

No. S 19

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

IMMIGRATION ACT (AMENDMENT) ORDER, 2004

ARRANGEMENT OF SECTIONS

Section

1. Citation.
 2. Amendment of section 6 of Chapter 17.
 3. Amendment of section 15.
 4. Amendment of section 38.
 5. Amendment of section 55.
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(Order under section 83(3))

IMMIGRATION ACT (AMENDMENT) ORDER, 2004

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.

1. This Order may be cited as the Immigration Act (Amendment) Order, 2004.

Amendment of section 6 of Chapter 17.

2. Section 6 of the Immigration Act, in this Order referred to as the Act, is amended —

(a) in paragraph *(a)* of subsection (3), by deleting "and to a fine not exceeding \$6,000" from the last line and by substituting "and whipping with not less than 3 strokes cumulatively" therefor;

(b) by adding the following new subsection —

"(4) The burden of proof that a person entered Brunei Darussalam without contravening subsection (1) shall lie upon that person, and in any prosecution for an offence against subsection (1), it shall not be necessary to specify in the charge the date, time, place or manner of the entry of such person into Brunei Darussalam, or the means of travel used for such entry."

Amendment of section 15.

3. Section 15 of the Act is amended, in paragraph *(b)* of subsection (2), by deleting "or to a fine not exceeding \$6,000 or to both" from the last 2 lines and by substituting "and whipping with not less than 3 strokes cumulatively" therefor.

Amendment of section 38.

4. Section 38 of the Act is amended by adding the following new subsection —

"(3) In any case relating to the commission of any offence against this Act, any immigration officer shall have the same power of investigation of a police officer under Chapter XIII of the Criminal Procedure Code (Chapter 7) in respect of a seizable offence."

Amendment of section 55.

5. Section 55 of the Act is amended —

(a) in subsection (1) —

(i) in paragraph (a), by deleting "enters unlawfully or" from the first line;

(ii) by repealing sub-paragraphs (i), (ii) and (iii) and by substituting the following 4 new sub-paragraphs therefor —

"(i) in the case of an offence against paragraph (a), imprisonment for a term of not less than 3 months and not more than 2 years and a fine not exceeding \$4,000 cumulatively;

(ii) in the case of an offence against paragraphs (b) or (c), imprisonment for a term of not less than 2 years and not more than 7 years and whipping with not less than 3 strokes cumulatively;

(iii) in the case of an offence against paragraphs (d) or (e), imprisonment for a term of not less than 6 months and not more than 2 years and a fine not exceeding \$6,000 cumulatively;

(iv) in the case of an offence against paragraphs (f), (g), (h), (i), (j), (k) or (l), imprisonment for a term not exceeding one year, a fine not exceeding \$4,000 or both."

(b) by inserting the following new subsection immediately after subsection (3) —

"(3A) Where a person is guilty of an offence against this Act for which a mandatory sentence of whipping is prescribed and by virtue of section 258 of the Criminal Procedure Code (Chapter 7) he shall not be punishable with whipping, that person shall, in lieu of whipping, be liable on conviction to a fine of not exceeding \$6,000."

Amendment of section 55A.

6. Section 55A of the Act is amended, in subsection (2), by inserting "cumulatively" immediately after "\$6,000" in the last line.

Amendment of Schedule to Chapter 4.

7. The Schedule to the Interpretation and General Clauses Act is amended by inserting the following immediately after "(Section 38(1))" —

"Sections 6(3)(a), 15(2)(b), 55(1)(i), (ii) and (iii) and 55A(2) of the Immigration Act (Chapter 17).".

Made this 20th. day of Zulhijjah, 1424 Hijriah corresponding to the 12th. day of February, 2004 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM