Registration of tourist accommodation premises

31. Application for registration as tourist accommodation premises

32. Power of Director to determine registration

33. Register to be kept

34. Cancellation of certificate of registration

35. Furnishing of information and statistics

PART VI

GENERAL

36. Power of Minister to give directions

37. Lost licences

38. False or misleading information

39. Wrongful conversion and false accounts

40. Power to search premises

41. Power of arrest

42. Powers of authorised officers

43. Obstruction of search etc.

44. Offences by body corporate

45. General penalty

46. Composition of offence

47. Regulations

48. Repeal of Chapter 103

49. Transitional and savings

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

TOURISM ORDER, 2016

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 and long title

1. (1) This Order may be cited as the Tourism Order, 2016.

(2) The long title of this Order is "An Order for the establishment of the Brunei Darussalam Tourism Board and to regulate tourism enterprise and for matters connected therewith or incidental thereto".

Interpretation

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

"accommodation premises" includes bed and breakfast, hostels, hotels, inns, boarding-houses, rest houses, lodging houses and homestay, held out by the proprietor, owner or manager, either wholly or partly, as offering lodging or sleeping accommodation to tourists for hire or any other form of reward, whether or not food or drink is also offered;

"authorised officer" means a person appointed as such under section 9;

"Board" means the Brunei Darussalam Tourism Board established by section 4;

"Director" means the Director of Tourism Development;

"travel agent licence" means a travel agent licence granted under section 12;

"member" means member of the Board;

"Minister" means the Minister of Primary Resources and Tourism;

"tourist" means any person, whether he is a citizen of Brunei Darussalam or otherwise, visiting a place in Brunei Darussalam for recreation, pleasure, business or any other purpose;

"tourism enterprise" means all or any of the following —

(a) any business which provides national or international carriage for passengers;

(b) any business which, either wholly or in part, provides or arranges services for visitors to Brunei Darussalam by way of transport, accommodation, tours or guides, whether or not such services are provided within or outside Brunei Darussalam;

(c) any business which, either wholly or in part, distributes for the purpose of trade or retails tourism-related products;

(d) any other undertaking, including any convention, exhibition, show, fair, publicity campaign or theme park, intended wholly or in part for the benefit of, or for the purpose of attracting, visitors to Brunei Darussalam;

"tourist accommodation premises" means any accommodation premises registered by the Director under section 32(3) as a tourist accommodation premises;

"tourist guide" means an individual who personally provide any guiding services tours for remuneration;

"tourist guide licence" means a tourist guide licence granted under section 23;

"tourism-related product" means any product, primarily intended for sale to visitors to Brunei Darussalam.

Application

3. Nothing in this Order shall construed as relieving any person from the requirements of any other written law relating to the registration of business names, companies and co-operatives societies or the payment of any prescribed fee in respect of such registration.

PART II

BRUNEI DARUSSALAM TOURISM BOARD

Establishment and membership of Board

4. (1) There is hereby established a body known as the Brunei Darussalam Tourism Board.

(2) The Board shall consist of the following members who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan —

(a) a Chairman;

(b) a Deputy Chairman; and

(c) not less than six but not more than ten members of whom —

(i) at least four shall be persons who are connected with any tourism enterprise but shall not hold any public office;

(ii) at least one shall be a representative of the Ministry of Primary Resources and Tourism; and

(iii) any other persons as the Minister considers fit and proper to be members of the Board.

Meetings of Board

5. (1) The Board shall meet at least every quarter of the year for the performance of its functions at such time and place as the Chairman may determine and at a meeting one-half of the members shall form a *quorum*.

(2) In determining whether a *quorum* is present, persons attending as proxies are counted.

(3) The Chairman shall preside at all meetings of the Board at which he is present.

(4) If the Chairman is absent from any meeting of the Board, he shall appoint a Deputy Chairman of the Board to preside at that meeting.

(5) A decision at a meeting of the Board shall be adopted by a simple majority of the members present and voting except that, in the case of an equality of votes, the Chairman of the meeting shall have a casting vote.

(6) A member of the Board shall not, in any meeting of the Board, participate in any discussion relating to, and shall not vote in respect of, any contract, business or other matter in which he is interested, and if he does so his vote shall not be counted.

(7) A member may be represented at any meeting by proxy who may speak and vote on behalf of the member.

(8) The Board may invite any person to attend any meeting or deliberation of the Board for the purpose of advising it on any matter under discussion, but that person shall not be entitled to vote at the meeting.

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

Functions of Board

6. (1) The Board shall have the following functions —

(a) to formulate national policies or strategies relating to travel and tourism in Brunei Darussalam;

(b) to plan in developing and promoting Brunei Darussalam as a travel and tourist destination;

(c) to advise the Minister on matters relating to travel and tourism;

(d) to enhance the travel and tourism sectors contribution to the Brunei Darussalam economy;

(e) to coordinate any marketing or promotion activity in relation to tourism conducted by any government department or governmental or non-governmental agencies or organisations;

(f) to make recommendations to the Minister as to the methods, measures and programmes to be adopted to facilitate and stimulate the development and promotion of the tourism enterprise and where approved by the Minister, to implement or assist in the implementation of the methods, measures and programmes in question;

(g) to identify resources that may be used to develop and promote travel and tourism;

(h) to submit reports and make recommendations to His Majesty the Sultan and Yang Di-Pertuan about matters relating to travel and tourism;

(i) to perform any other functions as directed by the Minister for the proper implementation of this Order.

(2) The Board shall have all such powers as may be necessary for, or in connection with, or incidental to, the performance of its functions under this Order.

Director

7. (1) The Director of Tourism Development shall be responsible for the general supervision of all matters relating to which this Order relates.

(2) The Director may, in writing, delegate the exercise of any or all of the powers and functions conferred upon him by this Order to any public officer as he deems fit.

Authorised officers

8. The Minister may, by notification published in the *Gazette*, appoint such number of authorised officers to carry into effect any specific provisions of this Order or of any regulations made thereunder.

Public servants

9. All members, officers and employees are deemed to be public servants for the purposes of the Penal Code (Chapter 22).

PART III

TRAVEL AGENTS

Business of travel agent

10. (1) Subject to this section, a person carries on the business of a travel agent if he —

(a) sells tickets entitling an individual to travel, or otherwise arranges for a person a right of passage on any conveyance;

(b) sells to, or arranges or makes available for, a person rights of passage to, and accommodation premises at, one or more places (being places within or outside Brunei Darussalam, or some of which are within and others of which are outside Brunei Darussalam);

(c) purchases for resale the right of passage on any conveyance;

(d) carries out such activity as may be prescribed; or

(e) holds himself out as, or advertises that he is, willing to carry on any activity referred to in paragraph *(a)*, *(b)*, *(c)* or *(d)*.

(2) An individual does not carry on the business of a travel agent by reason only of carrying on in the course of his employment any activity referred to in subsection (1).

(3) A person does not carry on the business of a travel agent in respect of any activity referred to in —

(a) subsection (1)*(a)* if he carries on the activity in respect of a conveyance of which he is the owner; or

(b) subsection (1)*(b)* if he carries on the activity in respect of a conveyance and accommodation premises of which he is the owner.

(4) A person does not carry on the business of a travel agent by reason only of holding himself out as, or advertising that he is, willing to carry on any activity to which subsection (3)*(a)* or *(b)* applies.

Persons carrying business of travel agents to be licensed

11. (1) No person shall carry on the business of a travel agent unless he is the holder of a travel agent licence.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 2 years or both and, in the case of a continuing offence, to a further fine not exceeding $100 for every day during which the offence continues after conviction.

Application for travel agent licence

12. (1) A person who desires to apply for a travel agent licence shall make an application to the Director in such form and manner as the Director may determine.

(2) In considering any application under subsection (1), the Director may require the applicant to —

(a) furnish him with such additional document or information; and

(b) satisfy such other matters as the Director may determine.

(3) Upon considering an application received under subsection (1), the Director may —

(a) grant a travel agent licence, with or without conditions; or

(b) refuse to grant a travel agent licence.

(4) The Director shall refuse to grant a travel agent licence if —

(a) satisfactory evidence has not been produced of the good name and character of the applicant or, if the applicant is a company, of its officers holding a managerial or an executive position or, if the applicant is a firm, of the members of the firm;

(b) satisfactory evidence has not been produced to show that the applicant is a fit and proper person to hold a travel agent licence;

(c) the applicant or, if the applicant is a firm, any member of the firm, has been convicted of any offence involving fraud or moral turpitude or, if the applicant is a company, any of its officers holding a managerial or an executive position has been convicted of any offence involving fraud or moral turpitude; or

(d) the Director considers it in the public interest to do so.

(5) The Director may, at any time vary, or cancel any of the existing conditions of a licence or impose conditions or additional conditions thereto.

(6) The Director shall, prior to taking any action under subsection (4), notify its intention to take such action to the licensed travel agent concerned and shall give the licensed travel agent an opportunity to submit reasons why the conditions of his licence should not be so varied or cancelled.

(7) Where a licence is subject to conditions, the licensed travel agent shall comply with those conditions.

(8) Any person who is aggrieved by a decision of the Director under this section may, within one month of being notified of the decision of the Director, appeal against such decision to the Minister whose decision is final.

Limit as to numbers of licences granted

13. The Director may, with the approval of the Minister, limit the number of licences to be granted under this Order.

Annual travel agent licence fee

14. Every licensed travel agent shall pay such annual travel agent licence fee as may be prescribed.

Display of travel agent licence

15. (1) Every licensed travel agent shall exhibit his travel agent licence or a certified copy thereof in a conspicuous place at his principal place of business and at every branch where the licensed travel agent carries on the business of a travel agent.

(2) Any person —

(a) who contravenes or fails to comply with subsection (1); or

(b) who, not being the holder of a travel agent licence, keeps up or exhibits on or near his office, house or place of business or exhibits anywhere or allows to remain unobliterated any sign, writing, painting or other mark implying that such office, house or place of business is that of a person licenced to carry on the business of a travel agent,

is guilty of an offence and liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 2 years or both.

Revocation or suspension of travel agent licence

16. (1) The Director may revoke or suspend a travel agent licence if —

(a) the Director is satisfied that the licensed travel agent —

(i) has ceased to carry on the business for which he has been licensed or, if the licensed travel agent being a company, goes into liquidation or is wound up or otherwise dissolved;

(ii) improperly obtained his travel agent licence contrary to the provisions of this Order;

(iii) is no longer a fit and proper person to continue to hold the travel agent licence;

(iv) has been convicted of any offence involving dishonesty or moral turpitude or, if the licensed travel agent is a company, any of its officers holding a managerial or an executive position or, if the licensed travel agent is a firm, any member of the firm has been convicted of any offence involving fraud or moral turpitude;

(v) is carrying on or has carried on the business of a travel agent in such a manner as renders him unfit to continue to hold a travel agent licence;

(vi) is contravening or has contravened any of the provisions of this Order or any regulations made thereunder;

(vii) has been convicted of any offence against this Order or any regulations made thereunder or, if the licensed travel agent is a company, any of its officers holding a managerial or an

executive position has been convicted of any offence under this Order or any regulations made thereunder; or

(b) the Director considers it in the public interest to do so.

(2) The Director shall, before revoking or suspending any licence under subsection (1), give the licensed travel agent concerned notice in writing of its intention to do so, specifying a date, not less than 21 days after the date of the notice, upon which such revocation or suspension shall take effect and calling upon the licensed travel agent concerned to show cause to the Director why his licence should not be revoked or suspended.

(3) When the Director has revoked or suspended a licence under subsection (1), the Director shall immediately inform the licensed travel agent by notice in writing of the revocation or suspension.

(4) The person whose licence has been revoked or suspended may, within 14 days after the receipt of the notice referred to in subsection (3), or such extended period of time as the Minister may allow, appeal in writing against the revocation or suspension to the Minister whose decision is final.

(5) Any revocation or suspension shall not take effect until the expiration of a period of 14 days after the Director has informed the licensed travel agent of the revocation or suspension in accordance with subsection (3).

(6) If within that period the licensed travel agent concerned gives due notice of appeal to the Minister, the order shall not take effect unless the order is confirmed by the Minister or the appeal is for any reason dismissed by the Minister or is withdrawn.

Effect of revocation or suspension of travel agent licence

17. (1) Where any revocation or suspension becomes effective under section 16, the licensed travel agent shall immediately cease to carry on the business of a travel agent.

(2) Subsection (1) shall not prejudice the enforcement by any person of any right or claim against the licensed travel agent or by the licensed travel agent of any right or claim against any person arising out of or concerning any matter or thing done prior to the revocation or suspension of the travel agent licence.

Duty to submit information etc.

18. (1) Without prejudice to subsection (2), a licensed travel agent shall submit to the Director such information and particulars relating to its business operations as the Director may require within such time as he may determine.

(2) The Director may require the licensed travel agent to submit the following information —

(a) confidential and other tariffs;

(b) details of business activities carried out by them including the charges for and the terms and conditions of such activities;

(c) details of any contract entered by them with any other local or overseas travel agent;

(d) names and particulars of licensed tourist guides employed by them either on full-time or part-time basis.

(3) Any person who contravenes this section is guilty of an offence and liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 2 years or both and, in the case of a continuing offence, to a further fine not exceeding $100 for every day during which the offence continues after conviction.

PART IV

TOURIST GUIDES

Interpretation of this Part

19. In this Part, unless the context otherwise requires —

"false tourist guide badge" means —

(a) a forged tourist guide badge;

(b) a tourist guide badge altered without lawful authority; or

(c) a tourist guide badge in respect of an expired, or a cancelled, revoked or suspended, licence;

"guiding services", in relation to a tourist, includes providing any direction, information, description or explanation to the tourist while accompanying the tourist in or to a place or point of interest in Brunei Darussalam.

Licence required to act as tourist guide etc.

20. (1) Subject to subsection (2), no individual shall —

(a) act as a tourist guide; or

(b) offer to act as a tourist guide, or advertise in any way that he is or is willing to act as a tourist guide,

unless he holds a tourist guide licence.

(2) The prohibition in subsection (1) does not apply to —

(a) the owner or operator of a place or point of interest who himself guides tourists at that place or point; or

(b) any person who is employed or engaged, or whose services are otherwise used, by the owner or operator of a place or point of interest to guide tourists at that place or point.

(3) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding $5,000 and, in the case of a second or subsequent offence, to a fine not exceeding $10,000.

(4) Any person who abets the commission of an offence under subsection (3) is guilty of that offence and liable on conviction to be punished with the punishment provided for that offence.

Employment of unlicensed tourist guide

21. Any person who, directly or indirectly, employs, engages or otherwise uses the services of an unlicensed tourist guide —

(a) whom the person knows or ought reasonably to know is an unlicensed tourist guide; or

(b) with reckless disregard as to whether the tourist guide is an unlicensed tourist guide,

is guilty of an offence and liable on conviction to a fine not exceeding $5,000 and, in the case of a second or subsequent offence, to a fine not exceeding $10,000.

Presumption of providing guiding services for remuneration

22. An individual who provides any guiding services to a tourist is presumed, unless the contrary is proved, to have provided the guiding services for remuneration if, at the time, or within a reasonable time before or after, the guiding services are provided, the tourists and the individual are, have been or will be conveyed, as the case may be, in a motor vehicle (other than an omnibus).

Application for tourist guide licence

23. (1) Any person who desires to apply for or renew a tourist guide licence shall —

(a) make an application to the Director in such form and manner as the Director may determine;

(b) in the case of an application to renew a licence, submit the application to the Director within such period before the expiry of the licence as the Director may specify; and

(c) be accompanied by the prescribed fee.

(2) In considering any application under subsection (1), the Director may require the applicant to —

(a) furnish him with such additional document or information; and

(b) satisfy such other matter as the Director may determine.

(3) For the purposes of subsection (2), the Director may administer, on its own or in collaboration with any other person, such proficiency tests, or training or certification programmes, as it considers appropriate, accompanied on payment of the prescribed fee.

(4) Upon considering an application under subsection (1), the Director may —

(a) grant or renew a tourist guide licence with or without such conditions, for such duration as the Director may specify; or

(b) refuse to grant a tourist guide licence.

(5) The Director shall, before refusing an application to renew a licence, give the applicant notice in writing of its intention to do so and an opportunity to submit reasons, within such period as the Director may specify in that notice, as to why his application should not be refused.

(6) The Director may, at any time, vary or revoke any of the conditions of a licence or impose new conditions.

(7) The conditions of a licence may include the assignment to the licensed tourist guide of such description or classification as a tourist guide as the Director considers appropriate to —

(a) denote the licensed tourist guide's qualifications, proficiency, experience or any other attribute as a tourist guide; or

(b) define or circumscribe the type of guiding services the licensed tourist guide is authorised to provide under the licence.

(8) The Director shall, before altering any description or classification of a licensed tourist guide as a tourist guide under this section —

(a) at the time of renewing his licence; or

(b) at any time during the duration of his licence, in a manner that is to the disadvantage of the licensed travel agent, give the licensed travel agent notice in writing of its intention to do so and an opportunity to submit reasons, within such period as the Director may specify in that notice, as to why such alteration should not be made.

Tourist guide badge

24. (1) Upon granting or renewing a tourist guide licence under section 23, the Director shall issue the licensed tourist guide with a tourist guide badge representing that he is the holder of that licence.

(2) A licensed tourist guide shall —

(a) wear his tourist guide badge prominently on his person at all times when he acts as a tourist guide; and

(b) produce his tourist guide badge for inspection upon being required to do so by the Director or an authorised officer.

(3) Any person issued with tourist guide badge under this section who —

(a) causes or permits his tourist guide badge to be in the possession of any other person; and

(b) knows or ought reasonably to know that, or is reckless as to whether, the badge is or will be used by the other person in connection with identification or acting as a tourist guide,

is guilty of an offence and liable on conviction to a fine not exceeding $5,000.

(4) Any person who —

(a) alters without lawful authority or forges a tourist guide badge;

(b) sells a tourist guide badge or a false tourist guide badge; or

(c) in connection with identification or acting as a tourist guide uses or has in his possession a tourist guide badge which is not issued to him by the Director or a false tourist guide badge,

is guilty of an offence and liable on conviction to a fine not exceeding $5,000.

(5) The reference to a tourist guide badge in subsection (3) shall include a reference to a tourist guide badge in respect of an expired, or a cancelled, revoked or suspended, tourist guide licence.

Code of practice

25. (1) The Director may in connection with the provision of guiding services to tourists by licensees —

(a) issue one or more codes of practice to apply to licensees or such class of licensees as the Director may specify in the codes of practice; and

(b) amend or revoke any code of practice issued under this subsection.

(2) Where a code of practice is issued, amended or revoked by the Director under subsection (1), the Director shall —

(a) publish a notice of the issue, amendment or revocation, as the case may be, in such manner as will secure adequate publicity for such issue, amendment or revocation;

(b) specify the date of the issue, amendment or revocation, as the case may be, in the notice; and

(c) ensure that the code of practice (including any amendment made to the code of practice) remains available for access or inspection by the licensees to whom it applies.

(3) Any issue, amendment or revocation of a code of practice under subsection (1) shall not have any force or effect until the notice relating thereto has been published in accordance with subsection (2)*(a)* and *(b)*.

(4) If any provision of any code of practice in force under this section is inconsistent with any provision of this Order or any regulations made thereunder, the provision in the code of practice shall, to the extent of the inconsistency, not have effect.

(5) Subject to subsection (6), every licensee shall comply with the codes of practice issued under this section which apply to the licensee.

(6) The Director may, either generally or for such time as the Director may specify, waive the application of any code of practice (or part thereof) issued under this section to any licensee or class of licensees.

(7) Any code of practice issued under this section is not subsidiary legislation.

Information etc. to be provided by licensed tourist guide

26. (1) The Director or an authorised officer may, for the purpose of ascertaining whether a licensed tourist guide has complied with or is complying with any provision of this Order (or any regulations made thereunder) or any condition of his licence, require the licensed tourist guide —

(a) to furnish any information within his knowledge; or

(b) to produce for inspection any document or article in his possession, custody or control, relating to his tourist guide services or activities.

(2) The Director or the authorised officer, as the case may be, may make copies of or retain any document or article produced under subsection (1)*(b)* for further inspection.

Suspension, revocation or cancellation of tourist guide licence

27. (1) The Director may, at any time, suspend for a period not exceeding 6 months or such longer period as not exceeding one year as the Director may determine in substitution, or revoke, a tourist guide licence if the licensed tourist guide —

(a) furnishes or causes to be furnished to the Director or any inspecting officer any information (including information in connection with his application for or renewal of a licence) which is false or misleading in any material particular;

(b) refuses or fails, without reasonable excuse, to comply with any requirement of the Director or an authorised officer under section 26(1);

(c) contravenes any provision of this Order or any regulations made thereunder including any provision of any code of practice;

(d) contravenes any condition of his licence;

(e) has committed any offence against any other written law punishable with a term of imprisonment exceeding one month;

(f) ceases to be, in the opinion of the Director, a fit and proper person; or

(g) is incapable, by reason of illness, infirmity or any other cause, of acting as a tourist guide.

(2) The Director shall, before suspending or revoking a tourist guide licence under subsection (1), give the licensed tourist guide notice in writing of its intention to do so and an opportunity to submit reasons, within such period as the Director may specify in that notice, as to why his licence should not be suspended or revoked.

(3) Any decision of the Director to suspend or revoke a tourist guide licence under this section shall not take effect until —

(a) the expiry of the period allowed under section 28 for the licensed tourist guide to appeal to the Minister against the decision; or

(b) the determination or rejection of the appeal by the Minister under section 28,

whichever is the later.

(4) The Director may cancel a tourist guide licence at the request of the licensed tourist guide.

Appeal

28. Any licensed tourist guide who is aggrieved by —

(a) refusal of the Director to grant or renew his tourist guide licence; or

(b) decision of the Director to suspend or revoke his tourist guide licence,

may within 14 days of the date of receipt of the notice of such refusal to renew, suspension or revocation, appeal in writing to the Minister, whose decision is final.

Surrender of tourist guide badge

29. (1) A person issued with a tourist guide badge under this section shall surrender his badge to the Director immediately upon —

(a) being required to do so for the purpose of enabling the Director to make such alteration to the badge as the Director considers appropriate;

(b) the expiry, cancellation, revocation or suspension of his tourist guide licence in respect of which the badge was issued; or

(c) ceasing to be employed as, or engage in the business or provision of services of, a tourist guide, notwithstanding that he holds a valid tourist guide licence.

(2) Any person who fails to comply with subsection (3) is guilty of an offence and liable on conviction to a fine not exceeding $5,000 and, in the case of a continuing offence, to a further fine not exceeding $100 for every day or part thereof during which the offence continues after conviction.

PART V

REGISTRATION OF TOURIST ACCOMMODATION PREMISES

Registration of tourist accommodation premises

30. Any person who carries on or operates any premises for the accommodation of tourists shall register such premises a tourist accommodation premises.

Application for registration as tourist accommodation premises

31. (1) An application for registration as tourist accommodation premises shall —

(a) be made to the Director in such form and manner as the Director may determine; and

(b) be accompanied by payment of fee as may be prescribed.

(2) The Director may, at any time after receiving an application under subsection (1), require the applicant to provide additional documents or information.

Power of Director to determine registration

32. (1) The Director shall, in determining the suitability of any accommodation premises for registration, take into consideration —

(a) the description of the accommodation premises;

(b) the facilities and services provided or offered to tourists;

(c) the number and experience of staff employed or to be employed at the accommodation premises; and

(d) any other factors as the Director thinks fit.

(2) The Director may require the accommodation premises of an applicant to be inspected.

(3) Where the Director is satisfied as to the suitability of the accommodation premises, the Director shall register the premises as a tourist accommodation premises and issue a certificate of registration in such form as Director may determine to the applicant.

Register to be kept

33. The Director shall keep and maintain a register in such form and containing such information as the Director may determine.

Cancellation of certificate of registration

34. (1) Where it appears to the Director that a tourist accommodation premises is being conducted in an improper or unsatisfactory manner, the Director may cancel the certificate of registration.

(2) No cancellation under subsection (1) shall take effect until the expiration of 10 days from the date of the cancellation.

Furnishing of information and statistics

35. (1) Every holder of certificate of registration shall furnish to the Director at such time and in such manner as the Director may determine, any information and statistics as he may reasonably require for the proper discharge of his functions under this Order.

(2) Any information and statistics received from the holder of certificate of registration under subsection (1) shall be regarded as confidential between them and the Director.

(3) Any holder of certificate of registration who fails or neglects to furnish any information and statistics required by the Director under subsection (1) and within the time specified by the Director is guilty of an offence and liable on conviction to a fine of $2,000.

PART VI

GENERAL

Power of Minister to give directions

36. (1) Notwithstanding other provision of this Order, the Minister may, at any time, give directions in writing to a licensed travel agent, licensed tourist guide and holder of certificate of registration to ensure compliance with the provisions of this Order or any rules made thereunder, and such directions shall be binding on the licensed travel agent, licensed tourist guide and holder of certificate of registration to whom they are made.

(2) Any licensed travel agent, licensed tourist guide and holder of certificate of registration who fails or omits to act in accordance with the directions of the Minister under subsection (1) is guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 and to a further fine not exceeding $500 for every day during which the offence continues after conviction.

Lost licences

37. (1) Where a licensed travel agent has lost its licence, it shall immediately notify the Director in writing of the loss.

(2) Where a licensed tourist guide has lost his licence or his tourist guide badge, he shall immediately notify the Director in writing of the loss.

(3) Such licensed travel agent or licensed tourist guide shall submit an application for a replacement licence or tourist guide badge, as the case may be, accompanied by all such information and documents as may be required by the Director and prescribed fees that may be imposed.

False or misleading information

38. Any person who, being required to make any statement or furnish any information or document under this Order or any regulations made thereunder —

(a) makes any statement or furnishes any information or document which is false or misleading in a material particular; and

(b) knows or ought reasonably to know that, or is reckless as to whether, it is false or misleading in a material particular,

is guilty of an offence and liable on conviction to a fine not exceeding $5,000.

Wrongful conversion and false accounts

39. (1) Any licensee who —

(a) fraudulently converts to his own use or to the use of any other person —

(i) any money or part thereof received by him on behalf of any person in respect of any transaction in his capacity as a travel agent; or

(ii) any money or part thereof so received which are held by him in trust pending the completion of any transaction;

(b) fraudulently omits to account for, deliver or pay —

(i) any such money or part thereof so received by him on behalf of any person to such person; or

(ii) any such money or part thereof so received by him which are or were held by him in trust as aforesaid pending the completion of the transaction to the person or persons entitled to such money; or

(c) fraudulently renders an account knowing such account to be false in any material particular of —

(i) any such money or part thereof so received by him on behalf of any person;

(ii) any money so received by him which is or was held by him in trust pending the completion of any transaction or any part of such money; or

(iii) expenses, commission or other charges incidental to any transaction or proposed or contemplated transaction as a travel agent,

is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 3 years.

(2) Nothing in this section shall be construed to limit or in any way affect the provisions of any other written law.

Power to search premises

40. Any police officer, not below the rank of Inspector, on being satisfied upon any information and after any further inquiry which he thinks necessary that there is good reason to believe that any place or premises is used for the carrying

on of the business of a travel agent by a person who is not the holder of a licence, may with such assistance and by such force as is necessary —

(a) enter or go to the place or premises and search the same and all persons found therein;

(b) seize all documents and things reasonably supposed to have been used or intended to be used in connection with the business of a travel agent which are found in the place or premises or on such persons; and

(c) detain all such persons until they and the place or premises have been searched.

Power to arrest

41. (1) Any police officer may without warrant arrest any person whom he reasonably suspects to have committed an offence under this Order.

(2) Any police officer arresting a person under subsection (1) may search that person and take possession of all articles found on him which there is reason to believe were used in connection with the offence.

(3) Every person so arrested shall be taken to the nearest police station.

(4) No woman shall be searched except by a woman.

Powers of authorised officers

42. Any police officer and any authorised officer shall, for the purposes of the execution of this Order, have power to do all or any of the following —

(a) to enter, inspect and examine the place or premises;

(b) to require the production of records, accounts and documents kept by a licensee and to inspect, examine and copy any of them; and

(c) to make such inquiry as may be necessary to ascertain whether the provisions of this Order are complied with so far as regards any person employed by a licensee to assist in the work of a travel agent.

Obstruction of search etc.

43. Any person who —

(a) refuses any police officer or authorised officer to enter or search access to any place or premises;

(b) assaults, obstructs, hinders or delays the authorised officer in effecting any entrance which he is entitled to effect under this Order, or in the execution of any duty imposed or power conferred by this Order;

(c) fails to comply with any lawful demand of an authorised officer in the execution of his duty under this Order; or

(d) refuses or neglects to give any information which may reasonably by required of him and which he has it in his power to give,

is guilty of an offence and liable on conviction to a fine not exceeding $2,000, imprisonment for a term not exceeding 12 months or both.

Offences by body corporate

44. (1) If a body corporate commits an offence against this Order, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management —

(a) may be charged severally or jointly in the same proceedings with the body corporate; and

(b) if the body corporate is found to have committed the offence, shall be deemed to have committed that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves —

(i) that the offence was committed without his knowledge, consent or connivance; and

(ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

(2) If any person is liable under this Order to any punishment or penalty for his act, omission, neglect or default, he is liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of the agent, if the act, omission, neglect or default was committed —

(a) by that person's employee in the course of his employment;

(b) by the agent when acting on behalf of that person; or

(c) by the employee of the agent in the course of his employment by the agent or otherwise on behalf of the agent acting on behalf of that person.

General penalty

45. Any person who fails to comply with or contravenes any provision of this Order for which no specific penalty is expressly provided is guilty of an offence and liable on conviction to a fine not exceeding $5,000, imprisonment for a term not exceeding 3 years or both and in the case of a continuing offence, to a further fine not exceeding $500, for every day during which the offence continues after conviction.

Composition of offence

46. (1) The Director or any person specifically authorised in that behalf by the Director may compound any offence against this Order by collecting from the person reasonably suspected of having committed that offence a sum of money not exceeding $1,000.

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

Regulations

47. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as he considers necessary or expedient for giving effect to or 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) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to all or any of the following matters —

(a) the duration and conditions of any licences, and the manner and procedure for its renewal;

(b) the fees to be paid for any licences and any other fees which are required to be prescribed under this Order;

(d) the procedures of entry into and inspection of premises;

(e) the keeping of proper books, accounts and records by the licensed travel agents and the form and mode of the same;

(f) regulating the establishment and management of tourism training institutions, including the prescription of course content and training programmes, books or materials to be used, the standards to which the institutions shall conform, the granting of permits by the Director for lecturers and instructors, the qualifications of lectures and instructors, the

examinations to be conducted and the certificates or such other qualification to be awarded;

(g) the forms of any register or notice or required to be kept, issued or made under this Order and the procedures for the service of such notices or orders;

(h) to provide for the classification and reclassification of tourist accommodation premises and the rating of such premises by the Director;

(i) the conduct of or the carrying on of any business or service relating to travel agents or tourist guides and the standards of performance to be maintained by them and the granting of exemptions by the Director to any travel agent or tourist guide from any requirement imposed by regulations made under this paragraph; and

(j) anything which may be prescribed or is required to be prescribed under this Order.

Repeal of Chapter 103

48. Subject to section 49, the Travel Agents Act is hereby repealed.

Transitional and savings

49. (1) Any subsidiary legislation or appointment made, and any thing done, under the repealed Travel Agents Act (Chapter 103) and in force immediately prior to the commencement of this Order and so far as it is not inconsistent with this Order, shall continue in force as if made or done under this Order, until it is amended, repealed or revoked under this Order.

(2) Until otherwise amended under this Order and subject to the provisions of this Order, any reference in the subsidiary legislation made under the repealed Travel Agents Act to the Authority shall be construed as reference to the Director of Tourism Development.

(3) Any licence issued under the repealed Travel Agents Act and in force immediately before the date of commencement of this Order shall continue to be in force for the remaining period of the licence and shall subsist until its expiry.

(4) Every application for licences pending to be issued under the repealed Travel Agents Act (Chapter 103) made before the date of commencement of this Order shall be deemed to be an application of the licence under this Order.

Made this 25th. day of Muharram, 1438 Hijriah corresponding to the 26th. day of October, 2016 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM