

LAWS OF BRUNEI

CONSTITUTIONAL MATTERS II SUCCESSION AND REGENCY PROCLAMATION, 1959

S 98/59

Amended by

26 of 1967

S 75/74

11 of 1979

S 28/83

1984 Edition, Constitutional Matters II

Amended by

E 1/85

S 32/04

S 49/04

S 79/04

S 80/04

2004 Edition, Constitutional Matters II

Amended by

S 16/06

S 78/06

REVISED EDITION 2011

B.L.R.O. 2/2011

LAWS OF BRUNEI
REVISED EDITION 2011

CONSTITUTIONAL MATTERS II
SUCCESSION AND REGENCY
PROCLAMATION, 1959

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**SUCCESSION AND REGENCY
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*Commencement: 29th September 1959
[S 106/59]*

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.

WHEREAS as announced by a Proclamation of His Majesty the Sultan and Yang Di-Pertuan of the twelfth day of May, 1953, it is desirable to regulate the succession to the throne, the exercise of the State functions and also other matters affecting His Majesty and his family:

AND WHEREAS WE have proclaimed the Constitution of Brunei Darussalam:

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

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PART I

PRELIMINARY

Citation.

1. This Proclamation may be cited as the Succession and Regency Proclamation, 1959.

Interpretation.

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

[S 49/04]

“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;

[S 49/04]

“Consort of His Majesty the Sultan and Yang Di-Pertuan” means a lawful wife of the reigning Sultan according to the Malay Custom of Brunei Darussalam and, if there is more than one such wife, means the wife of His Majesty the Sultan and Yang Di-Pertuan who is of the blood of the Sultans of Brunei Darussalam, or, if there is more than one of such wives, then that wife whom His Majesty the Sultan and Yang Di-Pertuan is satisfied is nearest in the direct line to such Sultans:

[S 32/04; S 49/04; S 16/06]

Provided that —

(a) if there is no such wife, the wife of His Majesty the Sultan and Yang Di-Pertuan who is of the blood of the ruling house of another Malay Muslim State, being a house which is related to His Majesty the Sultan and Yang Di-Pertuan, or, if there is more than one such wife with equal claims, then of those wives, the wife whom His Majesty the Sultan and Yang Di-Pertuan is satisfied is nearest related to His Majesty the Sultan and Yang Di-Pertuan;

[S 49/04]

(b) if there is no such wife, the wife of His Majesty the Sultan and Yang Di-Pertuan who is of the Malay race and who is of the blood of the ruling house of another Muslim State, or, if there is more than one such wife, then that wife whom His Majesty the Sultan and Yang Di-Pertuan is satisfied is nearest in the direct line to the Sultan of another Muslim State;

[S 32/04; S 49/04; S 16/06]

(c) if there is no such wife, the wife of His Majesty the Sultan and Yang Di-Pertuan who is a Pengiran Kebanyakan or if there is more than one such wife, then of those wives, the wife His Majesty the Sultan and Yang Di-Pertuan so chooses; or

[S 49/04]

(d) if there is no such wife, the wife His Majesty the Sultan and Yang Di-Pertuan so chooses:

[S 49/04]

Provided further that —

- (i) no wife shall be or deemed to be a Consort of His Majesty the Sultan and Yang Di-Pertuan unless she professes the Islamic Religion and His Majesty the Sultan and Yang Di-Pertuan has, by Proclamation published in the *Gazette*, proclaimed her as a Consort of His Majesty the Sultan and Yang Di-Pertuan; and

[S 49/04; S 16/06]

- (ii) a subsequent wife shall not be proclaimed the Consort of His Majesty the Sultan and Yang Di-Pertuan if there is living a former wife who has been appointed Duli Raja Isteri or Pengiran Isteri in accordance with the provisions of section 22;

[S 49/04]

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“Constitution” means the Constitution of Brunei Darussalam;
[S 49/04]

“Council of Regency” means a Council of Regency appointed under subsection (1) of section 13;

“Council of Succession” means the Council of Succession appointed under subsection (1) of section 6;

“Council of Ministers” means the Council of Ministers established by the Constitution;
[S 49/04]

“Government” means the Government of His Majesty the Sultan and Yang Di-Pertuan;
[S 49/04]

“Heir Apparent”, subject to section 3, means the person who, if he survives His Majesty the Sultan and Yang Di-Pertuan, must be the Heir to the throne;
[S 49/04]

“Heir Presumptive”, subject to section 3, means the person who, if His Majesty the Sultan and Yang Di-Pertuan were to die immediately, would have the best claim to succeed to the throne but whose claim might be displaced by the emergence of a person with a better claim;
[S 49/04]

“immediate ancestor” means His Majesty the Sultan and Yang Di-Pertuan the succession to whom is being determined either in the circumstances referred to in subsection (2) of section 8 or for the purposes of ascertaining the Heir Apparent or the Heir Presumptive;

“Interpretation Tribunal” means the Interpretation Tribunal established by or under the Constitution;
[S 49/04]

“Islamic Religion” means the Islamic Religion according to the Shafeite sect of Ahlis Sunnah Waljamaah;
[S 32/04; S 49/04]

“Kepala Wazir” means the noble and illustrious personage known as the Duli Pengiran Perdana Wazir Sahibul Himmah Wal-Waqar;
[S 49/04]

“Legislative Council” means the Legislative Council established by the Constitution;
[S 49/04]

“Minister” means a person appointed as such under the Constitution;
[S 49/04]

“Muslim State” means a State whose official religion is the Islamic Religion;
[S 32/04; S 49/04]

“Orang Kebanyakan” means a person of common blood;

“Pengiran Kebanyakan” means a person of Brunei noble blood other than a person who is of the blood of the Sultans of Brunei Darussalam;
[S 49/04]

“person of the blood of the Sultans of Brunei Darussalam” means a person who is a lawfully begotten descendant of Al-Marhum Sultan Mohamed Jamalul-alam or, if there is no such descendant of the appropriate sex, a person who is a lawfully begotten descendant of the grandfather in the male line of the reigning Sultan, or, if there is no reigning Sultan, a lawfully begotten descendant of the grandfather in the male line of the last reigning Sultan;
[S 49/04]

“President” means the President of the Council of Succession;

“Privy Council” means the Privy Council established by the Constitution;
[S 49/04]

“Regent” means a Regent duly appointed under subsection (1) of section 13 or referred to in section 11;
[S 49/04]

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

[S 49/04]

“Secretary” means the Secretary to the Council of Succession;

“State” means Brunei Darussalam;

[S 49/04]

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

[S 49/04]

“Sultan” or “His Majesty” or “His Majesty the Sultan and Yang Di-Pertuan” means His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam but does not include a Council of Regency or His Majesty the Sultan and Yang Di-Pertuan’s Deputy;

[S 49/04]

“Sultan’s Deputy” means the Deputy appointed under section 17;

[S 49/04]

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

[S 49/04]

PART II

THE SUCCESSION

His Majesty and succession to the Sultanate. [S 49/04]

3. (1) It is hereby declared that His Majesty Sultan Haji Hassanal Bolkiah Mu’izzaddin Waddaulah ibni Al-Marhum Sultan Haji Omar ‘Ali

Saifuddien Sa'adul Khairi Waddien is the lawful Sultan and Yang Di-Pertuan of Brunei Darussalam.

(2) It is hereby declared that Duli Yang Teramat Mulia Paduka Seri Pengiran Muda Mahkota Pengiran Muda Haji Al-Muhtadee Billah ibni Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah is the lawful Successor to the throne of Brunei Darussalam:

Provided that His Majesty the Sultan and Yang Di-Pertuan may from time to time, by Proclamation published in the *Gazette*, proclaim another person to be the only lawful Successor to the throne of Brunei Darussalam; the person whose right to succeed has been revoked by the later Proclamation shall forthwith cease to be entitled to the title of Duli Yang Teramat Mulia Paduka Seri Pengiran Muda Mahkota and the title shall forthwith pass to such person so proclaimed in the later Proclamation.

(3) It is hereby declared that upon Duli Yang Teramat Mulia Paduka Seri Pengiran Muda Mahkota Pengiran Muda Haji Al-Muhtadee Billah ibni Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah ascending or for any reason whatsoever being unable to ascend to the throne of Brunei Darussalam, his eldest lawful son shall be the lawful Successor to the throne of Brunei Darussalam, and thereafter, the right to succeed to the throne of Brunei Darussalam shall vest in the eldest lawful son of that and each subsequent lawful Successor.

[S 79/04]

(4) In the event that His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah ibni Al-Marhum Sultan Haji Omar 'Ali Saifuddien Sa'adul Khairi Waddien ceases to occupy the throne of Brunei Darussalam, and Duli Yang Teramat Mulia Paduka Seri Pengiran Muda Mahkota Pengiran Muda Haji Al-Muhtadee Billah ibni Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah for any reason whatsoever being unable to ascend to, or having ascended to ceasing to occupy, the throne of Brunei Darussalam without leaving a lawful Successor, the succession thereto is hereby vested —

[S 79/04]

(a) first, in the lawful Heirs of the body of His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah ibni Al-Marhum

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Sultan Haji Omar 'Ali Saifuddien Sa'adul Khairi Waddien in the following order —

- (i) Yang Teramat Mulia Paduka Seri Duli Pengiran Muda Haji 'Abdul Azim ibni Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanah Bolkiah Mu'izzaddin Waddaulah, and upon his ascending or for any reason whatsoever being unable to ascend to the throne of Brunei Darussalam, his eldest lawful son shall be the lawful Successor to the throne of Brunei Darussalam, and thereafter, the right to succeed to the throne of Brunei Darussalam shall vest in the eldest lawful son of that and each subsequent lawful Successor;

[S 79/04]

- (ii) in the event that there is no lawful Successor under subsection 4(a)(i), Yang Teramat Mulia Paduka Seri Duli Pengiran Muda 'Abdul Malik ibni Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanah Bolkiah Mu'izzaddin Waddaulah, and upon his ascending or for any reason whatsoever being unable to ascend to the throne of Brunei Darussalam, his eldest lawful son shall be the lawful Successor to the throne of Brunei Darussalam, and thereafter, the right to succeed to the throne of Brunei Darussalam shall vest in the eldest lawful son of that and each subsequent lawful Successor;

[S 79/04]

- (iii) in the event that there is no lawful Successor under subsection 4(a)(ii), Yang Teramat Mulia Paduka Seri Duli Pengiran Muda 'Abdul Mateen ibni Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanah Bolkiah Mu'izzaddin Waddaulah, and upon his ascending or for any reason whatsoever being unable to ascend to the throne of Brunei Darussalam, his eldest lawful son shall be the lawful Successor to the throne of Brunei Darussalam, and thereafter, the right to succeed to the throne of Brunei Darussalam

shall vest in the eldest lawful son of that and each subsequent lawful Successor;

[S 79/04]

- (iv) in the event that there is no lawful Successor under subsection 4(a)(iii), Yang Teramat Mulia Paduka Seri Duli Pengiran Muda ‘Abdul Wakeel ibni Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanal Bolkiah Mu’izzaddin Waddaulah, and upon his ascending or for any reason whatsoever being unable to ascend to the throne of Brunei Darussalam, his eldest lawful son shall be the lawful Successor to the throne of Brunei Darussalam, and thereafter, the right to succeed to the throne of Brunei Darussalam shall vest in the eldest lawful son of that and each subsequent lawful Successor;

[S 78/06]

(b) next, in the lawful Heirs of the body of Al-Marhum Sultan Haji Omar ‘Ali Saifuddien Sa’adul Khairi Waddien as determined in accordance with section 5; and

(c) finally, in the lawful Heirs of the body of Al-Marhum Sultan Mohamed Jamalul-alam as determined in accordance with section 5.

Person excluded from succession to the throne. [S 32/04; S 49/04]

4. (1) No person shall be considered a lawful Heir or a lawful Successor unless he professes the Islamic Religion and is a male lawfully begotten descendant in the male line of the common ancestor.

(2) A lawful Heir shall be excluded from the succession if his right to succeed has been forfeited under subsection (1) of section 10.

Rules to be observed in ascertaining the lawful Heir to the throne. [S 49/04]

5. (1) The following rules shall apply for ascertaining who, among the lineal descendants of the immediate ancestor, shall be his lawful Heir —

[S 49/04]

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(a) an earlier generation shall be preferred to a later generation;

(b) an older son shall, subject to paragraph (c), be preferred to a younger son;

[S 49/04]

(c) a son whose mother as well as his father is of the blood of the Sultans of Brunei Darussalam shall be preferred to a son whose father only is of such blood as aforesaid:

Provided that —

(i) the son of a wife of the Sultan who was appointed Duli Raja Isteri or Pengiran Isteri in accordance with the provisions of section 22 shall be preferred to the son of a wife of the Sultan who was not so appointed; and

(ii) a son whose mother is of the blood of the ruling house of another Muslim State shall be preferred to a son whose mother is not of such blood as aforesaid;

(d) the son of an older son shall be preferred to the son of a younger son:

Provided that —

(i) if the father only of such older son is of the blood of the Sultans of Brunei Darussalam or of the blood of the ruling house of another Muslim State and if both the mother and the father of such younger son are of such blood as aforesaid, then, the son of the younger son shall be preferred to the son of the older son; and

(ii) if both the mothers and the fathers of both such older son and such younger son are of such blood as aforesaid, but the father only of the son of such older son is of such blood as aforesaid and both the mother and the father of the son of such younger son are of such blood as aforesaid, then, the son of the younger son shall be preferred to the son of the older son.

(2) The rules specified in subsection (1) shall, subject to such modifications as may be necessary to suit the circumstances of the particular case, apply to more remote generations than those specified in that subsection.

(3) Notwithstanding subsections (1) and (2), if the Sultan dies leaving no male descendant other than a descendant one of whose ancestors in the male line, not being an ancestor of a generation prior to that of the deceased Sultan, married a wife who was not of the blood of the Sultans of Brunei Darussalam or of the blood of the ruling house of another Muslim State, but leaving a younger brother or half-brother of such blood as aforesaid, then, such younger brother or half-brother shall be preferred to any descendant of the Sultan.

(4) If there is no lawful Heir who is a lineal descendant of the immediate ancestor, recourse shall be had to the male lineal ascendant of the preceding generation to that of the immediate ancestor and the above rules shall be applied in like manner as if such ascendant had been the immediate ancestor; and, if necessary, recourse shall be had to the male lineal ascendant of each preceding generation up to and including the common ancestor:

[S 49/04]

Provided that, in any case in which such recourse is necessary, each lineal ancestor shall be deemed to be the immediate ancestor.

(5) Subsections (1), (2), (3) and (4) shall apply to the ascertainment of the Heir Apparent and the Heir Presumptive with the modifications required by virtue of the fact that the immediate ancestor has not died, and, for this purpose, it shall be assumed that any Heir of the Sultan will survive him.

[S 49/04]

Illustrations

Example 1.

If a Sultan has 2 wives, the first a commoner and the second of princely blood, and each of those wives has a son, then, the son of the second wife will have a better claim to succeed the Sultan than the son of the first wife. The position would be reversed if both wives were of princely blood.

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Example 2.

If a Sultan has 3 wives, *A* a commoner and *B* and *C* of princely blood married in that order, and each of those wives has a son (*D*, *E* and *F*) born, respectively, in 1940, 1941 and 1942, the order of preference of those sons will be first the son of *B* (the second wife), second the son of *C* (the third wife) and third the son of *A*.

Example 3.

If, on the facts as set out in Example 2, all 3 sons predecease the Sultan but each of those sons leaves issue as follows —

- (a) *D* a son *G* born in 1960 by a wife of princely blood;
- (b) *E* a son *H* born in 1961 by a wife who is a commoner; and
- (c) *F* a son *I* born in 1962 by a wife of princely blood,

then the order of preference will be *I*, *H* and *G*.

Example 4.

If all the issue of a Sultan predecease him, it is necessary to trace the Heir from the male line ascendant of the Sultan in the preceding generation, namely his father.

[S 49/04]

If the father of the Sultan had another son *J* who had 4 wives namely, *K*, a commoner, and *L*, *M* and *N*, wives of princely blood, and if each of those wives had a son, namely *O*, *P*, *Q* and *R* born respectively in 1951, 1952, 1953 and 1954, and if each of those sons married a wife, namely, *S*, *T*, *U* and *V* of whom *S*, *U* and *V* were of princely blood but *T* was a commoner, and if each of those wives had a son, namely, *X*, *Y*, *Z* and *AA* born respectively in 1971, 1972, 1973 and 1974, and if each of those sons had a wife, namely, *BB*, *CC*, *DD*, and *EE* of whom all except *DD* were of princely blood, and if each of those wives had a son, namely, *FF*, *GG*, *HH* and *II* respectively born in 1991, 1992, 1993 and 1994, then, if all the issue of the Sultan predeceased him together with all the issue of *J* except for *FF*, *GG*, *HH* and *II*, then, *II* being the descendant of the purest princely blood, would be the Heir to the throne, but, if he had predeceased the Sultan, *HH* would be the Heir, and, if *HH* and *II* had both predeceased the Sultan, *GG* would be the Heir and, if only *FF* survived the Sultan, he would be Heir.

[S 49/04]

Example 5.

A Sultan dies leaving 3 sons by one wife, 2 grandsons by another wife and a younger brother whose father and mother are both of the blood of the Sultans of Brunei Darussalam, then, if the wife, the mother of 3 sons, is of common blood and if either the wife or her daughter-in-law, the mother of the 2 grandsons, is of common blood, then, the younger brother will succeed to the throne.

(6) This section shall be read subject to section 3.

[S 49/04]

Council of Succession.

6. (1) There is hereby established the *Majlis Mesyuarat Mengangkat Raja Brunei*, to be styled in English as the Council of Succession.

(2) The Council of Succession shall consist of —

(a) such Malay Members of the Council of Ministers as may be appointed by His Majesty the Sultan and Yang Di-Pertuan to be Members of the Council of Succession;

(b) any person who holds the dignitary or office of Wazir or Cheteria appointed by His Majesty the Sultan and Yang Di-Pertuan to be a Member of the Council of Succession;

(c) any Pehin Manteri or any person of distinction appointed by His Majesty the Sultan and Yang Di-Pertuan to be a Member of the Council of Succession;

(d) any Member of the Religious Council appointed by His Majesty the Sultan and Yang Di-Pertuan to be a Member of the Council of Succession.

[E 1/85; S 49/04]

(2A) Every member of the Council of Succession shall hold his office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

[S 49/04]

(3) The Kepala Wazir shall be the President of the Council of Succession, and His Majesty the Sultan and Yang Di-Pertuan shall appoint a Wazir to be Vice President thereof and, in the absence or inability or unwillingness to act of the President, the Vice President shall discharge the function of the President under this Proclamation or otherwise.

Procedure.

7. (1) In the exercise of its functions under this Part, the Council of Succession shall observe the following rules of procedure —

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(a) no business shall be transacted by the Council unless such *quorum* as is provided for in paragraph (b) is present at the time when the Council proceeds to business;

(b) one half of the Members of the Council of Succession shall form a *quorum* if no less than 4 of the Members of the Council of Ministers and no less than 3 of the Members of the Religious Council aforesaid are among those Members present;

(c) no decision of the Council of Succession shall be valid and binding unless at least two-thirds of the Members present shall agree thereto, and such decision shall not be subject to any review by or appeal to any court;

[S 49/04]

(d) the President, or any other Members of the Council presiding in his absence, may vote on any question;

(e) no person other than a Member shall be present at any meeting of the Council of Succession;

(f) the President may adjourn any meeting of the Council of Succession from time to time but a meeting once begun shall continue until a decision of the Council of Succession has been made;

(g) minutes of the proceedings at each meeting of the Council of Succession shall be kept in writing, in the Malay language, by the Secretary;

(h) a record of every decision of the Council of Succession shall be made in writing by the Secretary and shall be signed by the President, whose signature shall be witnessed as hereinafter provided; and

(i) every decision of the Council of Succession shall be notified in the *Gazette*.

(2) His Majesty the Sultan and Yang Di-Pertuan may appoint a person to be the Secretary of the Council of Succession, who shall hold office during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

[E 1/85; S 49/04]

(3) The President's signature shall be witnessed by 2 Members of the Council of Ministers appointed as Members of the Council of Succession and present at the meeting of the Council of Succession concerned.

[E 1/85; S 49/04]

Approval and confirmation of succession to the throne.

8. (1) *Repealed.*

[S 49/04]

(2) Whenever the throne is vacant owing to the death or abdication of His Majesty the Sultan and Yang Di-Pertuan, or by reason of an event declared by this Proclamation to have the same effect as the execution of a valid Instrument of Abdication, the President shall, by notice in writing to each Member stating the time and place of the meeting, forthwith convene the Council of Succession, and it shall be the duty of each Member, unless his absence is excused for any cause which the President may deem good and sufficient, to attend accordingly:

[S 49/04]

Provided that, even if no notice has been issued under this subsection, it shall nevertheless be the duty of every Member of the Council of Succession who has been informed of the death or abdication of His Majesty the Sultan and Yang Di-Pertuan or other event as aforesaid to assemble forthwith at such place as the Privy Council may from time to time declare to be the appropriate meeting place on such an occasion; and, if, at the expiration of 48 hours after such death, abdication or other event as aforesaid, a meeting has not been lawfully convened under this subsection and a *quorum* of the Council of Succession is present at such place, the Council of Succession shall be deemed to have lawfully assembled and may proceed to appoint a temporary President from among the Members there present and to transact all such business as is mentioned in subsections (3) and (4).

[S 49/04]

(3) At any such meeting, if a Successor has already been proclaimed or determined in accordance with subsections (2), (3) or (4) of section 3, then the Council of Succession shall not examine any other claim or make any inquiry required by subsection (4) and shall confirm the succession so proclaimed or declared.

[S 49/04]

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(4) Unless it has been resolved in terms of subsection (3), the Council of Succession shall without delay proceed to examine and announce its decision on any claim to the throne without waiting to see whether the claim of any Heir Presumptive will be displaced by any prospective birth; and shall also make full and complete inquiry as to whether any person it accepts as the Heir has any such great and serious defect derogatory to the quality of a Sultan such as infirmity, blindness or dumbness, or has any such base quality on account of which he should not in accordance with the *Hukum Syara'* be approved as Sultan and, if in any case approval or confirmation is withheld, the Council of Succession shall continue to proceed under the powers conferred by this subsection until an Heir has been ascertained who can lawfully succeed to the throne of Brunei Darussalam.

[S 49/04]

(5) The Council of Succession shall, by Proclamation in the name of the lawful Successor proclaim his accession in the customary manner.

[S 49/04]

Wrongful assumption of title of the Sultan's Successor. [S 49/04]

9. Any person who, not having been duly proclaimed or determined in accordance with subsections (2), (3) or (4) of section 3 to be His Majesty the Sultan and Yang Di-Pertuan's Successor or whose right to succeed has been revoked by His Majesty the Sultan and Yang Di-Pertuan under section 3, claims or uses, or permits others to use in his regard, the title of Duli Yang Teramat Mulia Paduka Seri Pengiran Muda Mahkota may, if His Majesty the Sultan and Yang Di-Pertuan or, if there is a Regency, if the Council of Regency, so directs, be required formally to renounce such claim or use in the presence of the Privy Council; His Majesty the Sultan and Yang Di-Pertuan may deprive the offender of any title, rank, dignity, decoration or precedence connected with Brunei Darussalam which the offender may in fact enjoy, and of any maintenance or other allowance payable to the offender by Brunei Darussalam.

Right to the succession may be forfeited and privileges may cease in certain circumstances. [S 49/04]

10. (1) If any Heir of the body of Al-Marhum Sultan Hashim Jalilul-alam Akamuddin is convicted —

[S 49/04]

(a) of any of the offences in sections 121, 121A, 122 and 123 of the Penal Code (Chapter 22);

[S 49/04]

(b) of the offence created by subsection (3); or

(c) of an offence of a similar nature which His Majesty the Sultan and Yang Di-Pertuan has by Order signified in the *Gazette* declared to be an offence to which this section applies,

[S 49/04]

and such conviction is not set aside on appeal or revision, then, in addition to any punishment prescribed for the offence, he and his issue shall, unless His Majesty the Sultan and Yang Di-Pertuan shall otherwise determine, forfeit any right whatsoever to succeed to the throne of Brunei Darussalam.

[S 49/04]

(2) If subsection (1) is applicable to any person, then such rights and privileges as he or his issue may have received or been entitled to from Brunei Darussalam, including any title, rank, dignity, decoration or precedence, and any claim to maintenance or other allowance, shall, unless His Majesty the Sultan and Yang Di-Pertuan shall otherwise determine, cease and be at the disposal of Brunei Darussalam. In this subsection, the expression “His Majesty the Sultan and Yang Di-Pertuan” includes a Council of Regency.

[S 49/04]

(3) Whoever, being an Heir of the body of the Sultan mentioned in subsection (1), does, or conspires or attempts to do, any act or thing against any other lawful Heir of the body of the aforesaid Sultan, or incites or procures another to do any such act or thing, with intent that he or another may succeed to the throne of Brunei Darussalam or be in a better position to succeed thereto by reason by such act or thing or the effect thereof, shall be guilty of an offence: Penalty, death or imprisonment for 15 years, or a fine, or both such imprisonment and a fine.

[S 49/04]

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PART III

THE REGENCY AND ABSENCE FROM
BRUNEI DARUSSALAM OF HIS MAJESTY OR REGENT

Council of Regency while His Majesty is under 18. [S 49/04]

11. (1) It is hereby declared that if upon the death or occurrence of any other event by reason of which Duli Yang Teramat Mulia Paduka Seri Pengiran Muda Mahkota Pengiran Muda Haji Al-Muhtadee Billah ibni Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah shall cease to occupy the throne of Brunei Darussalam, and his eldest lawful son (hereinafter referred to as "the new Successor") is below the age of 18 years, the next eldest surviving son of His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah ibni Al-Marhum Sultan Haji Omar 'Ali Saifuddien Sa'adul Khairi Waddien shall be the Regent and shall perform the State functions in the name and on behalf of the new Successor, until the new Successor attains the age of 18 years.

[S 79/04]

(2) If the next eldest surviving son of His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah ibni Al-Marhum Sultan Haji Omar 'Ali Saifuddien Sa'adul Khairi Waddien is upon his death or occurrence of any other event by reason of which he shall be unable to perform the State functions, then the next surviving son of His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah ibni Al-Marhum Sultan Haji Omar 'Ali Saifuddien Sa'adul Khairi Waddien shall be the Regent and shall perform the State functions in the name and on behalf of the new Successor, until the new Successor attains the age of 18 years.

(3) In the event that a son of His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah ibni Al-Marhum Sultan Haji Omar 'Ali Saifuddien Sa'adul Khairi Waddien other than Duli Yang Teramat Mulia Paduka Seri Pengiran Muda Mahkota Pengiran Muda Haji Al-Muhtadee Billah ibni Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah succeeds to the throne of Brunei Darussalam in accordance with paragraph (a) of subsection (4) of section 3, subsections (1) and (2) shall apply as if that son is referred to in subsection (1) in place of Duli Yang Teramat Mulia Paduka Seri Pengiran

Muda Mahkota Pengiran Muda Haji Al-Muhtadee Billah ibni Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah.

(4) If none of the surviving sons of His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah ibni Al-Marhum Sultan Haji Omar 'Ali Saifuddien Sa'adul Khairi Waddien shall be able to perform the State functions, then the State functions shall be performed in the name and on behalf of the new Successor by a Jemaah Pemangku Raja, to be styled in English as the Council of Regency, appointed by the Privy Council.

(5) Subject to the preceding subsections, in all other cases where the Sultan is at his accession, under the age of 18 years, then, until he attains that age, the State functions shall be performed in the name and on behalf of the Sultan by the Council of Regency.

(6) For the purpose of any written law requiring any oath or declaration to be taken, made or subscribed by His Majesty the Sultan and Yang Di-Pertuan on or after his accession, the date on which His Majesty the Sultan and Yang Di-Pertuan attains the age of 18 years shall be deemed to be the date of his accession.

Council of Regency during total incapacity of His Majesty. [S 49/04]

12. (1) If all of the following persons, or any 8 of them, that is to say, the Consort of His Majesty the Sultan and Yang Di-Pertuan, the Wazirs, the Ministers, the Chief Syar'ie Judge, the Kepala Cheteria and 5 Menteris, declare in writing to the Privy Council that they are satisfied by evidence, which shall include the evidence of 3 independent physicians, that His Majesty the Sultan and Yang Di-Pertuan is by reason of infirmity of mind or body incapable for the time being of performing the State functions, or that they are satisfied by evidence that His Majesty the Sultan and Yang Di-Pertuan is for some definite cause not available for the performance of those functions, then, until it is declared in like manner that His Majesty the Sultan and Yang Di-Pertuan has so far recovered his health as to warrant his resumption of the State functions, or has become available for the performance thereof, as the case may be, those functions shall be performed in the name and on behalf of His Majesty the Sultan and Yang Di-Pertuan —

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(a) by his lawful Successor;

(b) where the lawful Successor is below the age of 18 years, by, where applicable, the Regent referred to under section 11 or by the Council of Regency appointed by the Privy Council; and

(c) in the absence of a lawful Successor, by the Council of Regency appointed by the Privy Council.

(2) If a declaration made under the first part of subsection (1) is not within 5 years from its communication to the Privy Council superseded by the declaration provided for in the latter part of such subsection, then, as from the expiration of such period of 5 years, the declaration first mentioned shall have the same effect for all purposes as if His Majesty the Sultan and Yang Di-Pertuan had renounced the throne under subsection (1) of section 19 by a valid Instrument of Abdication having effect at the expiration of the aforesaid period of 5 years.

(3) Subsection (1) shall apply to a Regent with the following modifications —

(a) the declaration as to incapacity of performing the State functions shall be made by the Privy Council; and

(b) the recovery of health by a Regent who has been declared incapable of performing the State functions shall not require any declaration or affect the appointment of another Regent.

(4) Any declaration under this section shall be made by Order which shall be signified in the *Gazette* by the Privy Council.

Appointment of a Council of Regency or a Regent.

13. (1) Notwithstanding section 11, His Majesty the Sultan and Yang Di-Pertuan may appoint a Council of Regency or a Regent by making known his pleasure in any manner he thinks fit, but no such appointment shall take effect until it is notified by Proclamation published in the *Gazette* in the name of His Majesty the Sultan and Yang Di-Pertuan.

[S 49/04]

(2) Whenever (under his Proclamation or otherwise) there is occasion for a Council of Regency or a Regent to be appointed otherwise

than by His Majesty the Sultan and Yang Di-Pertuan, such appointment shall be made by the Privy Council and shall be notified by a Proclamation published in such manner as the Privy Council sees fit.

(3) A Council of Regency shall consist of the Consort of His Majesty the Sultan and Yang Di-Pertuan and 2 other Regents or, if His Majesty the Sultan and Yang Di-Pertuan is not then married, or if there is no Consort of His Majesty the Sultan and Yang Di-Pertuan living, or if the Consort is for any cause incapable of acting as Regent, of 3 Regents other than the Consort:

Provided that —

(a) the following persons, if of full age and capacity and if not prevented by absence from Brunei Darussalam or any other cause considered sufficient by resolution of the Privy Council from acting as Regents, shall be entitled to be appointed by His Majesty the Sultan and Yang Di-Pertuan as a Regent —

[S 49/04]

- (i) the Heir Apparent;
- (ii) the Heir Presumptive;
- (iii) the Duli Pengiran Bendahara and the Duli Pengiran Pemancha;
- (iv) any Kepala Cheteria who is a lawfully begotten descendant of a Sultan mentioned in subsection (1) of section 10; and

(b) this subsection shall not apply where the appointment of a Council of Regency or a Regent is made by His Majesty the Sultan and Yang Di-Pertuan or under section 11; and His Majesty the Sultan and Yang Di-Pertuan may, in any such case, appoint as a Member of the Council of Regency any Member of the Privy Council who is capable of acting.

[S 49/04]

(4) The appointment of any Deputy to His Majesty the Sultan and Yang Di-Pertuan under section 17 shall cease to have effect on the

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appointment of a Council of Regency, but without prejudice to anything lawfully done by such Deputy.

(5) The appointment of a Council of Regency shall cease to have effect —

(a) upon the arrival in Brunei Darussalam of His Majesty the Sultan and Yang Di-Pertuan, save where His Majesty the Sultan and Yang Di-Pertuan is under the age of 18 years or a subsisting declaration of incapacity under section 12 has been made of him;

(b) upon His Majesty the Sultan and Yang Di-Pertuan attaining the age of 18 years, if he is then in Brunei Darussalam and not suffering from any incapacity within the meaning of subsection (1) of section 12; and

(c) upon a declaration under the second part of subsection (1) of section 12.

[S 49/04]

(6) Subject to section 11, the appointment of a Regent shall cease to have effect upon any event specified in subsection (5) and also —

[S 49/04]

(a) on the appointment of another Regent in his place in accordance with this section;

(b) upon a declaration of incapacity in respect of such Regent under section 12; and

(c) in the event specified in section 18.

(7) The appointment of a Regent may be revoked in like manner as that in which it was made and shall be so revoked within a reasonable time if the Regent, by writing under his hand, requests the appropriate authority to relieve him of his office:

Provided that nothing herein contained shall be deemed to preclude a Sultan of full age and capacity from revoking at any time the appointment of a Regent and appointing another Regent in his place under this section.

Oath to be taken and subscribed by Regent.

14. Every Regent shall, before he acts in or enters upon his office, take and subscribe before the Privy Council the oath set out in the Schedule, and the Member of the Privy Council there present ranking first in precedence is hereby empowered and required to administer that oath, and to cause an appropriate record to be made that this section has been complied with.

Guardianship etc. of His Majesty during Regency. [S 49/04]

15. When a Council of Regency has been appointed, unless the Privy Council otherwise determines —

(a) if His Majesty the Sultan and Yang Di-Pertuan is under the age of 18 years, and unmarried, his mother, if she is living, shall have the guardianship of his person;

(b) if His Majesty the Sultan and Yang Di-Pertuan, being married, is under the age of 18 years or has been declared under this Proclamation to be incapable for the time being of performing the State functions, the Consort of His Majesty the Sultan and Yang Di-Pertuan, if of the age of 18 or more, shall have the guardianship of the person of His Majesty the Sultan and Yang Di-Pertuan;

(c) the Council of Regency shall, save in the cases aforesaid, have the guardianship of the person of His Majesty the Sultan and Yang Di-Pertuan; and the property of His Majesty the Sultan and Yang Di-Pertuan, save and except any private property which in accordance with the terms of any trust affecting it is to be administered by some other person, shall be administered by the Council of Regency.

Decision of Council of Regency, *quorum*.

16. Any act which the Council of Regency may lawfully do shall be lawfully done if done by, or with the consent of, 2 Members thereof; and no objection shall be taken to any act so done on the ground that any Regent has not been consulted or is not in agreement therewith:

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Provided that —

(a) save where any matter is of such urgency as to preclude consultation, a Regent who is in Brunei Darussalam and who is capable of acting as such shall be consulted, and a Regent who is not in Brunei Darussalam shall be consulted whenever it is practicable so to do; and

(b) if 2 Members of the Council of Regency are unable to agree on any course of action, the matter shall be referred to the Privy Council, and its decision shall be deemed to be for all purposes the decision of the Council of Regency which shall proceed to give effect thereto.

His Majesty may appoint a Deputy to exercise State functions on his behalf.

17. (1) His Majesty the Sultan and Yang Di-Pertuan shall not absent himself from Brunei Darussalam for more than 7 days without appointing a Council of Regency:

Provided that —

(a) in cases where a Deputy may be lawfully appointed in accordance with this section, His Majesty the Sultan and Yang Di-Pertuan may appoint a Deputy *in lieu* of appointing a Council of Regency; and

(b) prior to his departure from Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan shall inform the Privy Council of any such appointment.

(2) His Majesty the Sultan and Yang Di-Pertuan may, by Instrument under the Seal of the State, appoint a Member of the Privy Council to be his Deputy and, in that capacity, to exercise, perform and execute for and on behalf of His Majesty the Sultan and Yang Di-Pertuan such State functions as may be specified in such Instrument so long as His Majesty the Sultan and Yang Di-Pertuan is absent from Brunei Darussalam for more than 7 days; and every Deputy so appointed shall conform to and observe all such instructions as His Majesty the Sultan and Yang Di-Pertuan may from time to time address to him for his guidance.

(3) *Repealed.*

(4) If His Majesty the Sultan and Yang Di-Pertuan absents himself from Brunei Darussalam for more than 7 days without appointing a Council of Regency or a Deputy in accordance with subsections (1) and (2), the Privy Council shall appoint a Council of Regency.

(5) If it appears to the Privy Council to be in the interest of Brunei Darussalam that His Majesty the Sultan and Yang Di-Pertuan, who has absented himself from Brunei Darussalam after lawfully appointing a Deputy under this section, should either return to Brunei Darussalam or appoint a Council of Regency, the Privy Council shall in such manner as that Council may deem appropriate inform His Majesty the Sultan and Yang Di-Pertuan accordingly; and, if within 30 days of such information being communicated to him, or if after 30 days have lapsed since the time that His Majesty the Sultan and Yang Di-Pertuan could not be found, His Majesty the Sultan and Yang Di-Pertuan has neither returned to Brunei Darussalam nor appointed a Council of Regency, then, the Privy Council shall proceed to appoint a Council of Regency.

[S 49/04]

(6) If His Majesty the Sultan and Yang Di-Pertuan has, at any time, been absent from Brunei Darussalam for a consecutive period of more than 24 months, then, whether or not the provisions of this section have been complied with and whether or not a Council of Regency has been appointed, it shall be lawful for the Privy Council to require His Majesty the Sultan and Yang Di-Pertuan to return to Brunei Darussalam and if His Majesty the Sultan and Yang Di-Pertuan shall fail to return to Brunei Darussalam within 3 months of the communication to him of such requirement, or if after 3 months have lapsed since the time of the public announcement of such requirement, the provisions of subsection (7) shall apply.

[S 49/04]

(7) The Privy Council shall meet and shall inquire if there be any sufficient reason why His Majesty the Sultan and Yang Di-Pertuan should have failed to return to Brunei Darussalam and may resolve —

[S 49/04]

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(a) that further inquiries be made;

(b) that a final warning be sent to His Majesty the Sultan and Yang Di-Pertuan that, if he fails to return within 3 months from the communication to him or of a public announcement of such resolution, he shall be deemed to have abdicated; or

[S 49/04]

(c) that His Majesty the Sultan and Yang Di-Pertuan should be considered lawfully absent until the malady or other sufficient cause preventing his return has been cured or removed, or until he has been absent from Brunei Darussalam for a consecutive period of 36 months computed from the time he left Brunei Darussalam, whichever shall be the earlier.

[S 49/04]

(8) Unless it has been resolved that further inquiries shall be made, in which case the Privy Council shall again consider the matter when such inquiries have been concluded, any such resolution shall be made known to His Majesty the Sultan and Yang Di-Pertuan in such manner as the Privy Council shall think fit.

[S 49/04]

(9) If —

(a) it has been resolved in terms of paragraph (b) of subsection (7) and His Majesty the Sultan and Yang Di-Pertuan has failed to return at the end of the specified period; or

[S 49/04]

(b) it has been resolved in terms of paragraph (c) of subsection (7) and the period of 36 months therein mentioned has expired, or if it appears to the Privy Council that the malady or other cause considered to have been preventing the return of His Majesty the Sultan and Yang Di-Pertuan was removed at a time which would have enabled His Majesty the Sultan and Yang Di-Pertuan, had he been willing to do so, to return to Brunei Darussalam,

[S 49/04]

then and in any such case, the Privy Council may by Order signified in the *Gazette* declare that His Majesty the Sultan and Yang Di-Pertuan shall be

deemed to have abdicated; and such Order shall, subject to section 21, have the same effect for all purposes as if His Majesty the Sultan and Yang Di-Pertuan had executed a valid Instrument of Abdication having effect on the date of publication of the Order in the *Gazette*.

[S 49/04]

(10) The power to appoint a Deputy conferred by subsection (2) shall be available also to a Sultan, other than a Sultan in respect of whom a declaration of incapacity has been made under the first part of subsection (1) of section 12, who is present in Brunei Darussalam but who is about to absent himself from the seat of Government or who is ill or incapacitated from any similar cause from discharging in a proper manner the State functions, or any of them:

[S 49/04]

Provided that every such appointment shall cease to have effect —

(a) if the appointment was made as a result of His Majesty the Sultan and Yang Di-Pertuan being about to absent himself from the seat of Government, as soon as he returns to the seat of the Government; or

[S 49/04]

(b) if the appointment was made as a result of the illness or incapacity of His Majesty the Sultan and Yang Di-Pertuan, if and as soon as the illness or incapacity necessitating such appointment ceases or is removed, or if a declaration of incapacity relating to His Majesty the Sultan and Yang Di-Pertuan is made under the first part of subsection (1) of section 12.

[S 49/04]

(11) This section shall not apply where His Majesty the Sultan and Yang Di-Pertuan is below the age of 18 years.

[S 49/04]

Absence of a Regent from Brunei Darussalam.

18. (1) If any Regent is or remains absent from Brunei Darussalam for more than 3 months, save in pursuance of and in accordance with the approval of the Privy Council, he shall automatically cease to be a Regent and, save where the appointment of a Regent is provided under section 11, a

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fresh appointment of a Regent shall be made, but without prejudice to the appointment of the ex-Regent on his return to Brunei Darussalam.

[S 49/04]

(2) This section shall apply also to a Regent who is absent from Brunei Darussalam at the date of his appointment, save that, in such case, he shall not be deemed to be or to remain absent from Brunei Darussalam until the expiration of such time as may be specified by the Privy Council.

PART IV

ABDICATION

Abdication.

19. (1) His Majesty the Sultan and Yang Di-Pertuan may, at any time, by an Instrument of Abdication, declare his irrevocable intention to abdicate.

[S 49/04]

(2) Upon the execution by His Majesty the Sultan and Yang Di-Pertuan of the Instrument of Abdication in the manner specified in subsection (3), His Majesty the Sultan and Yang Di-Pertuan shall cease to be the Sultan and Yang Di-Pertuan of Brunei Darussalam and the throne of Brunei Darussalam shall become vacant.

[S 49/04]

(3) An Instrument of Abdication executed in Brunei Darussalam shall not be accepted as valid if it has not been witnessed by at least 2 of the Wazirs and at least 10 of the other illustrious personages of Brunei Darussalam:

Provided that —

(a) if any dispute arises as to the validity of any such Instrument, the matter shall be referred to the Privy Council whose decision shall be final and shall not be open to review by, or appeal to, any court; and

(b) in the case of an Instrument of Abdication executed elsewhere than in Brunei Darussalam, any Instrument which is

executed and witnessed in such manner and by such persons as the Privy Council shall, in all the circumstances of the case, consider acceptable, shall be valid.

[S 49/04]

Emoluments of His Majesty who has abdicated. [S 49/04]

20. In any case in which His Majesty the Sultan and Yang Di-Pertuan shall have abdicated under this Part, he shall be entitled —

[S 49/04]

(a) to such monthly allowance for life from the revenues of Brunei Darussalam as his lawful Successor may determine, which allowance shall not be less than one-fourth part of the sum fixed for his monthly allowance when he was the reigning Sultan; and

[S 49/04]

(b) if he does not possess of his own right a house deemed by his lawful Successor to be suitable to his station, to the right to be provided by Brunei Darussalam, for his own personal use during his lifetime, with a suitable place of residence, either within or outside Brunei Darussalam.

[S 49/04]

Emoluments of His Majesty who is deemed to have abdicated. [S 49/04]

21. Whenever the Privy Council has made an Order under subsection (9) of section 17 declaring that His Majesty the Sultan and Yang Di-Pertuan shall be deemed to have abdicated, his lawful Successor may grant to him such emoluments as his lawful Successor may determine.

PART V

THE CONSORT OF HIS MAJESTY

Appointment of Raja Isteri and title of Consort of His Majesty. [S 32/04; S 49/04]

22. (1) If the Consort of His Majesty the Sultan and Yang Di-Pertuan is a Malay and of the blood of the Sultans of Brunei Darussalam or of the blood

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of the ruling house of another Muslim State, His Majesty the Sultan and Yang Di-Pertuan may —

[S 16/06]

(a) if she has been crowned, appoint her to be the “Duli Raja Isteri”; or

(b) if she has not been crowned, appoint her to be the “Pengiran Isteri”.

(2) If the Consort of His Majesty the Sultan and Yang Di-Pertuan, whether crowned or not, is not of the race or blood aforesaid, the appropriate title shall be the “Pengiran Isteri” or such other title as His Majesty the Sultan and Yang Di-Pertuan may confer in his absolute discretion.

[S 79/04; S 16/06]

Allowances for Consort of His Majesty. [S 49/04]

23. (1) The Consort of His Majesty the Sultan and Yang Di-Pertuan shall receive such allowances out of the funds of Brunei Darussalam as His Majesty the Sultan and Yang Di-Pertuan may determine.

(2) The allowances provided for under subsection (1) shall —

(a) in the event of the demise of His Majesty the Sultan and Yang Di-Pertuan or upon the abdication of His Majesty the Sultan and Yang Di-Pertuan, be not less than the sum fixed for her monthly allowance as the Consort of His Majesty the Sultan and Yang Di-Pertuan, as his Successor may determine; and

(b) on the divorce or remarriage of the Consort of His Majesty the Sultan and Yang Di-Pertuan, be such compassionate allowance as His Majesty the Sultan and Yang Di-Pertuan may determine.

PART VI

STATE FUNCTIONS

Limitation on exercise of State functions. [S 49/04]

24. (1) His Majesty the Sultan and Yang Di-Pertuan shall not without the knowledge, advice and consent of the Council of Ministers —

[S 49/04]

(a) surrender or cede, or attempt, negotiate or plan to surrender or cede, Brunei Darussalam or any part thereof; or

(b) amalgamate, federate or unite, or attempt, negotiate or plan to amalgamate, federate or unite Brunei Darussalam or any part thereof with any other territory.

(2) Neither His Majesty the Sultan and Yang Di-Pertuan, nor any Wazir or Minister shall, without the knowledge, advice and consent of the Privy Council, transfer, assign or charge any cession money.

[S 49/04]

(3) For the purposes of this section, “cession money” means any money paid to His Majesty the Sultan and Yang Di-Pertuan, the Government of Brunei Darussalam, or to any Wazir or Minister by the Government of Sarawak or North Borneo by virtue of any agreements relating to lands which have been leased to either of those Governments.

(4) Any act or thing done or purported to be done which contravenes this section shall be null and void, and shall have no effect.

Principles underlying the exercise of State functions.

25. (1) The following principles shall be inherent in the exercise of the State functions —

[S 49/04]

(a) His Majesty the Sultan and Yang Di-Pertuan never dies and the holding of any public office, appointment or honour in Brunei Darussalam shall not be affected, nor shall any fresh appointments

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thereto be rendered necessary by the death or abdication of His Majesty the Sultan and Yang Di-Pertuan; and

[S 49/04]

(b) His Majesty the Sultan and Yang Di-Pertuan can do no wrong in either his personal or any official capacity:

Provided that provision may be made by laws enacted under the Constitution 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.

[S 49/04]

(2) Any such law as is referred to in the proviso to paragraph (b) of subsection (1) shall not be deemed to be an amendment to this Proclamation.

[S 49/04]

State emblems, flags etc.

26. (1) Without prejudice to subsection (2), all the following, as now existing and recognised, are hereby adopted in perpetuity —

(a) the Emblem, Arms, Flag and Regalia of Brunei Darussalam;

(b) the Insignia of Royalty and His Majesty the Sultan and Yang Di-Pertuan's Standard; and

[S 49/04]

(c) the Standards and Flags of the Wazirs, Cheterias and Menteris.

(2) It shall be lawful for His Majesty the Sultan and Yang Di-Pertuan, after consultation with the Privy Council, to alter in any respect he may deem fit, or to rescind with or without such substitution as he may deem fit, all or any of the matters and things adopted by subsection (1).

[S 49/04]

Court and Palace of His Majesty.

27. Without prejudice to His Majesty the Sultan and Yang Di-Pertuan's prerogatives as the fountain of all honour and dignities of Brunei

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Darussalam, His Majesty the Sultan and Yang Di-Pertuan may, acting with due regard to the custom of Brunei Darussalam, provide by Court or Palace Circulars, or as he may deem appropriate for —

[S 49/04]

- (a) the appointment of Court and Palace Officers;
- (b) the discharge of Court and Palace Ceremonial and observance; and
- (c) the manner in which Court and Palace Officers, and those responsible for Court and Palace Ceremonial and observance shall discharge their duties.

PART VII

MISCELLANEOUS PROVISIONS

Sanctity.

28. Sanctity shall attach to the person of His Majesty the Sultan and Yang Di-Pertuan and to such of the palaces and lands of His Majesty the Sultan and Yang Di-Pertuan as the Privy Council, acting on behalf of and in the name of His Majesty the Sultan and Yang Di-Pertuan, may, by notification signified in the *Gazette* under the hand of the Clerk to the Privy Council, declare to be palaces or lands to which this section applies.

[S 49/04]

Power to convene Privy Council.

29. (1) His Majesty the Sultan and Yang Di-Pertuan may, at any time, require the Clerk to the Privy Council to summon the Council, or such members thereof as His Majesty the Sultan and Yang Di-Pertuan considers can conveniently attend, to assemble for the purpose of discharging any of the functions conferred upon the Privy Council by this Proclamation.

[S 49/04]

(2) This section shall apply to a Council of Regency as it applies to His Majesty the Sultan and Yang Di-Pertuan.

[S 49/04]

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Preservation of existing custom and of the right to grant certain pension and allowances.

30. (1) Save in so far as the same may be inconsistent with the provisions of this Proclamation, the ancient customs of Brunei Darussalam in relation to the Sultanate or the Regency, or to the granting, holding, suspension or deprivation of rank, title, dignity, decoration or precedence by His Majesty the Sultan and Yang Di-Pertuan, shall continue to have effect.

[S 49/04]

(2) Nothing contained in the Constitution or in this Proclamation shall be deemed to revoke the grant of any political pension or allowance to any of the children of a Sultan; and it shall be lawful for the Sultan and his Successors to grant out of the revenue of Brunei Darussalam —

[S 49/04]

(a) political pensions to any of the children of a reigning Sultan;
and

(b) a compassionate allowance to any person who is, in the opinion of His Majesty the Sultan and Yang Di-Pertuan, entitled thereto, either by way of a lump sum or a periodical payment, or partly in the one way and partly in the other.

(3) Any pension or allowance granted under subsection (2) to a male child of the Sultan shall cease upon the accession of such child to the throne of Brunei Darussalam.

(4) The power conferred by subsection (2) shall include the power to revoke or vary any grant including a grant made prior to the commencement of this Proclamation.

[S 49/04]

Compassionate allowances.

30A. A person shall cease to hold the title and rank of Kepala Wazir or Wazir, as the case may be, on attaining the age of 70 years or such later time as His Majesty the Sultan and Yang Di-Pertuan may determine and in such event the person shall receive such compassionate allowance as may be granted under section 30.

[S 49/04]

PART VIII

AMENDMENT AND INTERPRETATION

Amendment. [S 49/04]

31. It shall be lawful for His Majesty the Sultan and Yang Di-Pertuan to, by Proclamation published in the *Gazette*, add to, amend or revoke all or any of the provisions of this Proclamation, including this section, and this Proclamation shall not otherwise be added to, amended or revoked.

Interpretation Tribunal. [S 49/04]

32. (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 Proclamation to the Interpretation Tribunal.

[S 49/04]

(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 49/04]

(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 49/04]

(4) The decision of a majority of the Interpretation Tribunal upon any question referred to it under this section shall be deemed to be a decision of that Tribunal; and any decision of the Interpretation Tribunal shall be in

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writing and shall be published in the *Gazette*, and may be proved by production of the *Gazette*.

[S 49/04]

(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 subsection (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 49/04]

(6) The determination of the Interpretation Tribunal in any question referred to it under this section 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 49/04]

(7) 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 section, and may make arrangements as to the remuneration to be paid to members of the Interpretation Tribunal, which remuneration shall be charged to the Consolidated Fund.

[S 49/04]

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

[S 49/04]

Prevailing text. [S 49/04]

33. In the case of any doubt, conflict or discrepancy between the Malay and the English texts of this Proclamation, the Malay text shall prevail.

No judicial review. [S 49/04]

34. (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 Proclamation, including any question relating to compliance with any procedural requirement governing such act or decision.

(3) In this section, “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 Proclamation.

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SCHEDULE

(section 14)

OATH TO BE TAKEN AND SUBSCRIBED BY REGENT

WALLAHI WA-BILLAHI WA-TAALLAHI

1. I, swear by Almighty ALLAH that I will be faithful and bear true allegiance to His Majesty the Sultan and Yang Di-Pertuan* his Heirs and Successors according to law.

[S 49/04]

2. I, swear by Almighty ALLAH that I will truly and faithfully execute the office of Regent, and that I will govern according to law, and will, in all things, to the utmost of my power and ability, consult and maintain the safety, honour and dignity of His Majesty the Sultan and Yang Di-Pertuan* and the welfare of his people.

[S 49/04]

3. I, swear by Almighty ALLAH that I will inviolably maintain and preserve in Brunei Darussalam the Islamic Religion.

[S 32/04; S 49/04]

Dated this day of 20.....

[S 49/04]

.....
(Signature)

* Here insert the name of His Majesty the Sultan and Yang Di-Pertuan

Confirmation.

So be it. Such are the contents of the Succession and Regency Proclamation.

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 the Succession and Regency Proclamation and of the concurrence and assent of the Traditional Advisers, we 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.

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

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