

LAWS OF BRUNEI

CONSTITUTIONAL MATTERS I

CONSTITUTION OF BRUNEI DARUSSALAM

S 97/59

Amended by

S 121/61

E 2/63

E 4/64

E 6/67

S 59/70

S 7/83

S 32/83

S 8/84

S 11/84

1984 Ed. Const. I

Amended by

S 20/85

S 32/04

S 47/04

S 65/04

S 69/04

REVISED EDITION 2004

(29th September 2004)



LAWS OF BRUNEI
REVISED EDITION 2004

CONSTITUTIONAL MATTERS I
CONSTITUTION OF BRUNEI DARUSSALAM

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CONSTITUTION OF BRUNEI DARUSSALAM

Commencement:

29th September 1959 for Parts I, II, III, X, XI and XII
[S 105/59]

18th October 1959 for Parts IV, V, VI and VII
[S 120/59]

1st January 1960 for Part VIII
[S 155/59]

1st January 1962 for Part IX
[S 108/62]

Invocation.

In the name of ALLAH, the Compassionate, the Merciful, PRAISE be to ALLAH, the Lord of the Universe, and may the benediction and peace of ALLAH be upon Our Leader Muhammad and upon all his Relations and Friends.

BY THE GRACE OF ALLAH, OMAR ALI SAIFUDDIN SA'ADUL KHAIRI WADDIN IBNI AL-MARHUM MOHAMED JAMALUL-ALAM of Brunei Darussalam and all its Dependencies, the Sultan and Yang Di-Pertuan, SOVEREIGN AND CHIEF OF THE MOST ESTEEMED FAMILY ORDER, SOVEREIGN AND CHIEF OF THE MOST HONOURABLE ORDER OF THE CROWN OF BRUNEI, ORDER OF SRI MAHKOTA NEGARA, MOST ESTEEMED FAMILY ORDER (FIRST CLASS) KELANTAN, HONORARY KNIGHT COMMANDER OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE.

Preamble.

WHEREAS provision is being made in a separate Proclamation (in this Constitution referred to as "the Succession and Regency Proclamation, 1959") for certain matters affecting His Majesty the Sultan and Yang Di-Pertuan, the Succession to the Sultanate and His Majesty the Sultan and Yang Di-Pertuan's family;

WHEREAS WE intend to govern in accordance with the provisions of this Constitution and the laws of Brunei Darussalam and, by progressive steps hereafter, to introduce further representative institutions into the government of Brunei Darussalam;

AND WHEREAS WE have, with the advice and consent of OUR traditional advisers, decided to make such provisions for the regulation of the government of Brunei Darussalam as is hereinafter contained;

NOW, THEREFORE, WE by the rights and powers of OUR Prerogatives as Sultan and Yang Di-Pertuan of the Sovereign State and Territory of Brunei Darussalam and all its Dependencies, do HEREBY PROCLAIM in OUR name and on OUR behalf and for and on behalf of OUR SUCCESSORS as hereinafter follows:

PART I

PRELIMINARY

Citation.

1. This Constitution may be cited as the Constitution of Brunei Darussalam.

Interpretation.

2. (1) In this Constitution, unless the context otherwise requires —

“Attorney General” means the officer appointed under Clause (1) of Article 81;

[S 65/04]

“Auditor General” means the officer appointed under Clause (1) of Article 66;

[S 65/04]

“Brunei Investment Agency” means the body corporate established by the Brunei Investment Agency Act (Chapter 137);

[S 65/04]

“Chief Syar’ie Judge” means the Chief Syar’ie Judge appointed under the Syariah Courts Act (Chapter 184);

[S 65/04]

“citizen of Brunei Darussalam” means a subject of His Majesty the Sultan and Yang Di-Pertuan by virtue of the provisions of any written law relating to nationality;

[S 65/04]

“Civil List” means the provision made for the maintenance of His Majesty the Sultan and Yang Di-Pertuan, His Consort and other members of the Royal Family out of public funds;

[S 65/04]

“Clerk to the Legislative Council” includes any person appointed by His Majesty the Sultan and Yang Di-Pertuan to be Deputy Clerk to that Council;

“Clerk to the Privy Council” includes any person appointed by His Majesty the Sultan and Yang Di-Pertuan to be Deputy Clerk to that Council;

“Council of Ministers” means the Council of Ministers established by Article 10;

[S 65/04]

“Council of Regency” means the Council of Regency appointed under the Succession and Regency Proclamation, 1959;

[S 65/04]

“debt” includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee;

“Deputy Minister” means any person appointed under Clause (3) of Article 4;

[S 65/04]

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

[S 65/04]

“Government” means the Government of His Majesty the Sultan and Yang Di-Pertuan;

[S 65/04]

“high judicial office” means the office of a Judge of the Supreme Court, or of a court having unlimited jurisdiction in civil or criminal matters, or of a court having jurisdiction in appeals from any such court;

“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;

(b) where appropriate, a Council of Regency; and

(c) to the extent to which a Deputy to His Majesty the Sultan and Yang Di-Pertuan is authorised to act, that Deputy;

[S 65/04]

“His Majesty in Council” or “His Majesty the Sultan and Yang Di-Pertuan in Council” means His Majesty the Sultan and Yang Di-Pertuan acting after consultation with the Council of Ministers, but not necessarily in accordance with the advice of that Council nor necessarily in that Council assembled;

[S 65/04]

“instrument” includes any publication in the *Gazette*, whether or not such publication merely purports to publish the doing of an act or the occurrence of a fact or event, or otherwise conveys or purports to convey information;

“Islamic Religion” means the Islamic Religion according to the Shafeite sect of Ahlis Sunnah Waljamaah;

[S 32/04; S 65/04]

“Kepala Wazir” means the noble and illustrious personage known as the Duli Pengiran Perdana Wazir Sahibul Himmah Wal-Waqar;

[S 65/04]

“Legislative Council” means the Legislative Council established by Article 23;

[S 65/04]

“meeting”, in relation to the Legislative Council, means all sittings of that Council held during a period beginning when that Council first meets after being summoned at any time and ending when that Council is next thereafter either adjourned *sine die* or prorogued or dissolved without having been prorogued;

“Minister” means a person appointed under Clause (3) of Article 4;

[S 65/04]

“Mufti Kerajaan” means the person appointed as such by His Majesty the Sultan and Yang Di-Pertuan under the Religious Council and Kadis Courts Act (Chapter 77);

[S 65/04]

“Muslim revenue and funds” means all revenues and funds to which Part IV of the Religious Council and Kadis Courts Act (Chapter 77) applies;

[S 65/04]

“pension rights” includes superannuation rights and provident funds rights;

“Privy Council” means the Privy Council established by Clause (1) of Article 5;

[S 65/04]

“public office” means any office of emolument, remuneration or allowance (including pension or other like allowance) in respect of his tenure in the Government but does not include the Sultanate, the office of Regent, Kepala Wazir, Wazir, Chief Justice, Speaker of the Legislative Council, Deputy Speaker of the Legislative Council, Minister, Deputy Minister, Parliamentary Secretary, Political Secretary, Member of the Legislative Council, Ambassador, High Commissioner, Judge of the Supreme Court, Consul-General, Consul or such other office as His Majesty the Sultan and Yang Di-Pertuan may by Order published in the *Gazette*, prescribe;

[S 65/04]

“public officer” means the holder of any public office and includes any person appointed to act in any such office;

“Regent” means a Regent duly appointed under or referred to in the Succession and Regency Proclamation, 1959;

[S 65/04]

“Religious Council” means the Religious Council constituted by Part II of the Religious Council and Kadis Courts Act (Chapter 77);

[S 65/04]

“Secretary to the Council of Ministers” means the person appointed under Article 22 and includes any person appointed by His Majesty the Sultan and Yang Di-Pertuan to be Deputy Secretary to that Council;

[S 65/04]

“session”, in relation to the Legislative Council, means the meeting of that Council commencing when it first meets after being constituted under this Constitution, or after its prorogation or dissolution at any time, and terminating when that Council is prorogued or is dissolved without having been prorogued;

[S 65/04]

“sitting”, in relation to the Legislative Council, means the period during which that Council is sitting continuously without adjournment, and includes any period during which that Council is in Committee;

[S 65/04]

“Speaker” means the Speaker of the Legislative Council appointed under Clause (1) of Article 37 and includes any person appointed to be his Deputy;

[S 65/04]

“Standing Orders” means the Standing Orders of the Legislative Council made pursuant to Article 48;

[S 65/04]

“State Seal” means the Seal of Brunei Darussalam referred to in Article 79;

[S 65/04]

“Supreme Court” means the Supreme Court of Brunei Darussalam established under the Supreme Court Act (Chapter 5);

[S 65/04]

“tax” includes an impost or a duty but does not include a rate levied for local purposes or a fee for services rendered;

“Wazirs” means the Duli Pengiran Perdana Wazir Sahibul Himmah Wal-Waqar, the Pengiran Bendahara Seri Maharaja Permaisua, the Pengiran Digadong Sahibul Mal, the Pengiran Pemancha Sahibul Rae’ Wal-Mashuarah and the Pengiran Temenggong Sahibul Bahar;

[S 65/04]

“written law” includes all Acts, Orders, Proclamations and subsidiary legislation, or any part thereof, but does not include any Act of Parliament of the United Kingdom or any Order of Her Britannic Majesty in Council or any Law which no authority in Brunei Darussalam is empowered to amend;

[S 65/04]

“Yang Di-Pertua Adat Istiadat” means the noble and illustrious personage known as the Duli Pengiran Pemancha or the person appointed under Clause (3) of Article 3A by His Majesty the Sultan and Yang Di-Pertuan.

[S 65/04]

(2) Where in this Constitution reference is made to any public officer by the term designating his office, such reference shall be construed as a reference to the officer for the time being discharging the functions of that office.

(3) *Repealed.*

[S 65/04]

(4) *Repealed.*

[S 65/04]

(5) References in this Constitution to “this Constitution” shall, unless the context otherwise requires, be construed as referring to subsidiary legislation made under this Constitution.

[S 65/04]

(6) Save as otherwise provided in this Constitution or required by context, the Interpretation and General Clauses Act (Chapter 4) shall apply to the interpretation of this Constitution as it applies to the interpretation of all other written laws.

[S 65/04]

PART II

RELIGION AND ADAT ISTIADAT

[S 65/04]

Official religion of Brunei Darussalam and religious observance. [S 32/04; S 65/04]

3. (1) The official religion of Brunei Darussalam shall be the Islamic Religion:

Provided that all other religions may be practised in peace and harmony by the persons professing them.

(2) The Head of the official religion of Brunei Darussalam shall be His Majesty the Sultan and Yang Di-Pertuan.

(3) The Religious Council shall be the authority responsible for advising His Majesty the Sultan and Yang Di-Pertuan on all matters relating to the Islamic Religion.

(4) For the purpose of this Article, His Majesty the Sultan and Yang Di-Pertuan may, after consultation with the Religious Council, but not necessarily in accordance with the advice of that Council, make laws in respect of matters relating to the Islamic Religion.

Majlis Mesyuarat Adat Istiadat. [S 65/04]

3A. (1) There shall be established a Majlis Mesyuarat Adat Istiadat (to be known in English as the Adat Istiadat Council) which shall consist of a Chairman and other members, all of whom shall be appointed by His Majesty the Sultan and Yang Di-Pertuan and hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

(2) The Adat Istiadat Council shall be the authority responsible for advising His Majesty the Sultan and Yang Di-Pertuan on matters relating to Adat Istiadat or State custom:

Provided that His Majesty the Sultan and Yang Di-Pertuan is not bound to act in accordance with the advice of the Adat Istiadat Council.

(3) The Yang Di-Pertua Adat Istiadat shall be the Head of the Adat Istiadat Council who shall preside in the Adat Istiadat Council and who shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

PART III

EXECUTIVE AUTHORITY

Executive authority and principal officers.

4. (1) The supreme executive authority of Brunei Darussalam shall be vested in His Majesty the Sultan and Yang Di-Pertuan.

(1A) His Majesty the Sultan and Yang Di-Pertuan shall be the Prime Minister.

[S 65/04]

(1B) His Majesty the Sultan and Yang Di-Pertuan shall be the Supreme Commander of the Royal Brunei Armed Forces.

[S 65/04]

(2) The executive authority shall be exercised by His Majesty the Sultan and Yang Di-Pertuan.

[S 65/04]

(3) His Majesty the Sultan and Yang Di-Pertuan may appoint from among citizens of Brunei Darussalam any number of Ministers and Deputy Ministers who shall be responsible solely to His Majesty the Sultan and Yang Di-Pertuan for the exercise of executive authority and who shall assist and advise His Majesty the Sultan and Yang Di-Pertuan in the discharge of His Majesty the Sultan and Yang Di-Pertuan's executive authority.

[S 65/04]

(4) *Repealed.*

[S 65/04]

(5) The appointment of Ministers and Deputy Ministers shall be made from among the Malay race professing the Islamic Religion, save where His Majesty the Sultan and Yang Di-Pertuan otherwise decides.

[S 32/04; S 65/04]

(6) The Ministers and Deputy Ministers shall be appointed by His Majesty the Sultan and Yang Di-Pertuan by Instrument under His Sign Manual and the State Seal and shall hold office for a period of 5 years or such other period, and on such terms as His Majesty the Sultan and Yang Di-Pertuan may determine, and the same persons may be re-appointed, when

such appointment expires, for a further period as specified in the Instrument appointing him:

Provided that His Majesty the Sultan and Yang Di-Pertuan may revoke the appointment of any Minister or Deputy Minister at any time without showing cause.

[S 65/04]

(7) *Repealed.*

[S 65/04]

(8) *Repealed.*

[S 65/04]

(9) His Majesty the Sultan and Yang Di-Pertuan may by Order published in the *Gazette* specify the functions, powers and duties of the Ministers and Deputy Ministers, and such Ministers and Deputy Ministers shall discharge their functions, powers and duties in accordance with such Orders:

Provided that His Majesty the Sultan and Yang Di-Pertuan may transfer any functions, powers and duties conferred on any person by the existing Instruments to such other person or authority as may be specified by such Order at any time without showing cause.

[S 65/04]

PART IV

PRIVY COUNCIL

Establishment of Privy Council.

5. (1) There shall be established a Privy Council (to be known in Malay as the *Majlis Mesyuarat Di-Raja*) constituted in accordance with the provisions of this Part.

[S 65/04]

(2) The Privy Council, the Members of which shall be styled Privy Councillors, shall consist of —

(a) if such an appointment has been made, the Deputy Sultan and Yang Di-Pertuan;

(b) the Regents, if a Council of Regency has been appointed;

(c) *ex-officio* Members, namely the Kepala Wazir, the Wazirs, Members of the Council of Ministers, Mufti Kerajaan, Chief Syar'ie Judge, Attorney General, Yang Di-Pertua Adat Istiadat and the person who holds such other office as may from time to time be designated by His Majesty the Sultan and Yang Di-Pertuan by Proclamation in the *Gazette*; and

(d) such other persons (who shall be styled Appointed Members) as His Majesty the Sultan and Yang Di-Pertuan may, by Instrument under the State Seal, appoint.

[S 65/04]

(3) Every Appointed Member of the Privy Council shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure and subject thereto for such period and upon such conditions as may be specified in the Instrument appointing him.

(4) Every Member of the Privy Council shall, before entering upon the duties of his office, take or make and subscribe before His Majesty the Sultan and Yang Di-Pertuan, or, if a Council of Regency has been appointed, before the senior male Regent, or before such other person as His Majesty the Sultan and Yang Di-Pertuan or, as the case may be, the senior male Regent may designate, an oath or declaration in the form set out as Form I in the First Schedule.

[S 65/04]

(5) *Repealed.*

[S 65/04]

Functions of Privy Council.

6. (1) The Privy Council —

(a) shall advise His Majesty the Sultan and Yang Di-Pertuan on any amendment, addition or revocation of any provision of this Constitution, in accordance with Article 85;

[S 65/04]

(b) shall, subject to any written law, advise His Majesty the Sultan and Yang Di-Pertuan on the appointment of persons to Malay customary ranks, titles, honours and dignities and the designation of the functions appertaining thereto; and

(c) shall perform such other functions as may be conferred on it by the Succession and Regency Proclamation, 1959, any other written law or by His Majesty the Sultan and Yang Di-Pertuan.

[S 65/04]

(2) Minutes shall be kept of all proceedings of the Privy Council.

(3) His Majesty the Sultan and Yang Di-Pertuan shall appoint some fit and proper person to be the Clerk to the Privy Council, and such person shall, before entering upon the duties of his office, take and subscribe before His Majesty the Sultan and Yang Di-Pertuan or the senior male Regent, as the case may be, an oath in the form set out as Form II in the First Schedule.

[S 65/04]

(4) Subject to any written law, the exercise of any power conferred on, or the doing of any act or thing by, the Privy Council may be signified under the hand of the Clerk to the Privy Council.

[S 65/04]

(5) His Majesty the Sultan and Yang Di-Pertuan is not bound to act in accordance with the advice of the Privy Council.

[S 65/04]

Summoning and quorum. [S 65/04]

7. (1) The Privy Council shall not be summoned except by the authority of His Majesty the Sultan and Yang Di-Pertuan or, if a Council of Regency has been appointed, by the senior male Regent or, if His Majesty the Sultan and Yang Di-Pertuan is not present in Brunei Darussalam and if no Council of Regency has been appointed, by the Kepala Wazir.

(2) (a) No business shall be transacted at any meeting of the Privy Council if there are less than one-third of the Members of the Council (besides His Majesty the Sultan and Yang Di-Pertuan or other person presiding) present at the meeting, and His Majesty the Sultan and Yang Di-Pertuan or any other person presiding has objected to the transaction of business on that account.

(b) If the number of Members of the Privy Council is not a multiple of 3, then, for the purpose of this Clause, the number of Members shall be deemed to be the next highest multiple of 3.

(3) Any proceedings in the Privy Council and any such decision taken by that Council shall be valid notwithstanding that some person who was not entitled to do so took part in the proceedings.

Presiding in Privy Council. [S 65/04]

8. (1) His Majesty the Sultan and Yang Di-Pertuan shall, so far as practicable, preside at meetings of the Privy Council.

(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) if such an appointment has been made, the Deputy Sultan and Yang Di-Pertuan;

(b) if no Deputy Sultan and Yang Di-Pertuan has been appointed and a Council of Regency has been appointed, the senior male Regent present;

(c) if no Deputy Sultan and Yang Di-Pertuan 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 or, in the absence of such Member or where no such Member has been appointed, the Kepala Wazir; and

(d) 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.

PART IVA

[S 65/04]

PARDONS BOARD

Establishment of Pardons Board. [S 65/04]

8A. (1) For the purposes of this Part, there shall be established a Pardons Board which shall consist of the Attorney General, the Mufti Kerajaan and not more than 3 other members.

(2) The 3 other members shall be appointed by His Majesty the Sultan and Yang Di-Pertuan and shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

Prerogative of Mercy.

9. (1) His Majesty the Sultan and Yang Di-Pertuan may exercise in his absolute discretion, in respect of any offence for which an offender may be or has been tried in Brunei Darussalam, such one or more of the following powers —

[S 65/04]

(a) grant to any person concerned in, or convicted of, any such offence a pardon either free or subject to conditions;

[S 65/04]

(b) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person for such an offence;

(c) substitute a less severe form of punishment for that imposed by any sentence for such an offence;

(d) remit the whole or any part of any sentence passed for such an offence or of any sum of money imposed as a penalty or forfeiture, or otherwise due to Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan or any other person on account of such offence; or

(e) order the discharge of any person who may be imprisoned for any offence or for non-payment of any sum of money as aforesaid.

[S 65/04]

(2) In exercising his powers, His Majesty the Sultan and Yang Di-Pertuan may have regard to, but is not bound to act in accordance with, the advice of the Pardons Board.

[S 65/04]

(3) *Repealed.*

(4) It shall be the duty of the Attorney General to supply to the Pardons Board any information which the prosecution may have in relation to any offender who has been sentenced to death which may be material to the exercise in relation to that offender of the powers vested in His Majesty the Sultan and Yang Di-Pertuan by Clause (1).

[S 65/04]

* (5) Before tendering its advice on any matter, the Pardons Board shall consider any written opinion which may have been delivered thereon

by the Attorney General on the law applicable and by the Mufti Kerajaan on any aspect of Islamic law.

[S 65/04]

PART V

COUNCIL OF MINISTERS

[S 65/04]

Establishment of Council of Ministers. [S 65/04]

10. There shall be established a Council of Ministers (to be known in Malay as the Majlis Mesyuarat Menteri-Menteri), constituted in accordance with the provisions of this Part.

Constitution of Council of Ministers. [S 65/04]

11. The Council of Ministers shall consist of the Prime Minister and the Ministers appointed under Clause (3) of Article 4.

Tenure of office and vacation of seats.

12. Subject to this Constitution, every Minister shall hold his seat in the Council of Ministers during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

[S 65/04]

13. *Repealed.*

Attendance at Council of Ministers of non-Members.

14. Whenever His Majesty the Sultan and Yang Di-Pertuan or in his absence, other person presiding decides to obtain the advice of any person touching the affairs of the Government, he may require such person to attend any meeting of the Council of Ministers for such purpose.

[S 65/04]

Precedence.

15. The Members of the Council of Ministers shall have seniority and precedence amongst themselves in that Council as His Majesty the Sultan and Yang Di-Pertuan may assign.

[S 65/04]

Summoning and quorum.

16. (1) The Council of Ministers shall not be summoned except by the authority of His Majesty the Sultan and Yang Di-Pertuan.

(2) No business shall be transacted at any meeting of the Council of Ministers if there are less than 5 Members of the Council, besides His Majesty the Sultan and Yang Di-Pertuan or other person presiding, present at the meeting, and His Majesty the Sultan and Yang Di-Pertuan or other person presiding at the meeting has objected to the transaction of business on that account.

[S 65/04]

(3) The Council of Ministers shall not be disqualified from the transaction of business by reason of any vacancy amongst its Members, including any vacancy not filled when that Council is first constituted or is reconstituted at any time; and any proceedings therein and decisions taken therefrom shall be valid notwithstanding that some person who was not entitled to do so took part in the proceedings.

[S 65/04]

Presiding in Council of Ministers.

17. In the absence of His Majesty the Sultan and Yang Di-Pertuan, the person who shall preside shall be the Member of the Council of Ministers present who stands first in order of precedence according to Article 15.

[S 65/04]

Consultation with Council of Ministers.

18. (1) In the exercise of his powers and the performance of his duties, His Majesty the Sultan and Yang Di-Pertuan shall, subject to the provisions of this Article, consult with the Council of Ministers.

[S 65/04]

(2) Clause (1) shall not apply to the exercise or performance by His Majesty the Sultan and Yang Di-Pertuan of any power or duty, whether conferred or imposed on him by this Constitution or by any written law, if the law by which that power or duty is conferred or imposed empowers or requires His Majesty the Sultan and Yang Di-Pertuan to exercise that power or perform that duty after consultation with some authority other than the Council of Ministers or does not require His Majesty the Sultan and Yang Di-Pertuan to consult with any authority.

[S 65/04]

(3) Notwithstanding Clause (1), His Majesty the Sultan and Yang Di-Pertuan shall not be obliged to consult the Council of Ministers in cases —

[S 65/04]

(a) which are of such a nature that, in his judgment, Brunei Darussalam may sustain material prejudice by his consulting the Council of Ministers thereon;

[S 65/04]

(b) in which the matters to be decided are, in his judgment, too unimportant to require the advice of the Council of Ministers; or

(c) in which the matters to be decided are, in his judgment, too urgent to admit of the advice of the Council of Ministers being given by the time within which it may be necessary for him to act:

Provided that, in every case falling within paragraph (c), His Majesty the Sultan and Yang Di-Pertuan shall, as soon as practicable, inform the Council of Ministers of the measures which he has adopted with the reasons therefor.

(4) His Majesty the Sultan and Yang Di-Pertuan shall have the power to set the agenda of the Council of Ministers.

[S 65/04]

His Majesty not bound to act in accordance with the advice of Council of Ministers. [S 65/04]

19. (1) His Majesty the Sultan and Yang Di-Pertuan is not bound to act in accordance with the advice of the Council of Ministers, but in any such case, he shall record in writing, for inclusion in the minutes, the reasons for his decision.

(2) Whenever His Majesty the Sultan and Yang Di-Pertuan shall so act against the advice of the Council of Ministers, any Member shall be competent to require that there be recorded upon the minutes any advice or opinion he may have given upon the question together with the reasons therefor.

Decision of Council of Ministers. [S 65/04]

19A. No decision of the Council of Ministers shall be valid unless approved by His Majesty the Sultan and Yang Di-Pertuan.

Minutes.

20. (1) Minutes shall be kept of all the proceedings of the Council of Ministers.

(2) As soon as practicable after the minutes of a meeting of the Council of Ministers have been confirmed, a full transcript thereof shall be transmitted by the Secretary to the Council of Ministers to His Majesty the Sultan and Yang Di-Pertuan.

[S 65/04]

Oath to be taken by Members.

21. Every Member of the Council of Ministers, other than the Prime Minister, shall, before entering upon the duties of his office, take or make before His Majesty the Sultan and Yang Di-Pertuan, or some other person authorised by His Majesty the Sultan and Yang Di-Pertuan, an oath or declaration in the form set out as Form III in the First Schedule:

[S 65/04]

Provided that any person who, having previously been a Member of that Council, again becomes a Member of that Council within one month after the termination of his previous membership thereof may enter on the duties of his office without again taking or making such oath or declaration.

[S 65/04]

Secretary to Council of Ministers. [S 65/04]

22. (1) His Majesty the Sultan and Yang Di-Pertuan shall appoint some fit and proper person to be the Secretary to the Council of Ministers, and

such person shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

(2) Before entering upon the duties of the office, the Secretary shall take and subscribe before His Majesty the Sultan and Yang Di-Pertuan or other Member presiding, an oath in the form set out as Form II in the First Schedule.

PART VI

LEGISLATIVE COUNCIL

[S 65/04]

Establishment of Legislative Council. [S 65/04]

23. There shall be established a Legislative Council (to be known in Malay as *Majlis Mesyuarat Negara*), constituted in accordance with the provisions of this Part.

Composition and Membership of Legislative Council. [S 65/04]

24. (1) The Second Schedule which concerns the composition and membership of the Legislative Council shall have effect.

(2) His Majesty the Sultan and Yang Di-Pertuan may by Order published in the *Gazette* add to, revoke or amend the provisions of the Second Schedule.

25. *Repealed.*

[S 65/04]

26. *Repealed.*

[S 65/04]

27. *Repealed.*

28. *Repealed.*

[S 65/04]

Qualifications for Members. [S 65/04]

29. Subject to Article 30, any person (other than a Regent) who is a citizen of Brunei Darussalam and who has attained the age of 21 years shall be qualified to be a Member of the Legislative Council.

Disqualification for Members. [S 65/04]

30. No person shall be qualified to be a Member of the Legislative Council who —

(a) is, due to his own act, under any acknowledgement of allegiance, obedience or loyalty to a power or state outside Brunei Darussalam, or has voluntarily acquired the citizenship of or has exercised rights of citizenship in a foreign country, or has shown himself by act or speech to have the intent to be disloyal or disaffected towards His Majesty the Sultan and Yang Di-Pertuan;

(b) is a person declared to be of unsound mind under any law in force in Brunei Darussalam;

(c) has been sentenced by a court in Brunei Darussalam or elsewhere, to death, imprisonment or to a fine of \$1,000 or more for any offence by whatever name called:

Provided that this paragraph shall not apply to any person —

- (i) until the time for lodging an appeal has lapsed or, if an appeal has been lodged, until such appeal has been dismissed or the appeal has been allowed and the sentence provided for under paragraph (c) has been set aside by the appellate court;
- (ii) who has been sentenced to a fine as aforesaid which conviction is for an offence which does not involve any element of dishonesty, fraud or moral turpitude;
- (iii) who has received a free pardon for that offence;
- (iv) if 3 years or more have elapsed since the termination of his imprisonment or the imposition of the fine on him; or
- (v) in respect of whom His Majesty the Sultan and Yang Di-Pertuan has, after full consideration of the

circumstances, directed that this paragraph shall not apply;

(d) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Brunei Darussalam or elsewhere;

(e) is a *murtad* in accordance with the *Hukum Syara'*; or

(f) is disqualified under any law relating to offences in connection with elections to the Legislative Council by reason of having been convicted of such an offence or having in proceedings relating to such an election been proved guilty of an act constituting such an offence.

Tenure of office and vacation of seats. [S 65/04]

31. (1) Every Member of the Legislative Council shall hold his seat therein during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

[S 65/04]

(2) Every Member of the Legislative Council shall cease to be a Member when that Council is dissolved after he has been appointed or if his seat shall become vacant under this Constitution.

[S 65/04]

(3) The seat of a Member shall become vacant —

[S 65/04]

(a) if he shall be appointed as a Regent;

(b) if he shall, by writing under his hand addressed to the Clerk of the Legislative Council, resign his seat in the Legislative Council;

[S 65/04]

(c) if he, except in the case of an *ex-officio* Member, shall be absent from 2 consecutive meetings of the Legislative Council without having obtained from the Speaker, before the termination of either of such meetings, permission to be or to remain absent therefrom; or

[S 65/04]

(d) *repealed*;

[S 65/04]

(e) *repealed*;

[S 65/04]

(f) if any circumstances arise which, if he were not a Member of the Legislative Council, would cause him to be disqualified under Article 30.

[S 65/04]

(4) His Majesty the Sultan and Yang Di-Pertuan or the Legislative Council may, for such reason as may appear to His Majesty the Sultan and Yang Di-Pertuan or that Council to be good and sufficient, declare any Member of that Council to be incapable of discharging his functions as a Member of that Council, and thereupon, such Member shall not sit in or take part in the proceedings of that Council until he is declared by His Majesty the Sultan and Yang Di-Pertuan or that Council to be again capable of discharging his functions:

Provided that where the Member is declared by His Majesty the Sultan and Yang Di-Pertuan to be incapable of discharging his functions, the Legislative Council shall not have the power to declare such Member to be again capable of discharging his functions without the prior approval of His Majesty the Sultan and Yang Di-Pertuan.

[S 65/04]

(5) His Majesty the Sultan and Yang Di-Pertuan or the Legislative Council may, for such reason as may appear to His Majesty the Sultan and Yang Di-Pertuan or that Council to be good and sufficient, suspend any Member, from the exercise of his functions and his rights and privileges, as a Member of that Council, and thereupon, such Member shall not sit in or take part in the proceedings of that Council until the suspension is ended by His Majesty the Sultan and Yang Di-Pertuan or that Council:

Provided that where the Member is suspended by His Majesty the Sultan and Yang Di-Pertuan, the Legislative Council shall not have the power to end the suspension of such Member without the prior approval of His Majesty the Sultan and Yang Di-Pertuan.

[S 65/04]

(6) Any person vacating his seat as a Member of the Legislative Council may, if qualified, be again appointed as, or elected to be, a Member.

[S 65/04]

(7) *Repealed.*

[S 65/04]

(8) *Repealed.*

[S 65/04]

Decisions of questions as to membership of Legislative Council. [S 65/04]

32. His Majesty the Sultan and Yang Di-Pertuan shall have exclusive jurisdiction to determine any question on whether —

(a) any person has been validly disqualified to be a Member of the Legislative Council;

(b) any Member of the Legislative Council has been validly appointed or elected as a Member of, or dismissed from that Council;

(c) any Member of the Legislative Council has been validly declared to be incapable of discharging his functions or suspended from the Legislative Council; or

(d) any such Member of the Legislative Council has vacated his seat therein.

Temporary appointments.

33. (1) Where for the time being —

(a) one of the Members is appointed to act as Regent;

(b) *repealed;*

[S 65/04]

(c) *repealed;*

[S 65/04]

(d) the seat of a Member is vacant otherwise than by reason of a dissolution of the Legislative Council;

[S 65/04]

(e) a Member is unable to sit in the Legislative Council in consequence of a declaration or suspension by His Majesty the Sultan and Yang Di-Pertuan or that Council, as provided in Clause (4) or (5) of Article 31; or

[S 65/04]

(f) *repealed;*

[S 65/04]

(g) *repealed;*

[S 65/04]

(h) *repealed;*

[S 65/04]

(i) the seat of a Member shall become vacant for whatever reason,

[S 65/04]

His Majesty the Sultan and Yang Di-Pertuan may, by Instrument under the State Seal, appoint a person to be a Member for the period of such vacancy.

[S 65/04]

(2) *Repealed.*

[S 65/04]

(3) Every person so appointed shall, so long as his appointment shall subsist, for all intents and purposes be a Member of the Legislative Council, and Part VI shall apply to him accordingly.

[S 65/04]

(4) *Repealed.*

[S 65/04]

(5) For the purposes of this Article, any temporary appointment shall cease to have effect on notification by the Clerk to the Legislative Council to the person appointed of the revocation of the appointment, or on the supersession of the appointment by the definitive appointment of a person to fill the vacancy.

[S 65/04]

Attendance at Legislative Council of non-Members.

34. (1) Whenever His Majesty the Sultan and Yang Di-Pertuan or the Speaker desires to obtain the advice of any person in Brunei Darussalam touching on any business about to be brought before the Legislative Council, His Majesty the Sultan and Yang Di-Pertuan or the Speaker, as the case may be, may summon any such person to attend that Council for such purpose.

[S 65/04]

(2) Any person so required may, with the permission of the Speaker and subject to Standing Orders, address that Council but, save as aforesaid, shall take no part in the proceedings thereof.

[S 65/04]

35. *Repealed.*

[S 65/04]

36. *Repealed.*

[S 65/04]

Speaker and Deputy Speaker. [S 65/04]

37. (1) His Majesty the Sultan and Yang Di-Pertuan may, by Instrument under the State Seal, appoint a Speaker of the Legislative Council either from among the Members of that Council or from among persons who are not Members thereof.

[S 65/04]

(1A) His Majesty the Sultan and Yang Di-Pertuan may by Instrument under the State Seal appoint a Deputy Speaker of the Legislative Council from among the Members of that Council or from among persons who are not Members thereof.

[S 65/04]

(2) Any person appointed as Speaker or Deputy Speaker shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure and, subject thereto, for such period as may be specified in the Instrument by which he is appointed:

[S 65/04]

Provided that the Speaker or Deputy Speaker may, by writing under his hand addressed to His Majesty the Sultan and Yang Di-Pertuan, resign his office and, in the case of a Speaker or Deputy Speaker appointed from among the Members of the Legislative Council, shall vacate his office if he ceases to be a Member of that Council.

[S 65/04]

Speaker or Deputy Speaker to attend and preside. [S 65/04]

38. The Speaker or the Deputy Speaker, as the case may be, shall so far as practicable, attend and preside at all meetings of the Legislative Council, and

in their absence such Member of that Council as the Speaker or Deputy Speaker may, after consultation with His Majesty the Sultan and Yang Di-Pertuan, generally or specially appoint, shall preside.

PART VII

LEGISLATION AND PROCEDURE IN THE LEGISLATIVE COUNCIL

Power to make laws. [S 65/04]

39. His Majesty the Sultan and Yang Di-Pertuan shall have the power to make laws for the peace, order, security and good government of Brunei Darussalam.

Introduction of Bills. [S 65/04]

40. (1) Subject to this Constitution and to the Standing Orders, any Member of the Legislative Council may introduce any Bill or propose any motion for debate in, or present any petition to the Legislative Council; and such Bill, motion or petition shall be debated and disposed of in accordance with the Standing Orders.

[S 65/04]

(2) *Repealed.*

[S 65/04]

(3) *Repealed.*

[S 65/04]

Publication of Bills. [S 65/04]

41. (1) Save in a case of urgency to be certified in writing by His Majesty the Sultan and Yang Di-Pertuan, every Bill shall be published in the *Gazette*.

(2) Within 7 days of the publication of a Bill in the *Gazette* or of the date of any certificate under Clause (1), the Bill shall be laid on the table of the Legislative Council whether or not that Council is sitting.

Description of Bills, motions and petitions not to proceed without approval. [S 65/04]

42. (1) Except with the prior approval of His Majesty the Sultan and Yang Di-Pertuan, a Member of the Legislative Council shall not introduce or propose, and the Legislative Council shall not proceed upon, any Bill, any amendment to any Bill, or any motion, petition or business which, in the opinion of His Majesty the Sultan and Yang Di-Pertuan, falls within any of the following classes —

(a) any Bill, motion, petition or business relating to the issue of Bank Notes or the establishment of any Bank Association or the amendment of the constitution thereof;

(b) any Bill, motion, petition or business which shall appear inconsistent with obligations imposed upon His Majesty the Sultan and Yang Di-Pertuan by Treaty or Agreement with another power or State;

(c) any Bill, motion, petition or business relating to questions of defence or public security;

(d) any Bill, motion, petition or business that may have the effect of lowering or adversely affect directly or indirectly the rights, position, discretion, powers, privileges, sovereignty or prerogatives of His Majesty the Sultan and Yang Di-Pertuan, his Successors, His Consort or other members of the Royal Family;

(e) any Bill, motion, petition or business that may have the effect of lowering or adversely affect directly or indirectly the standing or prominence of the National Philosophy of *Melayu Islam Beraja* (known in English as Malay Islamic Monarchy);

(f) any Bill, motion, petition or business which would provide for or directly or indirectly affect the finances or currency of Brunei Darussalam;

(g) any Bill, motion, petition or business which would provide for or directly or indirectly affect the compounding or remitting of any debt due to Brunei Darussalam;

(h) any Bill, motion, petition or business which would provide for or directly or indirectly affect the custody of the Consolidated Fund, the charging of any money on the Consolidated Fund or the abolition of any such charge;

(i) any Bill, motion, petition or business which would provide for or directly or indirectly affect the payment of moneys into the Consolidated Fund or the payment, issue or withdrawal from the Consolidated Fund of any moneys not charged thereon, or any alteration in any such payment, issue or withdrawal otherwise than by reducing it;

(j) any Bill, motion, petition or business which would provide for or directly or indirectly affect the receipt of moneys on account of the Consolidated Fund or the custody or issue of such moneys, or the audit of the accounts of Brunei Darussalam;

(k) any Bill, motion, petition or business which would provide for or directly or indirectly affect the borrowing of money, or the giving of any guarantee by Brunei Darussalam, or the amendment of the law relating to the financial obligations of Brunei Darussalam; or

(l) any Bill, motion, petition or business which would provide for or directly or indirectly affect the assignment of any tax or fee.

(2) A Bill, amendment to a Bill, or any motion, petition or business shall not be deemed to make provision for any of the matters specified in paragraphs (f) to (l) of Clause (1) by reason only that it provides —

(a) for the imposition or alteration of any fine or other pecuniary penalty or for the payment or demand of a licence fee, or a fee or charge for any service rendered; or

(b) for the imposition, alteration or regulation of any tax or rate by any local authority or body for local purposes.

(3) The approval of His Majesty the Sultan and Yang Di-Pertuan in relation to any Bill or amendment to any Bill, or any motion, petition or business, under Clause (1) may be expressed at any time before His Majesty the Sultan and Yang Di-Pertuan has assented thereto, and may, if given while the Legislative Council is sitting, be given in writing through any Minister.

(4) For the purpose of Clause (1), the Speaker, or Deputy Speaker in the absence of the Speaker, may at any time in his discretion, adjourn the Legislative Council or suspend the sitting so as to obtain the advice of His Majesty the Sultan and Yang Di-Pertuan on any Bill, amendment to any Bill, or any motion, petition or business.

Voting.

43. (1) Subject to Clauses (3), (4) and (5), all questions proposed for decision in the Legislative Council shall be determined by a majority of the votes of the Members present and voting.

[S 65/04]

(2) The Speaker and, in his absence the Deputy Speaker, and in his absence, the Member presiding shall have an original vote and shall in addition, if upon any question for which the votes are equally divided, have and exercise a casting vote.

[S 65/04]

(3) If, having debated a Bill, the Legislative Council resolves that the Bill shall be rejected (such resolution shall hereinafter be referred to as a "negative resolution") then Clause (4) shall apply.

[S 65/04]

(4) If the Legislative Council passes a negative resolution, the Speaker shall, within 14 days of the passing of that resolution, submit a report to His Majesty the Sultan and Yang Di-Pertuan giving a summary of the debate and the reasons for such resolution.

[S 65/04]

(5) His Majesty the Sultan and Yang Di-Pertuan, having considered the report of the Speaker may, notwithstanding the negative resolution, declare that the Bill shall have effect as an Act either in the form in which it was introduced or with such amendments as His Majesty the Sultan and Yang Di-Pertuan shall think fit, from a date to be specified in the *Gazette*.

[S 65/04]

Vacancies and quorum.

44. (1) The Legislative Council shall not be disqualified from the transaction of business by reason of any vacancy among the Members, including any vacancy not filled when that Council is first constituted or reconstituted at any time; and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so sat or voted in that Council, or otherwise took part in those proceedings.

[S 65/04]

(2) If, at any sitting of the Legislative Council, any Member who is present draws the attention of the person presiding at the sitting to the fact

that less than one-third of the Members are present apart from any Member presiding and, after such interval, if any, as may be provided for by the Standing Orders, the person presiding is satisfied that there are less than that number of Members so present, the sitting shall be adjourned.

[S 65/04]

(3) The calculation of one-third referred to in Clause (2) shall be in accordance with the Standing Orders.

[S 65/04]

Assent to Bills. [S 65/04]

45. (1) When any Bill has been passed by the Legislative Council, such Bill shall only become law either in the form in which it was passed or with such amendments as His Majesty the Sultan and Yang Di-Pertuan shall think fit, if His Majesty the Sultan and Yang Di-Pertuan assents to, signs and seals the Bill with the State Seal.

(2) In the event His Majesty the Sultan and Yang Di-Pertuan amends the Bill after it has been passed by the Legislative Council, His Majesty the Sultan and Yang Di-Pertuan shall not be required to refer the Bill back to the Legislative Council.

(3) A law assented to by His Majesty the Sultan and Yang Di-Pertuan shall come into operation on the date on which such assent shall be given, or, if it shall be enacted either in such law or in some other law (including any law in force on the commencement of this Part) that it shall come into operation on some other date, on that date.

Style of laws and enacting words.

46. All laws shall be styled Acts and the enacting words shall be "Be it enacted by His Majesty the Sultan and Yang Di-Pertuan with the advice and consent of the Legislative Council as follows:".

[S 65/04]

Reserved powers. [S 65/04]

47. (1) If His Majesty the Sultan and Yang Di-Pertuan shall consider that it is expedient in the interests of public order, good faith or good government of Brunei Darussalam, or for any other reason whatsoever, that any Bill introduced, or any motion, petition or business proposed in the Legislative Council shall have effect, then, if that Council shall fail to pass that Bill or

carry that motion, petition or business within such time and in such form or manner as His Majesty the Sultan and Yang Di-Pertuan may think reasonable and expedient, His Majesty the Sultan and Yang Di-Pertuan may, at any time, notwithstanding any provision of this Constitution or the Standing Orders, declare that that Bill or motion, petition or business shall have effect as if it had been passed or carried by that Council either in the form in which it was so introduced or proposed or with such amendments as His Majesty the Sultan and Yang Di-Pertuan shall think fit which have been moved or proposed in that Council or in any committee thereof; and the Bill or motion or petition shall be deemed thereupon to have been so passed or carried; and the provisions of this Constitution, and, in particular, the provisions of Article 45, relating to assent to Bills shall have effect accordingly.

(2) Any such declaration made by His Majesty the Sultan and Yang Di-Pertuan under Clause (1) together with the Bill, motion, petition or business so deemed to have been passed or carried shall be notified in the *Gazette* by the Speaker.

(3) Any such declaration, other than a declaration relating to a Bill, may be revoked by His Majesty the Sultan and Yang Di-Pertuan; and the Speaker shall notify such revocation in the *Gazette*; and from the date of such notification, any motion, petition or business which shall be deemed to have been carried by virtue of the declaration revoked shall cease to have effect; and such cessation shall have the same effect as the repeal of a written law.

Standing Orders.

48. (1) Subject to this Constitution, the Legislative Council may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the dispatch of business, including the power to impose sanctions.

[S 65/04]

(2) *Repealed.*

[S 65/04]

(3) No Standing Order shall be suspended without the approval of the Speaker and such approval shall only be granted by him if he is satisfied that such suspension is necessary for the proper and expeditious dispatch of the business of the Legislative Council.

[S 65/04]

(4) No Standing Orders made by the Legislative Council and no amendments, suspension or revocation of the Standing Orders shall have effect unless approved by His Majesty the Sultan and Yang Di-Pertuan.

[S 65/04]

Oath to be taken by Members. [S 65/04]

49. Every Member of the Legislative Council shall, before entering upon the duties of his office and taking his seat, take or make and subscribe before the Speaker or Deputy Speaker or other Member presiding an oath or declaration in the form set out as Form IV in the First Schedule:

Provided that any person who, having previously been a Member of the Legislative Council, again becomes a Member of that Council within one month after the termination of his previous membership thereof may enter upon the duties of his office and take his seat without again taking or making and subscribing such oath or declaration.

Clerk to the Legislative Council. [S 65/04]

50. His Majesty the Sultan and Yang Di-Pertuan shall appoint some fit and proper person to be the Clerk to the Legislative Council, and who shall hold the office during His Majesty the Sultan and Yang Di-Pertuan's pleasure, and such person shall, before entering upon the duties of his office, take before the Speaker or other Member presiding an oath in the form set out as Form V in the First Schedule.

Minutes.

51. (1) Minutes shall be kept of all the proceedings of the Legislative Council.

(2) As soon as practicable, a full transcript of the minutes of every sitting of the Legislative Council shall be transmitted by the Clerk to the Legislative Council to His Majesty the Sultan and Yang Di-Pertuan.

[S 65/04]

Sessions of Legislative Council. [S 65/04]

52. (1) Unless otherwise directed by His Majesty the Sultan and Yang Di-Pertuan, there shall be a session of the Legislative Council once at least in every year, so that a period of more than 12 months shall not intervene

between the last sitting in one session and the date appointed for its first sitting in the next session.

[S 65/04]

(2) Each session of the Legislative Council shall be held at such place and shall commence and end at such time as His Majesty the Sultan and Yang Di-Pertuan may from time to time, by notice published in the *Gazette*, appoint.

[S 65/04]

Privileges of Members of Legislative Council. [S 65/04]

53. (1) Subject to Clause (1A), every Member of the Legislative Council may express his opinion freely in the Legislative Council or any committee thereof, upon any matter which comes before it.

[S 65/04]

(1A) No Member of the Legislative Council shall speak or make any comments —

(a) directly or indirectly derogatory of the rights, status, position, powers, privileges, sovereignty or prerogatives of His Majesty the Sultan and Yang Di-Pertuan, his Successors, His Consort or other members of the Royal Family or the National Philosophy of Malay Islamic Monarchy; or

(b) which constitute an offence under the Sedition Act (Chapter 24).

[S 65/04]

(2) The validity of any proceedings in the Legislative Council or any committee thereof shall not be questioned in or be subject to any review by any court.

[S 65/04]

(3) Subject to Clause (1A), no person shall be liable to any proceedings in any court in respect of anything said, or any vote given, by him when taking part in any proceedings of the Legislative Council or any committee thereof.

[S 65/04]

(4) No person shall be liable to any proceedings in any court in respect of anything published by or under the authority of the Legislative Council.

Right of His Majesty to address Legislative Council. [S 65/04]

54. His Majesty the Sultan and Yang Di-Pertuan shall have the right to address the Legislative Council at any time upon any matter.

Prorogation and dissolution.

55. (1) His Majesty the Sultan and Yang Di-Pertuan may at any time, by Proclamation published in the *Gazette*, prorogue or dissolve the Legislative Council.

(2) His Majesty the Sultan and Yang Di-Pertuan shall dissolve the Legislative Council at the expiration of 5 years from the date when it first meets after it is first constituted or is reconstituted at any time unless it has been sooner dissolved.

PART VIII

FINANCE

No taxation unless authorised by law.

56. No tax or rate shall be levied by or for the purposes of Brunei Darussalam except by or under the authority of law.

Civil List of His Majesty, His Consort and the Royal Family. [S 65/04]

57. (1) There shall be provided by law a Civil List making provision for His Majesty the Sultan and Yang Di-Pertuan, His Consort and other members of the Royal Family, which Civil List shall be a charge on the Consolidated Fund.

(2) The Civil List shall be reasonable, adequate and suitable to the rank, position and dignity of His Majesty the Sultan and Yang Di-Pertuan, His Consort and other members of the Royal Family, and shall not be directly or indirectly diminished during His Majesty the Sultan and Yang Di-Pertuan's reign.

(3) In assessing the Civil List, it shall not be permissible to take into account any income of His Majesty the Sultan and Yang Di-Pertuan, His Consort and other members of the Royal Family which is derived from the personal estates and properties of His Majesty the Sultan and Yang Di-Pertuan, His Consort and other members of the Royal Family and those which are not the property of Brunei Darussalam.

(4) His Majesty the Sultan and Yang Di-Pertuan may draw up, maintain or amend a schedule of the members of the Royal Family to whom an allowance will be payable under this Article.

(5) His Majesty the Sultan and Yang Di-Pertuan may revoke, suspend or reduce any allowance to any member of the Royal Family to whom such allowance would otherwise be payable under this Article.

Consolidated Fund.

58. All revenues and moneys howsoever raised or received by the Government from whatsoever source shall, subject to this Constitution and any written law, be paid into and form one fund to be known as the "Consolidated Fund".

[S 65/04]

Expenditure charged on Consolidated Fund.

59. (1) There shall be charged on the Consolidated Fund in addition to any grant, remuneration or other moneys so charged by any provision of this Constitution or by any written law —

[S 65/04]

(a) the costs, charges and expenses, other than the emoluments of members of the public service, incidental to the collection and management of the revenues raised or received by the Government;

[S 65/04]

(b) all pensions, compensation for loss of office and gratuities for which the Government is liable;

[S 65/04]

(c) all debt charges for which the Government is liable; and

[S 65/04]

(d) all moneys required to satisfy any judgment, decision or award against the Government by any court or tribunal.

[S 65/04]

(2) For the purposes of this Article, “debt charges” include interest, sinking fund charges, the repayment or amortization of debt, and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

[S 65/04]

Annual estimates of receipts and expenditure.

60. (1) His Majesty the Sultan and Yang Di-Pertuan shall, in respect of every financial year, cause to be laid before the Legislative Council a statement of the estimated receipts and expenditure of the Government for that year and, unless the Legislative Council by written law in respect of any year otherwise provides, that statement shall be so laid before the commencement of that year.

[S 65/04]

(2) The estimates of expenditure shall show separately —

(a) the total sums required to meet expenditure charged on the Consolidated Fund; and

(b) subject to Clause (3), the sums respectively required to meet the heads of other expenditure proposed to be met from the Consolidated Fund.

[S 65/04]

(3) The sums to be shown under paragraph (b) of Clause (2) shall not include —

(a) sums representing the proceeds of any loan raised by the Government for any specific purpose and appropriated for such purpose by or under the written law or Act authorising the raising of that loan; and

(b) sums representing any money, or interest on money, received by the Government subject to a trust and to be applied in accordance with the terms of that trust.

[S 65/04]

(4) The statement shall also show, so far as practicable, the assets and liabilities of the Government, other than the assets and liabilities of the Brunei Investment Agency, at the end of the last completed financial year, the manner in which those assets are invested or held and the general heads in respect of which those liabilities are outstanding.

[S 20/85; S 65/04]

Supply Bill. [S 65/04]

61. The heads of expenditure to be met from the Consolidated Fund but not charged thereon other than expenditure to be met by such sums as are mentioned in Clause (3) of Article 60, shall be included in a Bill, to be known as the Annual Supply Bill, providing the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the application of those sums for the purposes specified therein.

[S 65/04]

Supplementary and excess expenditure.

62. If, in respect of any financial year, it is found —

(a) that the amount appropriated by the Annual Supply Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Annual Supply Act; or

(b) that any moneys have been expended for any purpose in excess of that amount, if any, appropriated for that purpose by an Annual Supply Act,

[S 65/04]

a Supplementary Estimate showing the sums required or spent shall be caused by His Majesty the Sultan and Yang Di-Pertuan to be laid before the Legislative Council and the heads of any such expenditure shall be included in a Supplementary Supply Bill.

Power to authorise expenditure on account or for unspecified purposes.

63. The Legislative Council shall have power in respect of any financial year —

[S 65/04]

(a) before the passing of the Annual Supply Bill to authorise by written law expenditure for part of the year; and

(b) to authorise by written law expenditure for the whole or part of the year otherwise than in accordance with Articles 59 to 62 inclusive if, owing to the magnitude or indefinite character of any services or to circumstances which require any action of unusual urgency, it appears to be desirable to do so.

[S 65/04]

Contingencies Fund. [S 65/04]

64. (1) The Legislative Council may by written law provide for the creation of a Contingencies Fund and for authorising the Minister of Finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Contingencies Fund to meet that need.

[S 65/04]

(2) Where any advance has been made in accordance with Clause (1), a Supplementary Estimate shall be presented and a Supplementary Supply Bill introduced into the Legislative Council as soon as possible for the purpose of replacing the amount so advanced.

[S 65/04]

Withdrawals from Consolidated Fund. [S 65/04]

65. (1) Subject to Clause (2), no moneys shall be withdrawn from the Consolidated Fund unless they are —

- (a) charged on the Consolidated Fund;
- (b) authorised to be issued by a Supply Act; or
- (c) authorised to be issued under Article 63.

[S 65/04]

(2) Clause (1) shall not apply to any such sums as are mentioned in Clause (3) of Article 60.

[S 65/04]

(3) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by law.

Auditor General.

66. (1) There shall be an Auditor General who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan.

(2) A person who has held the office of Auditor General shall be eligible for re-appointment but shall not, while holding that office be eligible for any other appointment in the public service of Brunei Darussalam.

[S 65/04]

(3) The Auditor General shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure, but he may at any time resign his office.

[S 65/04]

(4) The Legislative Council shall provide for the remuneration of the Auditor General and the remuneration so provided shall be charged on the Consolidated Fund.

[S 65/04]

(5) *Repealed.*

[S 65/04]

(6) *Repealed.*

[S 65/04]

Powers and duties of Auditor General.

67. (1) The accounts of Brunei Darussalam shall, subject to this Constitution and any written law, be audited and reported upon by the Auditor General, who, with his subordinate staff, shall at all times be entitled to have access to all books, records, returns and reports relating to such accounts.

[S 65/04]

(2) The Auditor General shall perform such other duties and exercise such powers in relation to the accounts of Brunei Darussalam and to the accounts of other public authorities and bodies administering public funds as may be provided by any written law.

Reports of Auditor General.

68. The Auditor General shall submit his reports to His Majesty the Sultan and Yang Di-Pertuan who may cause the reports to be laid before the Legislative Council.

[S 65/04]

Exclusion of Muslim revenues and funds.

69. The provisions of this Part shall not be applicable to Muslim revenues and funds.

PART IX**PUBLIC SERVICE**

[S 65/04]

Tenure of office in public service. [S 65/04]

70. Save as otherwise provided in this Constitution, every person holding office in the public service of the Government shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

Public Service Commission. [S 65/04]

71. (1) There shall be a Public Service Commission which shall consist of a Chairman and such number of members, including a Deputy Chairman, as His Majesty the Sultan and Yang Di-Pertuan may appoint.

[S 65/04]

(2) Subject to Clause (3), every person who is appointed to be a member of the Public Service Commission shall, unless he earlier resigns his office or is removed therefrom, hold office for a period of 3 years from the date of his appointment and shall be eligible for re-appointment.

[S 65/04]

(3) All members of the Public Service Commission, including the Chairman and Deputy Chairman, if any, shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

[S 65/04]

(4) His Majesty the Sultan and Yang Di-Pertuan may grant leave of absence from his duties to any member of the Public Service Commission, and may appoint a person to be a temporary member for the period of such leave.

(5) The procedure of the Public Service Commission shall, subject to any regulations made under Article 75, be as determined by the Commission.
[S 65/04]

(6) For the purposes of the Penal Code (Chapter 22), a member of the Public Service Commission shall be deemed to be a public servant.
[S 65/04]

Secretary to Public Service Commission.

72. There shall be a Secretary to the Public Service Commission who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan, and who shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

[S 65/04]

Salaries of members of Public Service Commission.

73. Every person appointed to be a member of the Public Service Commission shall be paid such salary or allowances, or both, as may be determined by His Majesty the Sultan and Yang Di-Pertuan; and all such salaries and allowances shall be a charge on the Consolidated Fund.

[S 65/04]

Appointments in public service.

74. (1) The power to appoint, transfer, promote, dismiss or exercise disciplinary control over public officers is hereby vested in His Majesty the Sultan and Yang Di-Pertuan.

(2) In exercise of the power conferred upon him by Clause (1), His Majesty the Sultan and Yang Di-Pertuan shall, unless the regulations under Article 75 otherwise provide, consult and act in accordance with the recommendation of the Public Service Commission.

[S 65/04]

(3) Nothing in this Article shall affect the provisions of any written law relating to members of the Royal Brunei Armed Forces, the Royal Brunei Police Force or the Prison Service of Brunei Darussalam.

[S 65/04]

Regulations.

75. His Majesty the Sultan and Yang Di-Pertuan may make regulations to provide for —

[S 65/04]

(a) the exercise by the Public Service Commission of any of its functions; or

(b) the exercise by the Public Service Commission or by any person, subject to such conditions as may be prescribed, of any of the powers vested in His Majesty the Sultan and Yang Di-Pertuan by Article 74 and may further provide that any such person shall be free from the restriction imposed by Clause (2) of Article 74.

[S 65/04]

His Majesty to require oaths. [S 65/04]

76. His Majesty the Sultan and Yang Di-Pertuan may, whenever he thinks fit, require any person in the public service of Brunei Darussalam to take or make before him or such person as he may appoint, an oath or declaration of allegiance in the form set out as Form VI in the First Schedule.

[S 65/04]

77. *Repealed.*

78. *Repealed.*

PART X

STATE SEAL

[S 65/04]

State Seal. [S 65/04]

79. His Majesty the Sultan and Yang Di-Pertuan shall keep and use the State Seal for sealing all things whatsoever that shall pass that State Seal.

[S 65/04]

PART XI

MISCELLANEOUS

Provisions to give effect to Constitution.

80. (1) His Majesty the Sultan and Yang Di-Pertuan may by Order, at any time within 3 years after the publication in the *Gazette* of this Constitution, make such provision as appears to him necessary or expedient for the purpose of bringing existing instruments into accord with the provisions of this Constitution or otherwise for giving effect, or enabling effect to be given, to those provisions; and, in particular and without prejudice to the generality of the foregoing power His Majesty the Sultan and Yang Di-Pertuan may by such Orders —

(a) modify, add to or adapt any provisions in existing instruments which refer, in whatever terms, to His Majesty the Sultan and Yang Di-Pertuan in Council, the State Council or the Council of State;

(b) provide for the transfer of functions, powers and duties conferred or imposed by existing instruments upon any person or authority to such other person or authority as may be specified by such Orders;

(c) proceed to make any appointment which he would be authorised to make under Part VI if this Constitution were in operation and may also, at any time after such appointments, proceed to make any appointment which he would be authorised to make under Article 11 if that Article and Part VI were in force and the appointments made under Part VI had taken effect:

[S 65/04]

Provided that, except in so far as may be necessary to give effect to the provisions of this Clause, no appointment made by virtue hereof shall have effect before the commencement of that Part;

[S 65/04]

(d) provide for the financial procedure of Brunei Darussalam including, until other provision has been made under Clause (1) of Article 64, the establishment of a Contingencies Fund;

[S 65/04]

(e) provide for the audit of the moneys of Brunei Darussalam and of other public bodies administering public funds, and until otherwise provided by the Legislative Council pursuant to Clause (4) of Article 66, provide for the remuneration of Auditor General;

[S 65/04]

(f) until otherwise provided by the Legislative Council pursuant to Article 73, provide for the remuneration of the member of the Public Service Commission;

[S 65/04]

(g) provide for the incorporation of the Prime Minister for the purpose of holding and disposing of property, movable and immovable, in his corporate capacity, on behalf of Brunei Darussalam, and for the purpose of transferring to him, in that capacity on behalf of Brunei Darussalam, certain property, movable and immovable situate within and outside Brunei Darussalam, at present held on behalf of Brunei Darussalam by certain other persons and bodies;

(h) provide for the procedure in administrative appeals to His Majesty the Sultan and Yang Di-Pertuan in Council.

(2) Subject to this Article, the existing instruments shall until repealed by the authority having power to do so under this Constitution continue in force on and after the commencement of this Constitution, or any Part thereof, with such modifications as may be made therein by any Order made under this Article or by any other written law.

[S 65/04]

(3) Notwithstanding anything in this Constitution contained, the State Council existing immediately before the commencement of this

Constitution shall continue to have full legislative and executive authority until the commencement of Parts V, VI and VII.

(4) In this Article, “existing instruments” means Acts, rules, regulations, by-laws, proclamations, orders, licences, permits and other instruments having the force of law, or issued in pursuance of statutory powers, and in force in Brunei Darussalam at the date of the Order by which they are affected.

[S 65/04]

(5) An Order made under this Article may be amended or revoked by a further Order and may be given a retrospective effect to a date not earlier than the date of the publication in the *Gazette* of this Constitution.

[S 65/04]

Attorney General and his functions. [S 65/04]

81. (1) There shall be an Attorney General who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan by notification published in the *Gazette*.

(2) The Attorney General shall advise on all legal matters connected with the affairs of Brunei Darussalam referred to him by His Majesty the Sultan and Yang Di-Pertuan or by the Government.

(3) The Attorney General shall have power exercisable at his discretion to institute, conduct or discontinue any proceedings for an offence other than —

(a) proceedings before a Syariah Court, subject to the provisions of any written law to the contrary; or

(b) proceedings before a Court Martial, subject to the provisions of any written law to the contrary.

(4) In the exercise of this power, the Attorney General shall not be subject to the direction or control of any person or authority.

(5) The Attorney General shall have the right of audience in, and shall take precedence over any other person appearing before, any court or tribunal in Brunei Darussalam.

(6) The Attorney General shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure, but he may at any time resign his office.

Official language. [S 65/04]

82. (1) The official language of Brunei Darussalam shall be the Malay language.

(2) An official version in the English language shall be provided of anything which, by this Constitution or by any written law or by the Standing Orders, is required to be printed or in writing, and such version shall, in addition to the official Malay version, be accepted as an authentic text.

(3) In the case of any doubt, conflict or discrepancy between the Malay and the English texts of this Constitution, or anything printed or written in accordance with Clause (2), the Malay text shall prevail.

State of Emergency.

83. (1) Whenever it appears to His Majesty the Sultan and Yang Di-Pertuan that an occasion of emergency or public danger is imminent, exists or has arisen whereby the security or economic life of Brunei Darussalam, or any part thereof, is or may be threatened, whether by war or external aggression or internal disturbance, actual or threatened, he may by Proclamation (hereinafter referred to as a "Proclamation of Emergency") declare a state of emergency either in the whole of Brunei Darussalam or in such part of Brunei Darussalam as may be specified in the Proclamation.

[S 65/04]

(2) No Proclamation of Emergency shall be in force for more than 2 years, without prejudice, however, to the right of His Majesty the Sultan and Yang Di-Pertuan to issue another such Proclamation at or before the end of that period.

[S 65/04]

(2A) Notwithstanding Clause (2), His Majesty the Sultan and Yang Di-Pertuan may by another such Proclamation declare the cessation of a state of emergency in the whole of Brunei Darussalam or in such part of Brunei Darussalam as may be specified in the Proclamation before the end of 2 years.

[S 65/04]

(3) When a Proclamation of Emergency has been made and so long as such Proclamation is in force, His Majesty the Sultan and Yang Di-Pertuan may make any Orders whatsoever which he considers desirable in the public interest; and may prescribe penalties which may be imposed for any offence against any such Order; and may provide for the trial by any court of persons charged with such offences.

[S 65/04]

(4) Without prejudice to the generality of Clause (3), such Orders may be made with regard to any matters coming within the classes of subject hereinafter enumerated, that is to say —

[S 65/04]

(a) censorship, the control and suppression of publications, writings, maps, plans, photographs, communications and means of communication;

[S 65/04]

(b) arrest, detention, exclusion and deportation;

(c) control of the harbours, ports and territorial waters of Brunei Darussalam, and of the movements of vessels;

(d) transportation by land, air or water and the control of the transport and movement of persons, animals and things;

(e) trading, storage, exportation, importation, production and manufacture;

(f) supply and distribution of food, water, fuel, light and other necessities;

(g) appropriation, control, forfeiture and disposition of property and the use thereof;

(h) conferring powers on public officers and others;

(i) requiring persons to do work or render services;

(j) constituting a special police force;

(k) formation of tribunals and other bodies for the purpose of deciding any matters specified in any such Orders;

[S 65/04]

(l) modification, amendment, supersession or suspension of all or any of the provisions of any written law;

(m) entry into, and search of, premises or other places, and search and interrogation of persons;

(n) prescribing fees or other payments; and

[S 65/04]

(o) control, exploitation, use, disposition, appropriation or deployment of any natural resources.

[S 65/04]

(5) Notwithstanding anything contained in Part VIII, His Majesty the Sultan and Yang Di-Pertuan may, by any such Order, make all such financial provisions as he thinks necessary during the period of the emergency, including provision for the public service, and for the payment of compensation for work required compulsorily to be undertaken, and for property compulsorily taken.

[S 65/04]

(6) Any Order made under this Article shall, unless His Majesty the Sultan and Yang Di-Pertuan otherwise directs, come into force on the day on which it is made.

[S 65/04]

(7) Every Order made under this Article shall, at the next meeting of the Legislative Council, be laid before that Council and that Council may resolve that any such Order shall, to the extent and as from such date as may be specified in such resolution, either cease to have effect (and any such cessation shall, if assented to by His Majesty the Sultan and Yang Di-Pertuan, have the same effect as the repeal of a written law) or be passed by that Council.

[S 65/04]

(8) Such Orders or cessation of such Orders, as the case may be, shall be published in the *Gazette* as soon as circumstances permit.

[S 65/04]

(9) Any Order made under this Article shall, if the Proclamation of Emergency specified only part of Brunei Darussalam, have effect only in such part:

[S 65/04]

Provided that if, while a Proclamation of Emergency is in force in any part of Brunei Darussalam, another Proclamation of Emergency is made in respect of any other part of Brunei Darussalam, any Order already made and still in force when the last Proclamation comes into operation shall, forthwith, have effect in the part of Brunei Darussalam specified in the last Proclamation.

(10) Every Order made in pursuance of this Article, and every instrument made in pursuance of any such Order, shall have effect notwithstanding anything inconsistent therewith contained in this Constitution or in any written law.

[S 65/04]

Saving of Acts, Proclamations and Orders. [S 65/04]

83A. (1) It is hereby declared for the avoidance of doubt that every existing law including —

(a) each and every Proclamation of Emergency declaring a state of emergency in Brunei Darussalam made under Article 83, commencing with the Proclamation of Emergency made on 12th December 1962 and thereafter every 2 years or thereabouts and ending with the Proclamation of Emergency made on the 16th day of Muharram 1425 Hijriah corresponding to the 8th day of March 2004; and

(b) each and every Order, Instrument, Act, Enactment or other written law made under Article 83 during any such period of emergency,

shall be deemed to have been validly passed or made, to be fully effectual and to have had full force and effect from the date on which such Proclamation, Order, Instrument, Act, Enactment or other written law was declared or made even if such Proclamation, Order, Instrument, Act, Enactment or other written law was inconsistent with any provision of this Constitution; and the said Proclamation, Order, Instrument, Act, Enactment or other written law referred to in paragraphs (a) and (b) shall be deemed to have been duly laid before and passed by the Legislative Council in accordance with Clause (7) of Article 83.

(2) At the expiration of a period of 6 months beginning with the date on which a Proclamation of Emergency made after the 16th day of Muharram 1425 Hijriah corresponding to the 8th day of March 2004 ceases

to be in force, any Proclamation, Order, Instrument, Act, Enactment or other written law made under Article 83 during any such period of emergency and, to the extent that it could not have been validly made but for Article 83, any Proclamation, Order, Instrument, Act, Enactment or other written law made while the Proclamation was in force, shall cease to have effect except as to things done or omitted to be done before the expiration of that period.

Effect of Constitution on His Majesty's Prerogatives. [S 65/04]

84. (1) The Government shall be regulated in accordance with the provisions of this Constitution, and the form of the Government shall not be altered save in pursuance of the power conferred by Article 85.

[S 65/04]

(2) Nothing in this Constitution shall be deemed to derogate from the prerogative powers and jurisdiction of His Majesty the Sultan and Yang Di-Pertuan and, for the avoidance of doubt, it is declared that His Majesty the Sultan and Yang Di-Pertuan retains the power to make laws and to proclaim a further Part or Parts of the law of this Constitution as to His Majesty the Sultan and Yang Di-Pertuan from time to time may seem expedient.

[S 65/04]

Appointment to specified offices. [S 32/04; S 65/04]

84A. (1) No person shall be appointed to any office specified in the Third Schedule unless he is a citizen of Brunei Darussalam of the Malay race professing the Islamic Religion.

(2) His Majesty the Sultan and Yang Di-Pertuan may by Order published in the *Gazette* amend the Third Schedule.

Immunity. [S 65/04]

84B. (1) His Majesty the Sultan and Yang Di-Pertuan can do no wrong in either his personal or any official capacity. His Majesty the Sultan and Yang Di-Pertuan 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 any official capacity.

(2) Any person acting on behalf, or under the authority, of His Majesty the Sultan and Yang Di-Pertuan shall not be liable to any

proceedings whatsoever in any court in respect of anything done or omitted to have been done by him in his official capacity:

Provided that, subject to Article 84C, provision may be made by written law for the bringing of proceedings against the Government or any officer, servant or agent thereof, but not His Majesty the Sultan and Yang Di-Pertuan, in respect of wrongs committed in the course of carrying on the government of Brunei Darussalam.

(3) Any such law as is referred to in the proviso to Clause (2) shall not be deemed to be an amendment to this Constitution.

No judicial review. [S 65/04]

84C. (1) The remedy of judicial review is and shall not be available in Brunei Darussalam.

(2) For the avoidance of doubt, there is and shall be no judicial review in any court of any act, decision, grant, revocation or suspension, or refusal or omission to do so, any exercise of or refusal or omission to exercise any power, authority or discretion by His Majesty the Sultan and Yang Di-Pertuan, or any party acting on his behalf or under his authority or in the performance of any public function, under the provisions of this Constitution or any written law or otherwise, including any question relating to compliance with any procedural requirement governing such act or decision.

(3) In this Article, “judicial review” means proceedings instituted by any manner whatsoever including, but not limited to, proceedings by way of —

(a) an application for any of the prerogative orders of *mandamus*, prohibition and *certiorari*;

(b) an application for a declaration or an injunction;

(c) a writ of *habeas corpus*; and

(d) any other suit or action relating to or arising out of any act, decision, grant, revocation or suspension, or refusal or omission to do so, any exercise of or refusal or omission to exercise any power, authority or discretion conferred on His Majesty the Sultan and Yang Di-Pertuan, or any party acting on his behalf or under his authority or

in the performance of any public function, under the provisions of this Constitution or any written law or otherwise.

(4) Save as provided in this Constitution, His Majesty the Sultan and Yang Di-Pertuan shall not be required to assign any reason for any act, decision, grant, revocation or suspension, or refusal or omission to do so, any exercise of or refusal or omission to exercise any power, authority or discretion under the provisions of this Constitution or any written law or otherwise.

Extra-territorial effect of laws. [S 65/04]

84D. Laws of Brunei Darussalam may have extra-territorial effect, provided it is so stated in such laws.

PART XII

AMENDMENT AND INTERPRETATION OF CONSTITUTION

[S 65/04]

Amendment of Constitution.

85. (1) His Majesty the Sultan and Yang Di-Pertuan may, by Proclamation, amend, add to or revoke any of the provisions of this Constitution including this Article; and this Constitution shall not otherwise be amended, added to or revoked.

[S 65/04]

(2) His Majesty the Sultan and Yang Di-Pertuan shall consult the Privy Council in relation to the exercise of the powers vested in him by this Article but His Majesty the Sultan and Yang Di-Pertuan is not bound to act in accordance with the advice of that Council.

[S 65/04]

(3) His Majesty the Sultan and Yang Di-Pertuan shall not make any Proclamation for the amendment or revocation of any provision of this Constitution unless a draft of the Proclamation has been laid before that Council to enable the Legislative Council to determine if any amendments to the draft of the Proclamation should be made.

[S 65/04]

(4) If no amendments are proposed by the Legislative Council within 14 days, His Majesty the Sultan and Yang Di-Pertuan may proceed to declare the Proclamation; if amendments are proposed by the Legislative Council within 14 days, the Speaker shall, within 14 days of that Council making the proposal, submit a report to His Majesty the Sultan and Yang Di-Pertuan giving a summary of the debate and the reasons for the proposed amendments.

[S 65/04]

(5) His Majesty the Sultan and Yang Di-Pertuan having considered the report of the Speaker may declare that the Proclamation shall have effect under Clause (1) either in the form in which it was laid before the Legislative Council or with such amendments as His Majesty the Sultan and Yang Di-Pertuan shall think fit.

[S 65/04]

Interpretation Tribunal.

86. (1) His Majesty the Sultan and Yang Di-Pertuan may refer any question involving, arising from, relating to, or in connection with, the meaning, interpretation, purpose, construction, ambit or effect of any of the provisions of this Constitution to the Interpretation Tribunal established in accordance with Clause (7) for its determination.

[S 65/04]

(2) When any such question arises in any legal proceedings before any court, His Majesty the Sultan and Yang Di-Pertuan may direct that court to refer such question to the Interpretation Tribunal or that court shall refer such question to His Majesty the Sultan and Yang Di-Pertuan, with a submission that His Majesty the Sultan and Yang Di-Pertuan should refer that question to the Interpretation Tribunal, and upon receiving such reference His Majesty the Sultan and Yang Di-Pertuan may refer such question to the Interpretation Tribunal:

Provided that the court shall not refer such question which has already been decided by the Interpretation Tribunal.

[S 65/04]

(3) If His Majesty the Sultan and Yang Di-Pertuan does not refer such question to the Interpretation Tribunal, he shall cause the court by whom the reference thereof was made to be so informed, and the court shall thereupon proceed with the determination of the legal proceedings before it.

[S 65/04]

(4) The decision of a majority of the Interpretation Tribunal upon any question referred to it under this Article shall be deemed to be a decision of the Tribunal; and any decision of the Tribunal shall be in writing and shall be published in the *Gazette*, and may be proved by production of the *Gazette*.

[S 65/04]

(5) In the case of a reference made by His Majesty the Sultan and Yang Di-Pertuan to the Interpretation Tribunal pursuant to a reference under Clause (2), His Majesty the Sultan and Yang Di-Pertuan shall cause the determination of the Interpretation Tribunal to be communicated to the court by which the question has been referred and, in such case, that court may make such provision as may be just as to the costs of, and incurred by, such reference.

[S 65/04]

(6) The determination of the Interpretation Tribunal in any question referred to it under this Article shall be binding and conclusive upon all persons, and shall not be called in question in or be subject to any review by or appeal to any court.

[S 65/04]

(7) The Interpretation Tribunal shall consist of 3 members —

(a) a Chairman who shall be a person who holds or has held high judicial office in any country, or has for at least 20 years been engaged in legal practice in any country;

(b) one member who shall be a person who has for at least 10 years been engaged in legal practice in any country; and

(c) one member who shall be a person from any country who professes the Islamic Religion who holds or has held office in Islamic law or is an expert in Islamic law and jurisprudence.

The Chairman and other members shall be appointed by His Majesty the Sultan and Yang Di-Pertuan by Instrument under the State Seal, and shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

[S 65/04]

(8) His Majesty the Sultan and Yang Di-Pertuan may from time to time make, amend or revoke rules relating to the procedure to be followed in referring or determining questions under this Article, and may make arrangements as to the remuneration to be paid to members of the

Interpretation Tribunal, which remuneration shall be charged on the Consolidated Fund.

[S 65/04]

(9) The Interpretation Tribunal may depart from any of its previous decisions.

[S 65/04]

Authorised reprints of Constitution. [S 65/04]

87. (1) His Majesty the Sultan and Yang Di-Pertuan may, from time to time, authorise the Attorney General to cause to be printed and published an up-to-date reprint of this Constitution, incorporating therein all amendments in force at the date of such authorisation.

(2) Any reprint of this Constitution printed and published under Clause (1) shall be deemed to be and shall be, without any question whatsoever in all courts and for all purposes whatsoever, the authentic text of this Constitution in force as from the date specified in that reprint until superseded by the next or a subsequent reprint.

(3) In the preparation and compilation of any reprint under Clause (1), the Attorney General shall have, with the necessary modifications, all the powers conferred upon him by the Law Revision Act (Chapter 1).

FIRST SCHEDULE

[S 65/04]

FORMS

FORM I

[S 65/04]

(Article 5(4))

OATH OR DECLARATION TO BE TAKEN OR MADE AND
SUBSCRIBED BY A PRIVY COUNCILLORWALLAHI WA-BILLAHI WA-TAALLAHI¹

I,

being an *ex-officio* Member²having been appointed a Member²swear by Almighty ALLAH²

of His Majesty's Privy Council

solemnly and sincerely declare²

that, except with the authority of His Majesty the Sultan and Yang Di-Pertuan I will not directly or indirectly reveal the business or proceedings of the Privy Council, or the nature or contents of any documents communicated to me as a Member of the Council, or any matter coming to my knowledge in my capacity as a Member of the Council and that in all things I will be a true and faithful Privy Councillor.

Dated this day of 20

.....
Signature

¹ For Muslims only.² Delete words not required.

FORM II

[S 65/04]

(Articles 6(3) and 22(2))

**OATH TO BE TAKEN AND SUBSCRIBED BY
THE CLERK TO THE PRIVY COUNCIL AND
THE SECRETARY TO THE COUNCIL OF MINISTERS**

WALLAHI WA-BILLAHI WA-TAALLAHI

I, having been appointed

Clerk¹

Privy Council¹

to the

Secretary¹

Council of Ministers¹

swear by Almighty ALLAH that I will not directly or indirectly reveal such matters as shall be debated in the Council and committed to my secrecy but that I will well and truly serve in the said office as

Clerk¹

Privy Council¹

to the

Secretary¹

Council of Ministers¹

Dated this day of 20

.....
Signature

¹ Delete words not required.

FORM III

(Article 21)

[S 65/04]

**OATH OR DECLARATION TO BE TAKEN OR MADE BY
A MEMBER OF THE COUNCIL OF MINISTERS**

[S 65/04]

WALLAHI WA-BILLAHI WA-TAALLAHI¹

I, having been appointed a Member of
the Council of Ministers swear by Almighty ALLAH²
solemnly and sincerely declare²

that, except with the authority of His Majesty the Sultan and Yang
Di-Pertuan I, will not directly or indirectly reveal the
business or proceedings of the Council of Ministers, or the nature or contents
of any document communicated to me as a Member of the Council, or any
matter coming to my knowledge in my capacity as a Member of the Council,
and that in all things I will be a true and faithful Member of the Council of
Ministers.

[S 65/04]

Dated this day of 20
[S 65/04]

.....
Signature

¹ For Muslims only.

² Delete words not required.

FORM IV

(Article 49)

[S 65/04]

**OATH OR DECLARATION TO BE
TAKEN OR MADE AND SUBSCRIBED BY
A MEMBER OF THE LEGISLATIVE COUNCIL**

[S 65/04]

WALLAHI WA-BILLAHI WA-TAALLAHI¹

I, having been appointed or elected
a Member of the Legislative Council swear by Almighty ALLAH²
solemnly and sincerely declare²

that I will to the best of my ability and judgment, serve as a true and faithful
Member of the Legislative Council.

[S 65/04]

Dated this day of 20

[S 65/04]

.....
Signature

¹ For Muslims only.

² Delete words not required.

FORM V

(Article 50)

[S 65/04]

**OATH TO BE TAKEN BY
THE CLERK TO THE LEGISLATIVE COUNCIL**

[S 65/04]

WALLAHI WA-BILLAHI WA-TAALLAHI

I, having been
appointed Clerk to the Legislative Council swear by Almighty ALLAH that I
will well and truly serve in the said office of Clerk to the Legislative Council.

[S 65/04]

Dated this day of 20

[S 65/04]

.....
Signature

FORM VI

(Article 76)

[S 65/04]

OATH OR DECLARATION OF ALLEGIANCE

WALLAHI WA-BILLAHI WA-TAALLAHI¹

I, swear by Almighty ALLAH²
solemnly and sincerely declare²

that I will be faithful and bear true allegiance to His Majesty the Sultan and Yang Di-Pertuan and His Successors according to law. That I will without fear or favour and to the best of my ability and judgment, serve as a true and faithful member of the public service of Brunei Darussalam.

[S 65/04]

Dated this day of 20
[S 65/04]

.....
Signature

¹ For Muslims only.

² Delete words not required.

SECOND SCHEDULE

[S 65/04]

(Article 24(1))

PROVISIONS RELATING TO LEGISLATIVE COUNCIL

Composition and Membership of the Legislative Council.

1. The Legislative Council shall consist of not more than 45 Members as follows —

(a) up to 30 persons who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan from the following categories —

- (i) *ex-officio* Members who comprise the Prime Minister and all the Ministers appointed under Article 4(3) of this Constitution;
- (ii) titled persons;
- (iii) persons who, in His Majesty the Sultan and Yang Di-Pertuan's opinion, have rendered distinguished public service or who are not within sub-paragraph (a)(iv) but who, in his opinion, will be capable of contributing to the deliberations of the Legislative Council;
- (iv) persons who, in His Majesty the Sultan and Yang Di-Pertuan's opinion, have achieved distinction in the field of religion, management, any profession, business, trade, agriculture, cultural arts or community activities, or who are representatives of particular communities; and

(b) up to 15 representatives, the exact number of which shall be determined by His Majesty the Sultan and Yang Di-Pertuan, from Brunei and Muara District, Belait District, Tutong District and Temburong District who shall be elected in accordance with the laws relating to elections in force in Brunei Darussalam.

Instrument of appointment.

2. The Members of the Legislative Council who are appointed in accordance with sub-paragraph (a) of paragraph 1 shall be appointed by His Majesty the Sultan and Yang Di-Pertuan by Instrument under the State Seal.

Duration and terms of appointment.

3. Every Member of the Legislative Council shall hold his seat in that Council during His Majesty the Sultan and Yang Di-Pertuan's pleasure and, subject thereto, shall hold office in accordance with such terms as may be specified in the Instrument of appointment which may include a provision specifying the constituency or electoral area for which he may be made responsible.

District Representatives.

4. (1) For the purpose of sub-paragraph (b) of paragraph 1, the Districts shall be represented in the Legislative Council by Members (in this Schedule referred to as "District Representatives") as follows —

- (a) Brunei and Muara District, up to 7 members;
- (b) Belait District, up to 3 members;
- (c) Tutong District, up to 3 members;
- (d) Temburong District, up to 2 members.

(2) Until laws relating to elections are in force in Brunei Darussalam to elect District Representatives, paragraphs 5 and 6 shall have effect for the purpose of appointing such members and such appointments shall be valid for the purposes of paragraphs 1 and 4.

Nomination and appointment of District Representatives.

5. (1) His Majesty the Sultan and Yang Di-Pertuan may, whenever His Majesty the Sultan and Yang Di-Pertuan deems fit, inform the Penghulu³, Ketua Kampong and Ketua Rumah Panjang of the exact number of District Representatives which His Majesty the Sultan and Yang Di-Pertuan intends to appoint.

(2) The Penghulus, Ketua Kampong and Ketua Rumah Panjang shall select from amongst themselves candidates for appointment by His Majesty the Sultan and Yang Di-Pertuan as District Representatives.

(3) His Majesty the Sultan and Yang Di-Pertuan shall appoint a Selection Committee comprising a Chairman and 2 other members, who shall hold their positions during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

(4) The Selection Committee shall have the power to recommend, from the candidates put forward in sub-paragraph (2), persons for appointment by His Majesty the Sultan and Yang Di-Pertuan as District Representatives and, in making such recommendation, the Selection Committee shall take into consideration the suitability of such persons as District Representatives.

(5) Should His Majesty the Sultan and Yang Di-Pertuan reject any candidates recommended by the Selection Committee, the relevant Penghulus, Ketua Kampong and Ketua Rumah Panjang shall propose alternative candidates for consideration and the process set out in sub-paragraphs (4) and (5) shall continue until all seats determined by His Majesty the Sultan and Yang Di-Pertuan in respect of sub-paragraph (b) of paragraph 1 have been filled.

Vacancy.

6. (1) Whenever a vacancy arises amongst District Representatives, the Speaker shall, with the prior written consent of His Majesty the Sultan and Yang Di-Pertuan, give notice to the District Officer concerned that the selection of the candidate be carried out.

(2) The relevant Penghulus, Ketua Kampong and Ketua Rumah Panjang shall be called by the District Officer to nominate a candidate or candidates to fill such vacancy, and the process set out in sub-paragraphs (4) and (5) of paragraph 5 shall apply.

Regulations.

7. His Majesty the Sultan and Yang Di-Pertuan may make regulations for the purposes of carrying out any provision of this Schedule.

Validity.

8. (1) His Majesty the Sultan and Yang Di-Pertuan shall have the absolute discretion to proclaim that the Legislative Council is or has been properly and validly constituted, notwithstanding that no Members have been appointed under any one or more of sub-paragraphs (a)(i) to (iv) or under sub-paragraph (b) of paragraph 1.

(2) Subject to the maximum number of members allowed under paragraph 1, His Majesty the Sultan and Yang Di-Pertuan shall have the power to appoint additional members to the Legislative Council after making the Proclamation in sub-paragraph (1).

THIRD SCHEDULE

[S 65/04]

(Article 84A(1))

LIST OF SPECIFIED OFFICES

Auditor General

Clerk to the Privy Council

Clerk to the Legislative Council

Chief Syar'ie Judge

Mufti Kerajaan

Attorney General

Chairman of the Public Service Commission

Yang Di-Pertua Adat Istiadat

Speaker of the Legislative Council

Secretary to the Council of Ministers

Confirmation.

So be it. Such are the contents of the Constitution of the State of Brunei, 1959.

Invocation.

May ALLAH, to Whom be praise and Whose name be exalted, the King of Kings, vouchsafe His grace and may the Prophet Muhammad (on whom be the benediction and peace of ALLAH) grant His Blessing to this Constitution, for ever and ever. Amen! O Lord of the Universe!

Done at the Lapau, at Brunei this 26th day of Rabiulawal the Hijrah of the Prophet (on Whom be the benediction and peace of ALLAH) One thousand three hundred and seventy-nine corresponding to the 29th day of September, One thousand nine hundred and fifty-nine of the Christian era, being the tenth year of the reign of His Highness.

IN WITNESS of the granting and confirmation of this Constitution and of the concurrence and assent of the Traditional Advisers, we have hereunder affixed our respective signatures:

Duli Pengiran Bendahara, Dato' Paduka Muda Hashim ibni Pengiran Anak Abdul Rahman, D.P.M.B., P.O.A.S.

Duli Pengiran Pemancha, Dato' Paduka Haji Mohammed Alam ibni Pengiran Anak Abdul Rahman, D.K., D.P.M.B., P.O.A.S., O.B.E.

Pengiran Shahbandar Sahibul Bandar, Dato' Paduka Haji Mohammed Salleh bin Pengiran Haji Mohammed, D.P.M.B., P.O.A.S.

Pehin Dato' Perdana Menteri, Dato' Paduka Haji Ibrahim bin Mohammed Jahfar, D.K., D.P.M.B., O.B.E., P.O.A.S.

Pehin Orang Kaya Di-Gadong, Awang Haji Mohammed Yussof bin Awang Haji Husain, P.O.A.S.

Pehin Orang Kaya Shahbandar, Haji Ahmad bin Mohammed Daud, P.O.A.S., M.B.E.

Pehin Jawatan Dalam, Awang Haji Mohammed Noor bin Haji Abdul Razak, P.O.A.S.

Pengiran Ali bin Pengiran Haji Mohammed Daud, S.M.B.

Pehin Laksamana, Haji Mohammed Taha bin Awang Mohammed Husain,
P.O.A.S.

Pengiran Mohammed Yussof bin Pengiran Haji Abdul Rahim, S.M.B.

Marsal bin Ma'un, S.M.B.

Pengiran Haji Abu Bakar bin Pengiran Mohammed Salleh, P.O.A.S.

Pehin Dato' Temenggong, Lim Cheng Choo.

Pengiran Anak Safar ibni Al-Marhum Sultan Hashim, P.O.A.S.

Pengiran Anak Khamis ibni Al-Marhum Sultan Hashim, P.O.A.S.