

No. S 33

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

LEGITIMACY ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

1. Citation and long title.
2. Interpretation.
3. Application.
4. Legitimation by subsequent marriage of parents.
5. Declarations of legitimacy of legitimated persons.
6. Rights of legitimated persons to take interests in property.
7. Succession on intestacy of legitimated persons and their issue.
8. Application to illegitimate person dying before marriage of parents.
9. Personal rights and obligations of legitimated persons.
10. Provisions as to persons legitimated by extraneous law.
11. Right of illegitimate child and mother of illegitimate child to succeed on intestacy of the other.

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

LEGITIMACY ORDER, 2001

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

Citation and long title.

1. (1) This Order may be cited as the Legitimacy Order, 2001.

(2) The long title of this Order is "An Order to provide for the legitimization of children born out of wedlock".

Interpretation.

2. In this Order, unless the context otherwise requires —

"Court", means the High Court;

"date of legitimization" means the date of the marriage leading to the legitimization;

"disposition" means an assurance of any interest in property by any instrument, whether inter vivos or by will;

"intestate" includes a person who leaves a will but dies intestate as to some beneficial interest in his estate;

"legitimated person" means a person legitimated by this Order.

Application.

3. (1) Nothing in this Order shall operate to legitimate a person unless the marriage leading to the legitimization was solemnised or registered in accordance with —

(a) the Marriage Act (Chapter 76); or

(b) the Registration of Marriages Act (Chapter 124).

(2) The legitimization of a person under this Order does not enable him or his spouse, children or remoter issue to take any interest in property save as is expressly provided in this Order.

Legitimation by subsequent marriage of parents.

4. Subject to section 3, where the parents of an illegitimate person marry or have married one another, at anytime, the marriage shall, if the father or mother of the illegitimate person was or is at the date of the marriage, domiciled in Brunei Darussalam, render that person, if living, legitimate from the date of the marriage.

Declarations of legitimacy of legitimated persons.

5. (1) A person claiming that he or either parent or any remoter ancestor became or has become a legitimated person may, whether domiciled in Brunei Darussalam or elsewhere, apply by petition to the Court praying for a decree declaring that he is the legitimate child of his parents, or that such parent or remoter ancestor was legitimate; and the Court shall have jurisdiction to hear and determine the application and to make a decree declaratory of the legitimacy or illegitimacy of that person as to the Court may seem just; and that decree shall be binding to all intents and purposes on all persons whomsoever.

(2) Every petition under this section shall be accompanied by such affidavit verifying the facts alleged in the same, and by such proof of the absence of fraud or collusion, as the Court may by any general rule direct.

(3) In all proceedings under this section the Court shall have full power to award and enforce payment of costs to any person cited, whether that person shall or shall not oppose the declaration applied for, in case the Court shall consider it reasonable that the costs should be paid.

(4) A copy of every petition under this section, and of the affidavit accompanying the same, shall, not less than one month before the filing thereof, be delivered to the Attorney General, who shall be a respondent upon the hearing of the petition and upon every subsequent proceeding relating thereto.

(5) Where any application is made under this section to the Court, such persons (if any) besides the Attorney General as the Court shall think fit shall, subject to the rules made under this section, be cited to the proceedings, or otherwise summoned in such manner as the Court shall direct, and may be permitted to become parties to the proceedings and oppose the application.

(6) The decree of the Court shall not in any case prejudice any person —

- (a) if it is subsequently proved to have been obtained by fraud or collusion; or
- (b) unless that person has been cited or made a party to the proceedings or is the heir-at-law, next-of-kin or personal representative of, or derives title under or through, a person so cited or made a party.

(7) No proceedings under this section shall affect any final judgment or decree already pronounced or made by any Court of competent jurisdiction.

(8) The Chief Justice may make rules for carrying the provisions of this section into effect.

Rights of legitimated persons to take interests in property.

6. (1) Subject to this Order, a legitimated person and his spouse, children or more remoter issue shall be entitled to take any interest —

(a) in the estate of an intestate dying after the date of legitimation; or

(b) under any disposition coming into operation after the date of legitimation,

in like manner as if the legitimated person had been born legitimate.

(2) Where the right to any property depends on the relative seniority of the children of any person, and these children include one or more legitimated persons, the legitimated person or persons shall rank as if he or they had been born on the day when he or they became legitimated by virtue of this Order, and if more than one such legitimated person became legitimated at the same time they shall rank as between themselves in order of seniority.

(3) This section applies only if and so far as a contrary intention is not expressed in the disposition, and shall have effect subject to the terms of the disposition and to the provisions contained therein.

Succession on intestacy of legitimated person and their issue.

7. Where a legitimated person or a child or remoter issue of a legitimated person dies intestate in respect of any of his property the same persons shall be entitled to take the same interests therein as they would have been entitled to take if the legitimated person had been born legitimate.

Application to illegitimate person dying before marriage of parents.

8. Where an illegitimate person dies before the marriage of his parents leaving any spouse, child or remoter issue living at the date of the marriage, then, if that person would, if living at the time of the marriage of his parents, have become a legitimated person, the provisions of this Order with respect to the taking of interests in property by, or in succession to, the spouse, children and remoter issue of a legitimated person shall apply as if that person had been a legitimated person and the date of the marriage of his parents had been the date of legitimation.

Personal rights and obligations of legitimated persons.

9. A legitimated person shall have the same rights and be under the same obligations in respect of the maintenance and support of himself or of any other person as if he had been born legitimate, and subject to this Order the provisions of any written law relating to claims for damages, compensation, allowance, benefit or otherwise by or in respect of a legitimate child shall apply in like manner in the case of a legitimated person.

Provisions as to persons legitimated by extraneous law.

10. (1) Where the parents of an illegitimate person marry or have married one another, and the father or mother of the illegitimate person was or is, at the time of the marriage, domiciled in a country or territory other than Brunei Darussalam, by the law of which the illegitimate person became legitimated by virtue of the subsequent marriage, that person, if living, shall within Brunei Darussalam be recognised as having been so legitimated from the date of the marriage, notwithstanding that his father was not at the time of the birth of that person domiciled in a country or territory in which legitimation by subsequent marriage was permitted by law.

(2) All the provisions of this Order relating to legitimated persons and to the taking of interests in property by or in succession to a legitimated person and the spouse, children and remoter issue of a legitimated person shall apply in the case of a person recognised as having been legitimated under this section, or who would, had he survived the marriage of his parents, have been so recognised; and accordingly this Order shall have effect as if references therein to a legitimated person included a person so recognised as having been legitimated.

Right of illegitimate child and mother of illegitimate child to succeed on intestacy of the other.

11. (1) Where the mother of an illegitimate child, the child not being a legitimated person, dies intestate as respects all or any of her property, and does not leave any legitimate issue surviving her, the illegitimate child, or if he is dead his issue, shall be entitled to take any interest therein to which he or his issue would have been entitled if he had been born legitimate.

(2) Where an illegitimate child, not being a legitimated person, dies intestate as respects all or any of his property, his mother, if surviving, shall be entitled to take any interest therein to which she would have been entitled if the child had been born legitimate and she had been the only surviving parent.

BRUNEI DARUSSALAM GOVERNMENT GAZETTE

Made this 27th. day of Muharam, 1422 Hijriah corresponding to the 21st. day of April, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM