

No. S 22

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

CONSTITUTION OF BRUNEI DARUSSALAM (AMENDMENT) ORDER, 2021

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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 and commencement

1. This Order may be cited as the Constitution of Brunei Darussalam (Amendment) Order, 2021 and shall commence on the day it is made.

Amendment of Article 2 of Const. I

2. Article 2 of the Constitution of Brunei Darussalam, in this Order referred to as the Constitution, is amended —

(a) by deleting the definition of “Deputy Sultan and Yang Di-Pertuan” and by substituting the following new definition therefor —

“ “Deputy Sultan” means the person appointed by His Majesty the Sultan and Yang Di-Pertuan under section 17 of the Succession and Regency Proclamation, 1959;”;

(b) by deleting the definition of “ “His Majesty” or “His Majesty the Sultan and Yang Di-Pertuan” ” and by substituting the following new definition therefor —

“ “His Majesty” or “His Majesty the Sultan and Yang Di-Pertuan” means —

(a) a Sultan whose accession to the throne has been proclaimed whether or not he has been crowned as the Sultan and Yang Di-Pertuan, irrespective of whether a declaration has been made and confirmed under section 12 of the Succession and Regency Proclamation, 1959 that by reason of infirmity of mind or body he is for the time being incapable of performing the State functions;

(b) his lawful Successor listed in, referred to or contemplated by subsections (2), (3) and (4) of section 3 of the Succession and Regency Proclamation, 1959 or a Regent or a Council of Regency appointed by virtue of or under section 11, 12, 13 or 17 of the Succession and Regency Proclamation, 1959 for the time being exercising State functions, in relation to any permitted or authorised act; and

(c) to the extent to which a Deputy to His Majesty the Sultan and Yang Di-Pertuan is permitted or authorised to act by His Majesty the Sultan and Yang Di-Pertuan, that Deputy in relation to that permitted or authorised act;"

(c) by inserting the following new definition immediately after the definition of "pension rights" —

" "person of the blood of the Sultans of Brunei Darussalam" means a person who is a lawfully begotten descendant of Al-Marhum Sultan Mohamed Jamalul-alam or, if there is no such male descendant, a person who is a lawfully begotten descendant of the grandfather in the male line of the reigning Sultan or, if there is no reigning Sultan, a lawfully begotten descendant of the grandfather in the male line of the last reigning Sultan;"

(d) by inserting the following new definition immediately after the definition of "Standing Orders" —

" "State functions" means the powers, authorities and privileges vested in His Majesty the Sultan and Yang Di-Pertuan by this Constitution, by any other written law or by virtue of His Majesty the Sultan and Yang Di-Pertuan's prerogative;"

Amendment of Article 5

3. Article 5 of the Constitution is amended, in Clause (2)(a), by deleting "and Yang Di-Pertuan".

Amendment of Article 6

4. Article 6 of the Constitution is amended by inserting the following new Clause immediately after Clause (1) —

"(1A) Save for His Majesty the Sultan and Yang Di-Pertuan, the lawful Successor declared under subsection (2) of section 3 of the Succession and Regency Proclamation, 1959, the Deputy Sultan and the Regent, any Member of the Privy Council who is a person of the blood of the Sultans of Brunei Darussalam shall not attend or in any way participate in any meeting or part of the meeting dealing with any issue or matter involving, arising from, relating to, or in connection with, succession or of the provisions of any written law or custom relating to succession including, but not limited to, any matter relating to the receipt of the declarations referred to in subsection (1) of section 12 of the Succession and Regency Proclamation, 1959, and the appointment of the Council of Regency under the Succession and Regency Proclamation, 1959."

Amendment of Article 7

5. Article 7 of the Constitution is amended by deleting Clause (1) and by substituting the following new Clause therefor —

“(1) The Privy Council shall not be summoned except by the authority of His Majesty the Sultan and Yang Di-Pertuan or, if His Majesty the Sultan and Yang Di-Pertuan is not present in Brunei Darussalam, the lawful Successor declared under subsection (2) of section 3 of the Succession and Regency Proclamation, 1959 if he is present in Brunei Darussalam, or in his absence, if a Council of Regency has been appointed, by the senior male Regent.”.

Amendment of Article 8

6. Article 8 of the Constitution is amended by deleting Clause (2) and by substituting the following new Clause therefor —

“(2) In the absence of His Majesty the Sultan and Yang Di-Pertuan, the person who shall preside shall be in the following priority —

(a) the lawful Successor declared under subsection (2) of section 3 of the Succession and Regency Proclamation, 1959 if he is present in Brunei Darussalam:

(b) if such an appointment has been made, the Deputy Sultan:

(c) if the lawful Successor declared under subsection (2) of section 3 of the Succession and Regency Proclamation, 1959 is absent and no Deputy Sultan has been appointed and a Council of Regency has been appointed, the senior male Regent present:

(d) if the lawful Successor declared under subsection (2) of section 3 of the Succession and Regency Proclamation, 1959 is absent, no Deputy Sultan has been appointed and no Council of Regency has been appointed, such Member of the Privy Council as His Majesty the Sultan and Yang Di-Pertuan may appoint; and

(e) in any other case, the *ex-officio* Member of the Privy Council present who stands first in the order in which those officers are referred to in paragraph (c) of Clause (2) of Article 5.”.

Amendment of Article 84

7. Article 84 of the Constitution is amended —

(a) in Clause (2), by inserting “. privileges, immunities, rights and other powers” immediately after “powers” in the second line;

(b) by adding the following new Clause —

“(3) For the avoidance of doubt, all the prerogative powers, privileges, immunities, rights and other powers and jurisdiction that His Majesty the Sultan and Yang Di-Pertuan had, exercised and enjoyed, whether under this Constitution, the Succession and Regency Proclamation, 1959 or the laws of Brunei Darussalam (written laws or otherwise), before the commencement of the Constitution of Brunei Darussalam (Amendment) Order, 2021 and the Succession and Regency (Amendment) Proclamation, 2021 remain unaffected and shall continue in full force and effect.”.

Amendment of Article 84B

8. Article 84B of the Constitution is amended by deleting Clause (1) and by substituting the following new Clause therefor —

“(1) His Majesty the Sultan and Yang Di-Pertuan is inviolable and shall not be liable to any proceedings whatsoever in any court in respect of anything done or omitted to have been done by him during or after his reign in either his personal or official capacity. This immunity is absolute and shall not be set aside.”.

Amendment of Article 85

9. Article 85 of the Constitution is amended —

(a) by deleting Clause (3);

(b) by deleting Clause (4);

(c) by deleting Clause (5).

Made this 26th. day of Muharram, 1443 Hijriah corresponding to the 4th. day of September, 2021 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.**