

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**CHILDREN ORDER, 2000**

**ARRANGEMENT OF SECTIONS**

**Section**

**PART I  
PRELIMINARY**

1. Citation, long title and commencement.
2. Interpretation.

**PART II  
PROTECTORS, REGISTRARS AND REGISTERS**

3. Appointment of protectors.
4. Appointment of Registrars.
5. Register.
6. Contents of Register.
7. Access to Register.
8. Offences in respect of Register.

**PART III  
ACTION TEAM ON CHILD ABUSE**

9. Establishment of Action Team on Child Abuse.
10. Membership of Action Team on Child Abuse.
11. Sitting and conduct of proceedings of Action Team on Child Abuse.
12. Coordination.

**PART IV**

**TEMPORARY CUSTODY, MEDICAL EXAMINATION AND TREATMENT**

13. Taking a child into custody.
14. Child in need of medical examination or treatment.
15. Medical examination and treatment.
16. Authorisation of medical treatment.
17. No liability incurred for giving authorisation.
18. Control of hospitalised children.
19. Duty of medical practitioner and power of medical officer.
20. Steps to be taken in respect of child after medical examination or treatment.

**PART V**

**COURT PROCEDURE**

21. Production of children before Court.
22. Powers of a Court.
23. Contribution Order.
24. Revocation or variation.
25. Control of children placed in custody of a fit person or a place of safety.

**PART VI**

**OFFENCES IN RELATION TO THE HEALTH AND WELFARE OF CHILDREN**

26. Ill-treatment, neglect, exposure or abandonment of children.
27. Children not to be used for begging or any illegal activities.
28. Offence to leave child without reasonable supervision.

**PART VII**

**NOTIFICATION ON TAKING A CHILD INTO CARE, CUSTODY OR CONTROL**

29. Application and interpretation.
30. Notification of taking into care, custody or control.
31. Subsequent obligations.
32. Power of protector to require child to be produced before him.

**PART VIII**

**TRAFFICKING IN CHILDREN**

33. Unlawful transfer of possession, custody or control of child.
34. Importation of child by false pretences.
35. Power to examine children and person in charge.
36. Power of protector to require security.
37. Inspection.

**PART IX**

**MISCELLANEOUS**

38. Power to search premises.
39. Obstructing protector or police officer in performing his functions.
40. Removing or helping child to escape from custody.
41. Protection of identity of child.
42. General penalty.
43. Power to arrest without warrant.
44. Place of safety.
45. Power of Court to determine and declare age of child.
46. Protection of informants.

47. Protection of Permanent Secretary and others.
48. Certificate of Registrar to be evidence.
49. Power to make regulations.

No. S 64

**CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))**

**CHILDREN ORDER, 2000**

In exercise of the power conferred by section 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, long title and commencement.**

1. (1) This Order may be cited as the Children Order, 2000.  
(2) The long title of this Order is an Order to provide for the care and protection of children in matters incidental thereto or connected therewith.  
(3) This Order shall commence on such date as the Minister may be notification in the *Gazette* appoint; and the Minister may appoint different dates for the commencement of different provisions of this Order or for different purposes of the same provision.

**Interpretation.**

2. (1) In this Order, unless the context otherwise requires —  
"Action Team on Child Abuse" means a team established in accordance with section 9 of this Order;  
"child" means a person under the age of eighteen years;  
"Court" means a Court of law in Brunei Darussalam.;  
"guardian" of a child means a parent of the child, or any person lawfully appointed by deed or will or by the order of a competent Court to be the guardian of the child, or a person who has lawfully adopted the child, and includes any person who has lawful custody of the child;  
"hospital" means any government hospital and clinic or any private hospital or clinic;

"medical officer" means a registered medical practitioner in the service of the government and includes a registered medical practitioner in any private hospital or clinic;

"Minister" means the Minister responsible for childrens' matters;

"Permanent Secretary" means the Permanent Secretary of the Ministry responsible for childrens' matters;

"police officer" has the meaning assigned thereto in the Royal Brunei Police Force Act (Chapter 50);

"place of safety" means any place or institution declared to be such under section 44, or such other place or home as the protector deems suitable, the occupier of which is willing temporarily to receive a child;

"premises" includes any dwelling house, building, shop, room, conveyance or any place whether open or enclosed;

"protector" means the unit head of the social affairs services unit and such person as His Majesty may by notification in the *Gazette*, declare to be vested with all or any of the duties imposed upon a protector by this Order and any public officer appointed under section 3;

"Register" means the Register kept and maintained under section 5;

"registered medical practitioner" means a medical practitioner registered under the Medical Practitioners and Dentists Act (Chapter 112);

"Registrar" means the Registrar appointed under section 4;

"school" means any government and non-government educational institution;

"senior police officer" means a police officer of any rank from and including the Commissioner down to and including a probationary assistant superintendent;

"social affairs services officer" means any social officer in the social affairs services unit;

"supervisor" means the officer in charge of a welfare home;

"unit head" means the head of the social affairs services unit;

"welfare home" means any welfare home gazetted by the government.

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- (2) For the purpose of this Order, a child is in need of protection if —
- (a) the child has been or there is substantial risk that the child will be physically injured or emotionally injured or sexually abused by his guardian;
  - (b) the child has been or there is substantial risk that the child will be physically injured or emotionally injured or sexually abused and his guardian, knowing of such injury or abuse or risk, has not protected or is unlikely to protect the child from such injury or abuse;
  - (c) the guardian of the child is unfit, or has neglected or is unable, to exercise proper supervision and control over the child and the child is falling into bad association, or is exposed to moral danger, or is beyond control;
  - (d) the guardian of the child has neglected or is unwilling to provide for him adequate care, food, clothing and shelter;
  - (e) the child has no guardian, or has been abandoned by his guardian and after reasonable inquiries the guardian cannot be found, and no other suitable person is willing and able to care for the child;
  - (f) the child needs to be examined, investigated or treated for the purpose of restoring or preserving his health and his guardian neglects or refuses to have him so examined, investigated or treated;
  - (g) the child behaved in a manner that is, or is likely to be harmful to himself or to any other person and his guardian is unable or unwilling to take necessary measures to remedy the situation or the remedial measures taken by the guardian fail;
  - (h) there is such conflict between the child and his guardian, or between his guardians, that family relationships are seriously disrupted, thereby causing him emotional injury;
  - (i) the child is a person in respect of whom any of the offences mentioned in the Penal Code (Chapter 22) or any offence of the nature described in this Order has been or is believed to have been committed and his guardian is the person who committed such offence or is believed to have committed such offence or has not protected or is unlikely to protect him from such offence;
  - (j) the child is —
    - (i) a member of the same household as the child referred to in paragraph (i); or

- (ii) a member of the same house hold of the person who has been convicted of any of the offences referred to in paragraph (i), and appears to be in danger of the commission upon or in respect of him of a similar offence and his guardian is the person who committed or is believed to have committed the offence or his guardian is unable or unwilling to protect him from such offence;
  - (k) the child is found begging.
- (3) For the purposes of this Order —
- (a) a child is physically injured if there is substantial and observable injury to any part of the child's body as a result of the non-accidental application of force or an agent to the child's body that is evidenced by, amongst other things, a laceration, a contusion, an abrasion, a scar, a fracture or other bone injury, a dislocation, a sprain, haemorrhaging, the rupture of a viscous, a burn, a scald, the loss or alteration of consciousness or physiological functioning or the loss of the hair or any teeth;
  - (b) a child is emotionally injured if there is substantial and observable impairment of the child's mental or emotional functioning that is evidenced by, amongst other things, a mental or behavioural disorder, including anxiety, depression, withdrawal, aggression or delayed development;
  - (c) a child is sexually abused if he has taken part, whether as a participant or an observer, in any activity which is sexual in nature for the purposes of any pornographic, obscene or indecent material, photograph, recording, film, videotape or performance or for the purpose of sexual exploitation by any person for that person's or another person's sexual gratification.
- (4) In the interpretation and application of this Order, when any question arises with respect to the welfare of a child in any particular circumstances, the best interests of the child shall always be the paramount consideration.

## PART II

### PROTECTORS, REGISTRARS AND REGISTERS

#### Appointment of protectors.

3. The Minister may appoint, by notification published in the *Gazette*, any officer in the public service to exercise the powers and perform the duties of a



protector under this Order, subject to such conditions as may be specified in the notification.

**Appointment of Registrars.**

4. The Minister may appoint a supervisor to be the Registrar of Children in need of protection.

**Register.**

5. The Registrar shall cause to be kept and maintained, in such forms as he thinks fit, a register to be known as the Register of Children in Need of Protection.

**Contents of Register.**

6. The Register shall contain details of every case or suspected case of a child in need of protection and such other matters in relation to such case or suspected case as the Permanent Secretary may from time to time determine.

**Access to Register.**

7. (1) Details entered in the Register shall be furnished to any Court, when so requested by the Court, and to —

- (a) the Permanent Secretary;
- (b) a protector;
- (c) any police officer; and
- (d) any member of the action team on child abuse,

when any of these persons requires such details for the purpose of any proceedings under this Order or for the purpose of taking action in respect of, or providing assistance to, a child in need of protection.

(2) Details contained in the Register may be furnished to —

- (a) persons engaged in *bona fide* research whose access to the Register is authorised by the Permanent Secretary for that purpose; or
- (b) persons or classes of persons authorised by the Permanent Secretary to have access to the Register on the grounds that their access to the Register will promote the protection of a child or children.

(3) Details furnished under this section shall not include any information which discloses or is likely to lead to the disclosure of the identity of any person who has made a notification that a child is in need of protection.

**Offences in respect of Register.**

8. Any person who furnishes to any other person any details contained in the Register other than pursuant to section 7 shall be guilty of an offence.

**PART III**

**ACTION TEAM ON CHILD ABUSE**

**Establishment of Action Team on Child Abuse.**

9. There shall be established groups of persons and each group shall be known as an "Action Team on Child Abuse", for the purposes of coordinating locally based services to families and children where children are or are suspected of being in need of protection.

**Membership of Action Team on Child Abuse.**

10. Each Action Team on Child Abuse shall consist of the following members —

- (a) a chairman, who shall be the Permanent Secretary;
- (b) an officer from the Ministry of Education;
- (c) an officer from the Ministry of Religious Affairs;
- (d) an officer from the Attorney General's Chambers;
- (e) a medical officer;
- (f) a senior police officer; and
- (g) an officer from the Social Affairs Services Unit.

**Sitting and conduct of proceedings of Action Team on Child Abuse.**

11. Each Action Team on Child Abuse shall have the authority to utilise from time to time such other persons as it may reasonably require to enable it to adequately perform its functions and duties or as the circumstances may require, including any person qualified to advise on relevant indigenous, ethnic, cultural or religious factors.

**Coordination.**

12. The Action Team on Child Abuse shall be coordinated by the Social Affairs Services Unit.

**PART IV**

**TEMPORARY CUSTODY, MEDICAL EXAMINATION AND TREATMENT**

**Taking a child into custody.**

13. (1) Any protector or police officer who is satisfied on reasonable grounds that a child is in need of protection may take the child into temporary custody, unless such protector or police officer is satisfied that the taking of proceedings in relation to such child is undesirable in the best interests of such child or that proceedings are about to be taken by some other person.

(2) Subject to section 14, every child taken into temporary custody under subsection (1) shall be placed in a place of safety until such time as he can be brought before a Court.

(3) If a child is placed in a place of safety under subsection (2), the person in charge of the place of safety shall have the like control of the child as the parent of the child and shall be responsible for the maintenance of the child, and the child shall continue in the care of such person notwithstanding that the child is claimed by his guardian or any other person.

(4) Any person who takes a child into temporary custody under this section shall forthwith upon such taking —

(a) cause the guardian of the child to be notified of such taking; and

(b) if such person is a police officer, notify a protector of such taking.

**Child in need of medical examination or treatment.**

14. (1) If a protector or police officer who takes a child into temporary custody under section 13(1) is of the opinion that such child is in need of medical examination or treatment, such protector or police officer may, instead of taking a child to a place of safety, present the child before a medical officer.

(2) If at the time of being taken into custody under section 13(1) a child is a patient in a hospital, the protector or police officer who takes the child into custody may leave the child in the hospital.

(3) If a protector or police officer does not take a child into temporary custody under section 13(1) but he is satisfied on reasonable grounds that the child

is in need of medical examination or treatment, he may direct in writing the person who appears to have the care of the child for the time being to forthwith take the child to a medical officer.

(4) If the person referred to in subsection (3) fails to comply within forty-eight hours with a direction made under that subsection, a protector or police officer may take the child into temporary custody for the purpose of presenting the child before a medical officer.

**Medical examination and treatment.**

15. (1) A medical officer before whom a child is presented under section 14(1) or section 14(4) —

- (a) shall conduct or cause to be conducted an examination of the child;
- (b) may, in examining the child and if so authorised by a protector or police officer, administer or cause to be administered such procedures and tests as may be necessary to diagnose the child's condition; and
- (c) may provide or cause to be provided such treatment as he considers necessary as a result of the diagnosis.

(2) If the medical officer who examines a child under subsection (1) is of the opinion that the hospitalisation of the child is necessary for the purposes of medical care or treatment of the child, a protector or police officer may authorise the hospitalisation of the child.

**Authorisation of medical treatment.**

16. (1) If, in the opinion of a medical officer, the child referred to in section 13 requires treatment for a minor illness, injury or condition, a protector or police officer may authorise such treatment.

(2) If, in the opinion of a medical officer, the child referred to in section 13 is suffering from a serious illness, injury or condition or requires surgery or psychiatric treatment, a protector or police officer shall immediately notify or attempt to notify and consult the guardian of the child or any person having the authority to consent to such treatment, and may with the written consent to such treatment, authorise such medical, surgical or psychiatric treatment as may be considered necessary by a medical officer.

(3) If the consent referred to in subsection (2) cannot be obtained or if there is immediate risk to the health of the child, a protector may authorise such treatment as may be considered necessary by a medical officer.

**No liability incurred for giving authorisation.**

17. (1) If a child is examined or treated pursuant to sections 15 and 16, the protector or police officer who authorises such examination or treatment, the medical officer who examines or treats such child, and all persons acting in aid of such medical officer, shall not incur any liability at law by reason only that a child is examined or treated pursuant to these sections.

(2) Nothing contained in subsection (1) shall relieve a medical officer from liability in respect of the examination or treatment of a child which liability he would have been subject to had the examination or treatment been carried out or administered with the consent of the guardian of the child or person having authority to consent to the examination or treatment.

**Control of hospitalised children.**

18. If a child who is taken into temporary custody under section 13(1) or section 14(4) is hospitalised, the Permanent Secretary shall have the like control over, and responsibility for the maintenance of, that child as a person in charge of a place of safety would have had if the child had been placed in that place of safety.

**Duty of medical practitioner and power of medical officer.**

19. (1) If a registered medical practitioner including a medical officer, believes on reasonable grounds that a child he is examining or treating is physically or emotionally injured as a result of being ill treated, neglected, abandoned or exposed, he shall immediately notify a protector or police officer.

(2) Any registered medical practitioner who fails to comply with subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding \$10,000.

(3) For the purposes of subsection (1), the referral of a child examined by a private medical practitioner to a government medical practitioner on the grounds stated in subsection (1), shall be sufficient to satisfy the duty of notification under subsection (1).

(4) If the registered medical practitioner referred to in subsection (1) is a medical officer, he may take the child referred to in that subsection into temporary custody until such time as the temporary custody of the child is assumed by a protector or police officer.

(5) Any conviction under subsection (2) shall for the purposes of section 20 of the Medical Practitioners and Dentists Act (Chapter 112), be deemed to be infamous conduct and be dealt with as provided for in that section.

**Steps to be taken in respect of child after medical examination or treatment.**

20. (1) A child who is taken into custody under section 13(1) and who subsequently undergoes medical examination or treatment shall, upon the completion of such examination or treatment, or if such child is hospitalised, upon his discharge from the hospital be placed in a place of safety until such time as he can be brought before a Court.

(2) A child who is taken into custody under section 14(4) and who subsequently undergoes medical examination or treatment shall, upon the completion of such examination or treatment, or if such child is hospitalised, upon his discharge from the hospital, be returned to the person from whose care the child was taken.

**PART V**

**COURT PROCEDURE**

**Production of children before Court.**

21. (1) Subject to subsections (2) and (3), every child who is taken into custody under section 13(1) shall within twenty-four hours of being so taken into custody, be brought before a Court.

(2) Notwithstanding subsection (1), a child who is taken into custody under section 13(1) and is medically examined or treated under Part IV shall be produced before a Court within twenty-four hours of the completion of such examination or treatment or, if such child is hospitalised, upon his discharge from the hospital.

(3) Notwithstanding subsections (1) and (2), where it is not possible to bring a child who is taken into custody under section 13(1) before a Court within the time prescribed in subsections (1) and (2), such child shall be brought before a Magistrate who may direct that he be placed in a place of safety or, notwithstanding section 13(2), be committed to the care of a fit person until such time as he can be brought before a Court.

**Powers of a Court.**

22. (1) If a Court is satisfied that any child brought before it under section 21 is a child in need of protection, the Court may —

- (a) order his guardian to enter into a bond to exercise proper care and guardianship for a period specified by the Court, but that period shall not extend beyond the date on which the child attains the age of eighteen years;

- (b) make an order placing the child in the custody of a fit person for a period specified by the Court but that period shall not extend beyond the date on which the child attains the age of eighteen years;
- (c) without making any other order or in addition to an order under paragraphs (a) or (b), make an order placing the child under the supervision of a protector, or some other person appointed for the purpose by the Court, for a period specified by the Court, but that period shall not extend beyond the date on which the child attains the age of eighteen years;
- (d) make an order placing the child in a place of safety for a period of three years from the date of the order or until he attains the age of eighteen years, whichever is the longer; or
- (e) make an order placing the child in the custody of a foster parent found to be suitable by the Permanent Secretary and pending such time, place the child in a place of safety.

(2) A Court may, in making any order under subsection (1), impose such conditions or give such directions as it may deem fit for the purpose of ensuring the safety and well being of the child in respect of whom such order is made, and every person upon whom such conditions are imposed or to whom such directions are given shall comply with such conditions or directions.

(3) No order subsection (1) shall be made without giving the guardian of the child an opportunity to attend and be heard.

(4) Notwithstanding subsection (3), an order under subsection (1) may be made if the guardian of the child, having been required to attend, has failed to do so or cannot be found within a reasonable time.

(5) Before making an order under subsection (1), the Court shall endeavour to obtain such information as to the family background, religion, general conduct, home surroundings, school records and medical history of the child as may enable it to deal with the case in the best interests of the child, may, for the purpose of obtaining such information or for any special medical examination or observation, from time to time adjourn the case for a period or periods not exceeding two months at a time and may make in respect of the child, as an *interim* order having effect only during the period of the adjournment, any order which it could have made under subsection (1).

(6) In determining what order is to be made under subsection (1), the Court shall treat the welfare and best interests of the child as the paramount considerations.

(7) If the Court is not satisfied that the child brought before it under section 21 is in need of protection, the Court may order that the child be returned to the care and custody of his guardian.

**Contribution Order.**

23. (1) Where an order is made under section 22 placing a child in a place of safety or in the custody of a fit person, the Court making the order may, at the same time or subsequently, make a contribution order requiring the guardian of the child to make such monthly contributions as the Court, having regard to the means of the guardian, thinks fit and it shall be the duty of the guardian to comply with the order.

(2) All sums payable under a contribution order shall be paid into such Court as the Court making the order shall direct and the Court making any such order may from time to time, on proof of any change in circumstances of the person against whom the order is made or for other good cause being shown to the satisfaction of the Court, rescind, make anew, or vary the order as to it seems fit.

(3) No contribution order shall be made without giving the guardian of the child an opportunity to be heard, but a contribution order may be made against a guardian who having been required to attend, has failed to do so.

(4) A contribution order shall remain in force so long as the order placing the child in a place of safety or in the custody of a fit person remains in force.

(5) If any person wilfully neglects to comply with a contribution order, a Magistrate may, for every breach of the order by warrant direct the amount due to be levied in the manner provided by law for levying fines imposed by Magistrates, or may sentence the person to imprisonment for a term not exceeding one month for each month's contribution or part thereof remaining unpaid.

**Revocation or variation.**

24. A Court may on the application of a protector, or the person in charge of a place of safety or the guardian of a child in respect of whom an order is made under section 22, revoke or vary such order upon proof that the circumstances under which the order was made have changed after the making of the order.

**Control of children placed in custody of a fit person or a place of safety.**

25. If an order is made under section 22 placing a child in a place of safety or in the custody of a fit person or in the charge of a foster parent, then the person in charge of the place of safety, such fit person or such foster parent shall have the like control of the child as the parent and shall be responsible for his maintenance,



and the child shall continue in the care of such person notwithstanding that the child is claimed by his guardian or any other person.

## PART VI

### OFFENCES IN RELATION TO THE HEALTH AND WELFARE OF CHILDREN

#### Ill-treatment, neglect, exposure or abandonment of children.

26. (1) Any person who, being a person having the care of a child, abuses, assaults, neglects, abandons or exposes the child in a manner likely to cause him physical or emotional injury or causes or permits him to be so abused, assaulted, neglected, abandoned or exposed, shall be punished with imprisonment which may extend to 7 years with 10 strokes of whipping or to a fine not exceeding \$20,000 or both.

(2) The Court may, in *lieu* of or in addition to any punishment specified in subsection (1), order the person guilty of an offence under that subsection to execute a bond, with or without sureties, as the Court may determine, to be of good behaviour for such period as the Court thinks fit, and may include in such bond a condition requiring such person to undergo such counselling and psychotherapy as may be specified therein.

(3) If a person who is ordered to execute a bond of good behaviour under subsection (2) fails to comply with any of the conditions of such bonds, he shall —

- (a) if such bond is in *lieu* of a penalty under subsection (1), be liable to the penalty provided for in that subsection; or
- (b) if such bond is in addition to a penalty under subsection (1), be punished with imprisonment which may extend to 7 years with 10 strokes of whipping or to a fine not exceeding \$20,000 or both.

(4) A parent, guardian or other person legally liable to maintain a child shall be deemed to have neglected him in a manner likely to cause him physical or emotional injury if, being able to provide from his own resources, he fails to provide adequate food, clothing, medical or dental treatment, lodging, or care for such child.

(5) A person may be convicted of an offence against this section notwithstanding —

- (a) that suffering or injury to the health of the child in question or the likelihood of suffering or injury to the health of the child in question was avoided by the action of another person; or
- (b) that the child in question has died.

**Children not to be used for begging or any illegal activities.**

27. Any person who causes or procures any child or, being a person having the care of a child, allows that child to be on any street, premises or place for the purposes of —

- (a) begging or receiving alms, or of inducing the giving of alms; or
- (b) any illegal activity or activity detrimental to the health or welfare of the child,

shall be punished with imprisonment which may extend to 5 years with 8 strokes of whipping or to a fine not exceeding \$10,000 or both.

**Offence to leave child without reasonable supervision.**

28. Any person who, being a guardian or a person for the time being having the care of a child, leaves that child, without making reasonable provision for the supervision and care of the child, for a period which is unreasonable or under unreasonable circumstances shall be punished with imprisonment which may extend to 5 years with 10 strokes of whipping or to a fine not exceeding \$10,000 or both.

**PART VII**

**NOTIFICATION ON TAKING A CHILD INTO CARE, CUSTODY OR CONTROL**

**Application and interpretation.**

29. (1) This Part shall not apply to —

- (a) the taking of a child into the care, custody or control of his grandparent, or a brother or sister by the whole or half blood or either of his parents;
- (b) the taking of a child into the care, custody or control of his guardian;
- (c) the taking of a child into the care, custody or control of any person in pursuance of an order of a Court of competent jurisdiction or in pursuance of an order under the Women and Girls Protection Act (Chapter 120);
- (d) the taking in of a child as an inmate of a place of safety or school or hospital, home or institution maintained by the Government of Brunei Darussalam;

- (e) the taking in of a child as a boarder at a school registered under any written law relating to education;
- (f) the taking of a child who is regularly attending a school registered under any written law relating to education into the custody of a friend or relative of his guardian with the consent of his guardian.

(2) In this Part, "guardian" of a child means a parent of the child, or any person lawfully appointed by deed or will or by the order of a competent Court to be the guardian of the child, or a person who has lawfully adopted the child.

**Notification of taking into care, custody or control.**

30. (1) Where a person takes a child into his care, custody or control —

- (a) that person; and
- (b) the person in whose care the child was at the time of such taking,

shall, not later than one week thereafter, notify the protector of such taking.

(2) On receiving any notification under this section, the protector may make such inquiry as he thinks fit as to the reasons for the taking and as to the suitability for that purpose of the person who had taken the child into his care, custody or control and if, after such inquiry, the protector deems it expedient in the best interests of the child, he may either —

- (a) order that the child be returned to the care, custody or control of his guardian or the person in whose care he was at the time of such taking; or
- (b) permit the taking of the child.

(3) A protector, on receiving any notification under this section, shall record the particulars thereof in a register to be kept for that purpose.

(4) Any person who fails to comply with the provisions of subsection (1) shall be punished with imprisonment which may extend to 3 years with 5 strokes of whipping or to a fine not exceeding \$5,000 or both.

**Subsequent obligations.**

31. (1) Where the taking of a child has been notified to and permitted by a protector under section 30, the person who has taken such child shall, if at any subsequent time —

- (a) he intends to return the child to the care, custody or control of the guardian of the child or any other person from whom the child was taken; or
- (b) without his knowledge or consent, the child has left his care, custody or control,

report in person to a protector and shall, whenever practicable, bring or cause to be brought before such protector the child and the guardian of the child or any other person from whom the child was taken.

(2) On receiving a report under subsection (1), the protector shall make a note thereof and shall —

- (a) if the child and the guardian of the child or any other person from whom the child was taken are present at the time such report is received, return the child to the guardian or such person, as the case may be; or
- (b) if the guardian of the child or any other person from whom the child was taken is not present at the time such report is received —
  - (i) take the child into temporary custody until he can be returned to his guardian or such person; and
  - (ii) forthwith send written information to the last known place of abode of his guardian or such person.

(3) Any person who fails to comply with the provisions of subsection (1) shall be guilty of an offence.

**Power of protector to require child to be produced before him.**

32. (1) Whenever a protector has reason to believe that there is, within the area within which he exercises jurisdiction, a child in respect of whose taking no notification has been made within one week after the taking, he may, by summons under his hand addressed to the person who has or is believed to have the care, custody or control of such child, require such person to appear and to produce the child before him at the time and place specified in the summons.

(2) If a person on whom a summons has been served under subsection (1) fails to produce the child at the time and place specified therein, the protector may issue a warrant authorising any person named therein to search for such child and produce him before the protector.

(3) Any child named or described in such warrant may be removed to a place of safety and there temporarily detained until the protector has completed

his inquiry under this Part or may, for the like period, be temporarily committed to the custody of a relative or other fit person on such terms and conditions as the protector may require.

(4) The protector may make such inquiry as he thinks fit as to the circumstances and the reasons for the taking of the child referred to in subsection (1) and as to the suitability of the person who has taken the child into his care, custody or control.

(5) If, after the inquiry mentioned in subsection (1), the protector deems it expedient in the best interests of the child, he may either —

- (a) order that the child be returned to the care, custody or control of his guardian or any other person from whom he was taken; or
- (b) permit the taking of the child on such terms and conditions as the protector may require.

(6) If the taking of a child by any person has been permitted under paragraph (b) of subsection (5) subject to any term or condition and default is made in complying with such term or condition, the protector may by warrant under his hand order that the child be taken out of the care, custody or control of such person and committed to a place of safety or to the custody of a relative or other fit person on such terms and conditions as the protector may require until the child attains the age of eighteen years or for any shorter period.

## PART VIII

### TRAFFICKING IN CHILDREN

#### Unlawful transfer of possession, custody or control of child.

33. (1) Every person who takes any part in any transaction the object or one of the objects of which is to transfer or confer, wholly, partly, temporarily or permanently, the possession, custody or control of a child for any valuable consideration shall be guilty of an offence and shall be punished with imprisonment which may extend to 7 years with 10 strokes of whipping or to a fine not exceeding \$20,000 or both.

(2) Every person who without lawful authority or excuse harbours or has in his possession, custody or control of any child with respect to whom the temporary or permanent possession, custody or control has been transferred or conferred for valuable consideration by any other person within or out of Brunei Darussalam shall be punished with imprisonment which may extend to 7 years with 10 strokes of whipping or to a fine not exceeding \$20,000 or both.

(3) For the purposes of subsection (2), if any person harbours or has in his possession, custody or control of any child without any lawful authority or excuse, such child shall, until the contrary is proved, be presumed to be a child with respect to whom the temporary or permanent, possession, custody or control has been transferred or conferred for valuable consideration.

(4) It shall be a defence in any prosecution under this section to prove that the transfer took place in contemplation of or pursuant to a *bona fide* marriage or adoption and that at least one of the natural parents of the child or the guardian of the child was a consenting party to the marriage or to the adoption by the adopting party, and has expressly consented to the particular marriage or adoption.

**Importation of child by false pretences.**

34. Any person who by or under any false pretence or representation or fraudulent or deceitful means, made or used either within or out of Brunei Darussalam, brings or assists in bringing any child into or out of Brunei Darussalam shall be guilty of an offence and shall be punished with imprisonment which may extend to 7 years with 10 strokes of whipping or to a fine not exceeding \$20,000 or both.

**Power to examine children and person in charge.**

35. A protector or any person authorised in that behalf in writing by a protector may require any child who has entered Brunei Darussalam or been brought into Brunei Darussalam and any person who may appear to have the custody or control of such child to appear before the protector at any reasonable time and at any convenient place, and the protector may examine such child as to his reasons for entering or being in Brunei Darussalam and may examine such person with respects to such child, and such person shall legally be bound to answer such questions truthfully and to the best of his ability.

**Power of protector to require security.**

36. If a protector has reasonable cause to suspect that any child –

- (a) has been brought into Brunei Darussalam either after having been transferred for valuable consideration, or by fraud, misrepresentation or any false pretence;
- (b) has been transferred to the custody or control of any person for valuable consideration either within or out of Brunei Darussalam; or
- (c) is being detained against his will by some person other than his parent or guardian;

he may either —

- (i) require any person in whose custody or under whose control the child appears to be to furnish with copies of such child's and such person's own photographs, and to furnish security to the satisfaction of the protector that such child will not leave the District in which he then is without the previous consent in writing of the protector, and will not be transferred to the care or custody of any other person without the previous consent in writing of the protector, and that he will be produced before the protector whenever he requires it; or
- (ii) in the first instance, or if default be made in complying with any order made under paragraph (i), make an order that the child be taken out of the custody or control of the person having custody or control of the child and committed to a place of safety or, on such security and on such conditions as the protector may require, to the custody of a relative or other fit person until the child attains the age of eighteen years or for any shorter period.

#### **Inspection.**

37. (1) A protector or any social welfare officer generally or specially authorised in that behalf in writing by the protector, may at any time visit and inspect the place where any child in respect of whom security has been furnished under section 36 lives or is believed to live or to be.

(2) A protector or any officer authorised under subsection (1), may inquire into the condition and circumstances of the child referred to in subsection (1) and, for the purposes of such inquiry, the protector or such officer may require any person to answer any questions he may think proper to ask and such person shall be legally bound to answer such questions truthfully and to the best of his ability.

### **PART IX**

#### **MISCELLANEOUS**

#### **Power to search premises.**

38. (1) Subject to subsection (2), any protector or police officer may enter and search any premises for the purpose of ascertaining whether there is therein any child who is in need of protection or whether any offence under this Order is being, or has been committed.

(2) A protector or police officer shall not enter any premises by the use of force unless he has first obtained a warrant issued by a Magistrate.

(3) A Magistrate may issue a warrant to a protector or police officer to enter by the use of force if necessary any premises for the purposes mentioned in subsection (1) if that Magistrate is satisfied by information on oath that there are reasonable grounds for suspecting that —

- (a) there is in such premises a child who is in need of protection; or
- (b) any offence under this Order or any other written law is being or has been, committed,

and that the entry can only be effected by the use of force.

(4) Notwithstanding subsection (2), if a protector or police officer has reasonable grounds for believing that the object of the search mentioned in subsection (1) is likely to be frustrated by reason of the delay in obtaining a warrant under subsections (2) and (3), he may without the warrant, enter by the use of force as may be necessary any premises for the purposes mentioned in subsection (1).

(5) Any protector or police officer who enters any premises under this section shall —

- (a) if so required, produced evidence of his identity; and
- (b) if a warrant has been issued under subsection (3) —
  - (i) produce the warrant or a copy thereof; and
  - (ii) use only such force as is reasonably necessary to effect entry.

(6) A protector or police officer may, during or after any such search as is referred to in subsection (1), arrest or cause to be arrested any person reasonably suspected of having committed an offence against this Order, and may seize and detain any articles, books, documents or accounts which he may have reason to relate to any offence against this Order.

(7) In carrying out any search under this section a protector or police officer shall have power to put questions and to give any such order or direction as may be necessary to the occupants of any premises for the purpose of carrying out such search.

(8) The occupant of any premises being searched under this section shall answer truthfully all questions put to them by the protector or police officer, and shall obey any order or direction given by him touching any matter or any person connected with such search.

(9) No person shall by force, restraint, threats, inducement or other means cause any child who is in need of protection to conceal himself on or to leave any



premises being searched or about to be searched a protector or police officer under this section, with the intent that such protector or police officer may thereby be evaded or obstructed.

**Obstructing protector or police officer in performing his functions.**

39. Any person who —

- (a) assaults, obstructs, hinders or delays any protector or police officer in effecting any entry which he is entitled to effect under this Order or in the execution of any duty imposed or power conferred by this Order;
- (b) refuses to answer to the best of his knowledge and belief any questions which he is legally bound to answer and which is asked of him by any protector or police officer or any other person authorised under this Order;
- (c) contravenes or fails to comply with any order, direction, summons or warrant lawfully issued or any condition lawfully imposed by any protector, police officer or Court under this Order,

shall be punished with imprisonment which may extend to 3 years or to a fine not exceeding \$5,000 or both.

**Removing or helping child to escape from custody.**

40. (1) If a child is placed in a place of safety or in the custody of any person under this Order, any person who —

- (a) removes the child from such place of safety or such custody without lawful authority;
- (b) knowingly assists or induces, directly or indirectly, a child to escape from such place of safety or such custody; or
- (c) knowing harbours, conceals, or prevents from returning to such place or safety or such custody, a child who has so escaped, or knowingly assists in so doing,

shall be punished with imprisonment which may extend to 3 years or to a fine not exceeding \$5,000 or both.

(2) If any child who is placed in a place of safety or in the custody of any person under this Order is removed without lawful authority, or escaped, from such place of safety or such custody, such child may be retaken by any protector or police officer and returned to such place of safety or such custody.

**Protection of identity of child.**

41. (1) No person shall publish or cause to be published any material which —

(a) reveals the name, address, or school; or

(b) includes any particulars which may lead to the identification.

of any child concerned in any proceedings in any Court, either, as being the person by or against, or in respect of whom the proceedings are taken, or as being a witness therein except in so far as (if at all) as may be permitted by the Court.

(2) Any person who contravenes subsection (1) shall be punished with imprisonment which may extend to 2 years or to a fine not exceeding \$5,000 or both.

(3) Subsections (1) and (2) shall not apply if such person —

(a) is a protector; or

(b) was requested, directed or authorised by a protector to publish or cause to be published such material.

(4) For the purposes of this section —

(a) "publish" includes broadcast by radio or television;

(b) "material" includes any picture or representation.

**General penalty.**

42. Any person found guilty of an offence under this Order for which no punishment is expressly provided shall be punished with imprisonment which may extend to 3 years or to a fine not exceeding \$5,000 or both.

**Power to arrest without warrant.**

43. (1) Any police officer may arrest without a warrant any person whom he reasonably believed to have committed or to be committing an offence against this Order.

(2) Any person arrested under subsection (1) shall, after such arrest, be dealt with as provided for the Criminal Procedure Code (Chapter 7).

**Place of safety.**

44. (1) The Minister may, by notification in the *Gazette* declare any place or institution, to be a place of safety for the purposes of this Order.

(2) The Minister may at any time direct the closing of any place of safety established under this Order.

(3) The Permanent Secretary may order the transfer of children from one place of safety to another as and when the need arises.

**Power of Court to determine and declare age of child.**

45. If in any proceeding under this Order a person is alleged to be a child, the Court, after making such inquiry as it thinks fit as to the age of that person, may determine and declare his age, and for the purpose of this Order the age so declared by the Court shall be deemed to be the true age of that person, unless and until the contrary is proved.

**Protection of informants.**

46. (1) No person who makes any notification that a child is in need of protection shall incur any liability for defamation or otherwise in respect of the making of such notification.

(2) The making of any notification that a child is in need of protection shall not, in any proceedings before any Court or in any other respect, be held to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct.

(3) Any person appearing as a witness in any proceedings in any Court or tribunal or before a person authorised by law to hear evidence —

(a) shall not be compelled to disclose the identity of, or any information likely to lead to the disclosure of the identity of, any person who has made a notification that a child is in need of protection; and

(b) shall not be compelled to produce, and shall not produce, any report or document which identifies, or is likely to identify, any person who has made a notification that a child is in need of protection.

(4) Subsection (3) does not apply where a notification that a child is in need of protection is tendered in evidence, or evidence in respect of such notification is given, by the person who made such notification.

(5) The provisions of this section shall apply to a registered medical practitioner who makes a notification under section 19(1) in the same manner as

they apply to a person who makes a notification that a child is in need of protection.

(6) If in any proceedings before a court for an offence under this Order the Court, after full inquiry into the case, is satisfied that an informer wilfully made a statement which he knew or believed to be false or did not believe to be true, or if in any proceedings the Court is of the opinion that justice cannot be fully done between the parties thereto without the disclosure of the name of an informer the Court may permit inquiry and require full disclosure concerning the informer.

**Protection of Permanent Secretary and others.**

47. No action or prosecution shall be brought, instituted or maintained in any Court against —

- (a) the Permanent Secretary;
- (b) any protector;
- (c) any social affairs services officers and supervisors of welfare homes;
- (d) any police officer; or
- (e) any medical officer empowered to take a child into temporary custody under section 19(4),

in respect of anything done or omitted to be done by him in good faith in the execution or purported execution of his functions, powers and duties under this Order.

**Certificate of Registrar to be evidence.**

48. A certificate purporting to be under the hand of the Registrar as to any entry in the Register, or as to any matter or thing, which he is authorised by this Order or any regulation made under this Order to do or to make, shall be *prima facie* evidence of the entry having been done or made, and of the contents such entry, and of the matter or thing having been done or made.

**Power to make regulations.**

49. The Minister may make such regulations as appear to him to be necessary or expedient for carrying out to the provisions of this Order and in particular, but without prejudice to the generality of the foregoing provisions, such regulations may —

- (a)* provide for the care, maintenance and education of children –
  - (i)* placed in the custody or under the care or control; or
  - (ii)* taken into the care, custody or control,of any person under the provisions of this Order, and the duties of such person;
- (b)* provide for the control, care, detention, temporary absence, maintenance and education of children in places of safety;
- (c)* regulate the management, visitation and inspection of places of safety;
- (d)* require the person in charge of a place of safety to submit to the Permanent Secretary returns, reports and information in respect of children placed therein;
- (e)* regulate the procedure of admission to or discharge from a place of safety;
- (f)* prescribe the particulars, photographs or other means of identification, to be furnished in relation to a child in need of protection;
- (g)* prescribe the form of orders, warrants, summonses and bonds;
- (h)* prescribe the records required to be kept in respect of a child in need of protection and the manner in which they shall be kept;
- (i)* require the furnishing of information as to changes of address of every child in need of protection and of the person having custody of the child, and the transfer of records and registers in such cases;
- (j)* regulate the procedures and practice of the Action team on Child Abuse.

Made this 2nd. day of Rabiulawal, 1421 Hijriah corresponding to the 5th. day of June, 2000 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM