

No. S 44

CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))
INDUSTRIAL DESIGNS (AMENDMENT) ORDER, 2014
ARRANGEMENT OF SECTIONS

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CONSTITUTION OF BRUNEI DARUSSALAM
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INDUSTRIAL DESIGNS (AMENDMENT) ORDER, 2014

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation.

1. This Order may be cited as the Industrial Designs (Amendment) Order, 2014.

Amendment of section 2 of S 7/2000.

2. Section 2 of the Industrial Designs Order, 1999, in this Order referred to as the principal Order, is amended by inserting the following new definitions in the appropriate alphabetical order —

“Journal” means Industrial Designs Journal referred to in section 78A(1);

“Minister” means the Minister responsible for the Industrial Design;

“Geneva Act of the Hague Agreement” means the Act, signed at Geneva on 2nd July 1999, of the Hague Agreement Concerning the International Registration of Industrial Designs;

“International Bureau” means the International Bureau of the World Intellectual Property Organisation;

“international registration” means the international registration of an industrial design effected according to the Geneva Act of the Hague Agreement.”.

Amendment of section 26.

3. Section 26 of the principal Order is amended, in subsection (1)(d), by deleting “*Gazette*” and by substituting “Journal” therefor.

Insertion of new section 57A.

4. The principal Order is amended by inserting the following new section immediately after section 57 —

“Remedy for groundless threats of infringement proceedings.

57A. (1) Where a person (whether or not entitled to or interested in a registered design or an application for registration of a design) threatens any other person with proceedings for infringement of a registered design, any person aggrieved thereby may bring proceedings against the person making the threats for relief under this section.

(2) The relief which may be applied for are —

(a) a declaration that the threats are unjustifiable;

(b) an injunction against the continuance of the threats; and

(c) damages, in respect of any loss he has sustained by the threats, and the plaintiff is entitled to such relief unless —

(i) the defendant proves that the acts in respect of which the proceedings were threatened constitute, or if done would constitute, an infringement of the design; and

(ii) the plaintiff fails to show that the registration of the design concerned is invalid.

(3) Proceedings may not be brought under this section as regards a threat to bring proceedings for an infringement alleged to consist of the making or importing of anything.

(4) For the purposes of this section, a notification that a design is registered does not of itself constitute a threat of proceedings within the meaning of this section.

(5) Nothing in this section shall render an advocate or solicitor liable to an action under this section in respect of an act done by him in his professional capacity on behalf of a client.”

Insertion of new Part VIA.

5. The principal Order is amended by inserting the following new Part immediately after Part VI —

“PART VIA

GENEVA ACT OF THE HAGUE AGREEMENT ETC.

Power to make provision giving effect to Geneva Act of the Hague Agreement etc.

76A. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules to give effect in Brunei Darussalam to the provisions of the Geneva Act of the Hague Agreement or of any other treaty, convention, arrangement or engagement relating to designs to which Brunei Darussalam is a party.

(2) Without prejudice to the generality of subsection (1), rules may, in particular, be made to provide for —

(a) the procedures to be followed for the filing of applications for international registrations through the Registry;

(b) the procedures to be followed where an application for international registration fails or the international registration ceases to be in force;

(c) the effects of a successful application for international registration designating Brunei Darussalam as a country in which the design is to be registered;

(d) the communication of information to the International Bureau; and

(e) the payment of fees (including transmittal fees) and amounts prescribed in respect of applications for international registrations, corrections and renewals.

(3) Provision may also be made in the rules to apply, in relation to an international design (Brunei Darussalam), the provisions of section 57A and Parts IV and VIII.

(4) For the purposes of subsection (3), “international design (Brunei Darussalam)” means —

(a) a design which is entitled to protection in Brunei Darussalam under the Geneva Act of the Hague Agreement; or

(b) a design prescribed by the Minister as an international design (Brunei Darussalam).”.

Insertion of new section 78A.

6. The principal Order is amended by inserting the following new section immediately after section 78 –

“Power of Registrar to publish journal.

78A. (1) The Registrar may publish or cause to be published a journal to be called the Industrial Designs Journal in which there may be published such documents and information relating to a registered industrial design or an application for registration as the Registrar thinks fit.

(2) For the avoidance of doubt, the Journal shall be the official journal of record.

(3) A publication specified under the Journal need not be in a documentary form.”

Amendment of principal Order.

7. The principal Order is amended, except in section 1(1), by deleting “Attorney General” wherever those words appear and by substituting “Minister” therefor.

Made this 29th. day of Syawal, 1435 Hijriah corresponding to the 25th. day of August, 2014 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM