

No. S 40

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

LEGAL PROFESSION ACT (AMENDMENT) ORDER, 2003

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

LEGAL PROFESSION ACT (AMENDMENT) ORDER, 2003

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 commencement.

1. This Order may be cited as the Legal Profession Act (Amendment) Order, 2003 and shall commence on the 1st. August, 2003.

Amendment of long title.

2. The long title to the Legal Profession Act (Chapter 132), in this Order referred to as the Act, is amended by adding "Darussalam".

Interpretation.

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

"Council" means the Council of the Society referred to in paragraph 10 of the First Schedule;

"Society" means the Law Society of Brunei Darussalam established by His Majesty the Sultan and Yang Di-Pertuan in Council by an Order made under section 62(1)(a).

Amendment of Act.

4. The Act is amended by deleting the words "PART V PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE" where they appear immediately after section 22.

Repeal of section 23 and saving.

5. (1) Subject to subsection (2), section 23 of the Act is repealed.

(2) Any rules made by the Chief Justice, with the approval of His Majesty the Sultan and Yang Di-Pertuan, under the repealed section 23 and in force immediately before the commencement of this Order shall, so far as they are not inconsistent with the provisions of this Order, continue to be in force as if made

under that Order until they are amended or repealed by rules made by the Society with the approval of the Chief Justice.

Repeal of section 24 and saving.

6. (1) Subject to subsection (2), section 24 of the Act is repealed.

(2) Any rules made by the Chief Justice, with the approval of His Majesty the Sultan and Yang Di-Pertuan, under the repealed section 24 and in force immediately before the commencement of this Order shall, so far as they are not inconsistent with the provisions of this Order, continue to be in force as if made under that Order until they are amended or repealed by rules made by the Society with the approval of the Chief Justice.

Repeal of sections 25 to 28.

7. Sections 25, 26, 27 and 28 of the Act are repealed.

Insertion of new sections 28A to 28E.

8. The Act is amended by inserting the following 5 new sections immediately after section 28 —

"Qualification to use title of consultant.

28A. (1) No advocate and solicitor shall take or use the title of consultant unless he has, for a period of not less than 10 years in the aggregate, been either an advocate and solicitor in practice, a legal officer or both.

(2) Any advocate and solicitor who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

Solicitors who are commissioners for oaths or notaries public.

28B. No advocate and solicitor who is a commissioner for oaths or a notary public shall do any act as such commissioner or notary public, as the case may be, unless he has in force a practising certificate.

Solicitor not to act as agent for unauthorised persons.

28C. (1) No advocate and solicitor shall —

(a) wilfully and knowingly act as agent for any unauthorised person in any legal proceedings of whatsoever kind or in any matter

which under this Act can be done only by an advocate and solicitor who has in force a practising certificate;

(b) permit his name to be made use of in any such proceedings or matter upon the account or for the profit of any unauthorised person; or

(c) send any process to any unauthorised person, or do any other act enabling any unauthorised person to appear, act or practise or purport to practise in any respect as an advocate and solicitor in any such proceedings or matter.

(2) No advocate and solicitor shall authorise any unauthorised person to operate any bank account in the name of the advocate and solicitor or his firm and maintained by the advocate and solicitor or his firm in connection with his practice as an advocate and solicitor.

(3) Disciplinary proceedings may be taken against any advocate and solicitor who acts in contravention of subsection (1) or (2).

(4) Any unauthorised person who was enabled by an advocate and solicitor to act or practise or purport to practise as an advocate and solicitor is guilty of an offence and liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months.

(5) In this section, "unauthorised person" has the meaning assigned to it in subsection (1) of section 18.

Account by advocate and solicitor.

28D. (1) Where the relationship of advocate and solicitor and client exists, or has existed, a summons may be issued by the client or his representative for the delivery of a cash account, the payment of moneys or for the delivery of securities.

(2) A Judge may order the respondent to deliver to the applicant a list of the moneys or securities which he has in his custody or control on behalf of the applicant, or to bring the whole or any part of it into court, within such time as the Judge orders.

(3) In the event of the respondent alleging that he has a claim for costs, the Judge may make such provision for the payment or security thereof or for the protection of the respondent's lien, if any, as he thinks fit.

Power of Council to inspect files of proceedings in bankruptcy of advocate and solicitor.

28E. Notwithstanding the provisions of any other written law, the Council may, without payment of any fee, inspect the files of proceedings in bankruptcy relating to any advocate and solicitor against whom proceedings in bankruptcy have been taken, and shall be entitled to be supplied with office or certified copies of those proceedings on payment of the usual charges for those copies."

Repeal of Part VI.

9. Part VI of the Act is repealed:

Provided that this section shall not have effect in relation to any proceedings under the repealed section 29 to show cause which were pending on the date of commencement of this Order.

Further amendment of Act.

10. Part VIII of the Act is amended, in the sub-heading immediately below "MISCELLANEOUS AND GENERAL", by adding "Darussalam".

Amendment of section 62.

11. Section 62 of the Act is amended, in paragraph (a) of subsection (1), by adding "Darussalam".

Amendment of section 63.

12. Section 63 of the Act is amended by inserting "Darussalam" immediately after "Brunei" in the first line.

Amendment of section 64.

13. Section 64 of the Act is amended by inserting "or in pursuance of rules made by the Society with the approval of the Chief Justice under the powers conferred on it by the First Schedule" immediately after "23" in the second line.

Amendment of section 65.

14. Section 65 of the Act is amended, in subsection (2), by deleting paragraph (a).

Amendment of First Schedule.

15. The First Schedule to the Act is amended —

(a) in the first heading, by adding "Darussalam";

(b) by deleting "bye-laws" from —

(i) the third line of paragraph 1;

(ii) the third line of paragraph 8; and

(iii) the third line of paragraph 19,

and by substituting "rules" therefor;

(c) by adding the following new paragraphs —

"21. With the approval of the Chief Justice, provision for the Society to make rules for the regulation of professional practice, etiquette, conduct and discipline of advocates and solicitors.

22. With the approval of the Chief Justice, provision for the Society to make rules for the opening and closing and keeping by advocates and solicitors of accounts at banks for clients money.

23. With the approval of the Chief Justice, provision for the Society to make rules for an accountant's report to be delivered with every application for a practising certificate.

24. With the approval of the Chief Justice, provision for the Society to make rules concerning indemnity against loss arising from claims against an advocate and solicitor in respect of civil liability.

25. Circumstances in which the Society can exercise powers in respect of inadequate professional services by an advocate and solicitor.

26. Power to limit professional experience before practising on own account or in partnership.

27. Regulation of the employment and remuneration of employees.

28. Circumstances in which the Society has power to intervene in an advocate and solicitor's practice."

30th. JULY, 2003

Made this 1st. day of Jamadilawal, 1424 Hijriah corresponding to the 1st. day of July, 2003 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM