

No. S 50

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

FISHERIES (AMENDMENT) ORDER, 2014

ARRANGEMENT OF SECTIONS

Section

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FISHERIES (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 Fisheries (Amendment) Order, 2014.

Amendment of S 25/2009.

2. Section 9 of the Fisheries Order, 2009, in this Order referred to as the principal Order, is amended by inserting the following new subsection immediately after subsection (2) –

“(3) Without prejudice to the generality of subsections (1) and (2), the direction referred to in those subsections may include a direction that no application for a licence are to be made in relation to the area, species or ecological community to which any fisheries plan referred to in section 5 is proposed to relate during the period beginning on the date of publication in the *Gazette* of the direction and ending –

(a) at the end of 12 months after that date; or

(b) on the day on which the fisheries plan comes into force, whichever first occurs.”.

Insertion of new section 26A.

3. Section 26 of the principal Order is amended by adding the following new section immediately after section 26 –

“General duty to prevent or minimise harm to environment in marine reserves or marine parks.

26A. (1) Any person who uses or enters a marine reserve or marine park shall take all reasonable steps to prevent or minimise harm to the environment in the marine reserve or marine park that might or will be caused by the person’s use or entry.

(2) For the purposes of subsection (1), “harm” includes the following –

(a) any adverse effect;

(b) direct or indirect harm;

(c) harm to which the person's use or entry has contributed to any extent (whether or not other matters have contributed to the harm).

(3) In determining whether all reasonable steps have been taken, regard shall be had to the following —

(a) the nature of the harm to the environment that might or will result from the person's use or entry;

(b) the risk of harm from the person's use or entry;

(c) the sensitivity of the environment that might or will be affected by the person's use or entry;

(d) the practicalities, including cost, of steps that will prevent or minimise the harm;

(e) whether or not the person's use or entry complies with the laws applying in a marine reserve in relation to the environment or natural resources;

(f) whether or not the person's use or entry complies with any relevant code of practice, standard or guideline;

(g) whether or not the person's use or entry is in accordance with any conditions of a licence granted under this Order.”.

Amendment of section 27.

4. Section 27 of the principal Order is amended by inserting the following two new paragraphs immediately after paragraph (c) —

“(ca) undertake photography, filming or sound recording of aquatic life;

(cb) constructs or lays lines, cables, pipelines, ropeways and associated structures in, on or under the bed of a marine reserve or marine park;”.

Insertion of new section 56A.

5. The principal Order is amended by inserting the following new section immediately after section 56 —

“Presumption relating to marine reserve or marine park.

56A. (1) Subject to subsection (2), where —

- (a) any fish;
- (b) any fishing appliance or other equipment for fishing; or
- (c) any equipment for photography, filming or sound recording,

is found on board a vessel in any marine reserve or marine park, the fish, fishing appliance or equipment, or photography, filming or sound recording equipment, shall be presumed, unless the contrary is proved —

- (i) to have been caught; or
- (ii) to have been used for fishing, photography, filming or sound recording,

in any marine reserve or marine park without a licence, as the case may be.

(2) Where the vessel is stopped, boarded and searched under Part XIII and it shows proof that —

- (a) the fish on board are held in a sealed hold; or
- (b) the fishing appliance or equipment, or photography, filming or sound recording equipment, are properly stowed and secured on the vessel so that they are not easily available for fishing or for undertaking photography, filming or sound recording,

as the case may be, this shall constitute a defence in proceedings for an offence against this Order.”.

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