

LAWS OF BRUNEI

REVISED EDITION 1984

CHAPTER 103

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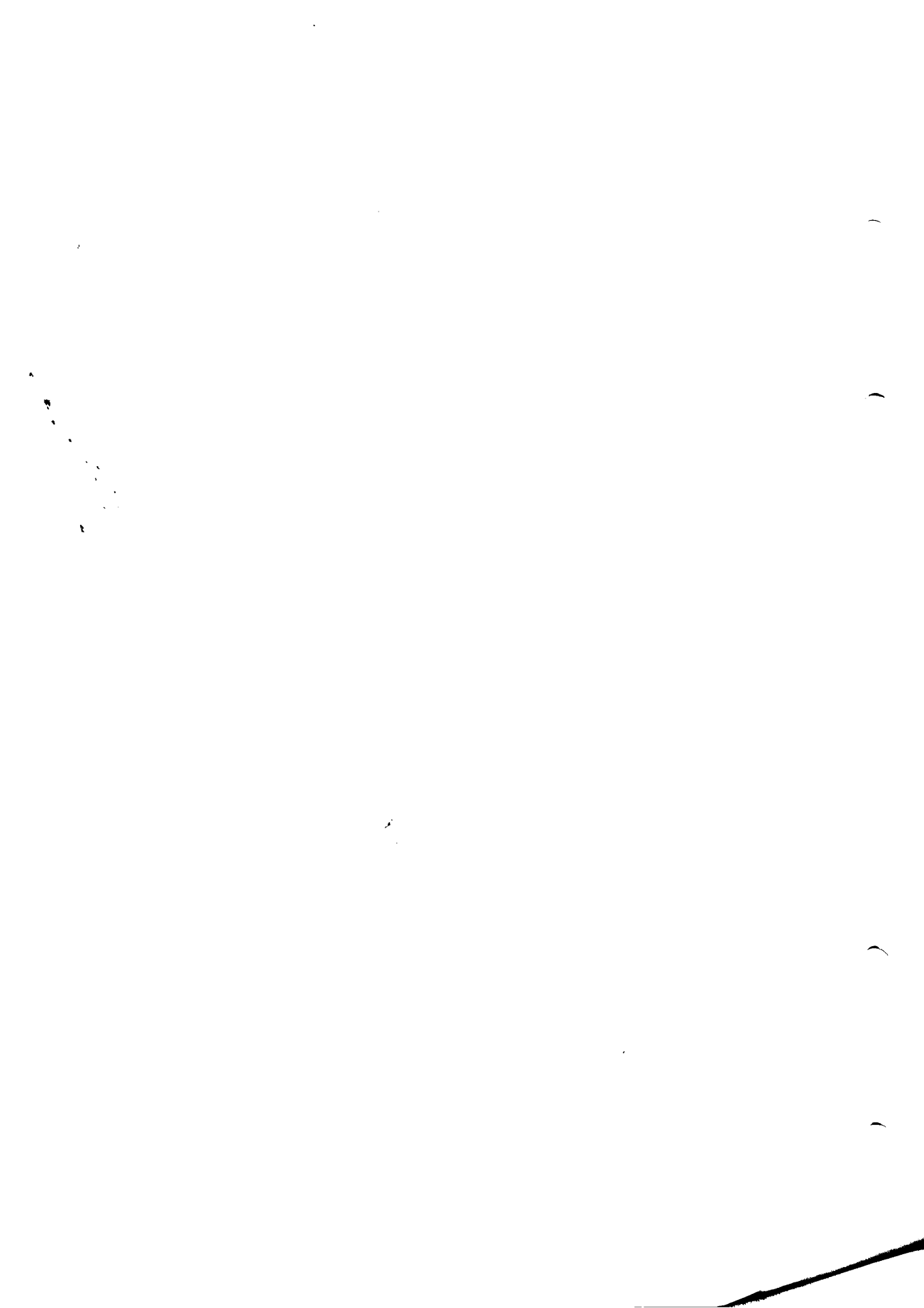
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TRAVEL AGENTS ACT

An Act to provide for the licensing of travel agents and for regulation of their operations; and for purposes connected therewith 9 of 1978
E.8/79
E.10/79

Commencement: 1st January 1982 S.165/81

PART I

PRELIMINARY

1. This Act may be cited as the Travel Agents Act. Short title

2. In this Act, unless the context otherwise requires — Interpretation

“the Board” means the Brunei Economic Development Board established under section 3 of the Brunei Economic Development Board Act; Cap. 104

“Licence” means a licence issued under this Act;

“Licensee” means any person who holds a licence granted to him or on his behalf.

3. Nothing in this Act shall be construed as relieving any person from the requirements of any written law relating to the registration of business names, companies and co-operative societies or the payment of any fee in respect of such registration. Application

4. (1) Subject to the provisions of this section, a person carries on the business of a travel agent if that person — Business of travel agent
 - (a) sells tickets entitling an individual to travel, or otherwise arranges for a person a right of passage on any conveyance; or

(b) sells to, or arranges or makes available for, a person rights of passage to, and hotel or other accommodation at, one or more places (being places within or beyond Brunei, or some of which are within and others of which are beyond Brunei); or

(c) purchase for resale the right of passage on any conveyance; or

(d) carries out any activity which may be prescribed; or

(e) holds himself out as, or advertises that he is, willing to carrying on any activity referred to in paragraph (a), (b), (c), or (d).

(2) Any individual does not carry on the business of a travel agent by reason only of carrying on in the course of his employment any activity referred to in subsection (1).

(3) A person does not carry on the business of a travel agent in respect of any activity referred to in —

(a) paragraph (a) of subsection (1) if he carries on the activity in respect of a conveyance of which he is the owner; or

(b) paragraph (b) of subsection (1) if he carries on the activity in respect of a conveyance and place of accommodation of which he is the owner.

(4) A person does not carry on the business of a travel agent by reason only of holding himself out as, or advertising that he is, willing to carry on any activity to which paragraph (a) or (b) of subsection (3) applies.

5. (1) The Board shall be responsible for the administration of this Act and may authorise any of its officers or a Committee to exercise any of the powers conferred and perform any of the functions imposed upon the Board by this Act on its behalf.

Board responsible for the administration of this Act

(2) For the purpose of this section, the Board shall have the power to establish a Committee which shall consist of such number of members whether appointed from amongst members of the Board or not as the Board may think appropriate.

PART II

LICENSING OF TRAVEL AGENTS

6. (1) No person shall carry on the business of a travel agent unless he is the holder of a licence granted to him or on his behalf.

Persons carrying on travel agent business to be licensed

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence: Penalty, a fine of \$10,000 and imprisonment for 2 years.

7. (1) Any person who desires to obtain a licence shall make an application to the Board in such form as the Board may require.

Application for licence

(2) Upon receiving an application under subsection (1) the Board shall consider the application and may grant a licence, with or without conditions, or refuse to grant a licence.

(3) The Board shall refuse to grant licence if —

(a) satisfactory evidence has not been produced of the good name and character of the applicant or, if the applicant is a company, of its officers holding a managerial or an executive position or, if the applicant is a firm, of the members of the firm; or

(b) satisfactory evidence has not been produced to show that the applicant is a fit and proper person to hold a licence; or

(c) the applicant or, if the applicant is a firm, any member of the firm, has been convicted of any offence involving fraud or moral turpitude or, if the applicant is a company, any of its officers holding a managerial or an executive position has been convicted of any offence involving fraud or moral turpitude; or

(d) the Board considers it in the public interest to do so.

(4) The Board may at any time vary or revoke any of the existing conditions of a licence or impose conditions or additional conditions thereto.

(5) The Board shall, prior to taking any action under subsection (4), notify its intention to take such action to the licensee concerned and shall give the licensee an opportunity to submit reasons why the conditions of his licence should not be so varied or revoked.

(6) Where a licence is subject to conditions the licensee shall comply with those conditions.

(7) Any person who is aggrieved by a decision of the Board under this section may, within one month of being notified of the decision of the Board, appeal against such decision to the Minister whose decision thereon shall be final.

8. The Board may, with the approval of the Minister, limit the number of licences to be issued under this Act. Limit as to number of licences issued

9. Every licensee shall pay such annual fee as may be prescribed. Annual licence fee

10. (1) Every licensee shall exhibit his licence or a certified copy thereof in a conspicuous place at his principal place of business and at every branch where the licensee carries on the business of a travel agent. Display of licence

(2) Any person —

(a) who contravenes or fails to comply with the provisions of subsection (1); or

(b) who not being the holder of a licence, keeps up or exhibits on or near his office, house or place of business or exhibits anywhere or allows to remain unobliterated any sign, writing, painting or other mark implying that such office, house or place of business is that of person licensed to carry on the business of travel agent,

shall be guilty of an offence: Penalty, a fine of \$10,000 and imprisonment for 2 years.

11. (1) The Board may by order revoke a licence — Revocation of a licence

(a) if the Board is satisfied that the licensee —

(i) has ceased to carry on the business for which

he has been licensed or, if the licensee being a company, goes into liquidation or is wound up or otherwise dissolved; or

- (ii) improperly obtained his licence contrary to the provisions of this Act; or
- (iii) is no longer a fit and proper person to continue to hold the licence; or
- (iv) has been convicted of any offence involving dishonesty or moral turpitude or, if the licensee is a company any of its officers holding a managerial or an executive position or, if the licensee is a firm, any member of the firm has been convicted of any offence involving fraud or moral turpitude; or
- (v) is carrying on or has carried on the business of a travel agent in such a manner as renders him unfit to continue to hold a licence; or
- (vi) is contravening or has contravened any of the provisions of this Act; or
- (vii) has been convicted of any offence under this Act or the regulations made thereunder or, if the licensee is a company, any of its officers holding a managerial or an executive position has been convicted of any offence under this Act or the regulations made thereunder; or

(b) if the Board considers it in the public interest to do so.

(2) The Board shall, before revoking any licence under the provisions of subsection (1), give the licensee concerned notice in writing of its intention to do so, specify a date, not less than 21 days after the date of the notice, upon which such revocation shall take effect and calling upon the licensee concerned to show cause to the Board why his licence should not be revoked.

(3) When the Board has revoked a licence under the provisions of subsection (1) it shall forthwith inform the licensee concerned by notice in writing of such revocation.

(4) The person whose licence has been revoked may, within 14 days after the receipt of the notice referred to in subsection (3), or such extended period of time as the Minister may allow, appeal in writing against such revocation to the Minister whose decision thereon shall be final.

(5) An order of revocation shall not take effect until the expiration of a period of 14 days after the Board has informed the licensee concerned of the order.

(6) If within that period the licensee concerned gives due notice of appeal to the Minister the order shall not take effect unless the order is confirmed by the Minister or the appeal is for any reason dismissed by the Minister or is withdrawn.

12. (1) Where an order of revocation becomes effective under section 11, the licensee concerned shall forthwith cease to carry on the business of a travel agent.

Effect of
revocation of
licence

(2) The provisions of subsection (1) shall not prejudice the enforcement by any person of any right or claim against the licensee concerned or by the licensee concerned of any right or claim against any person arising out of or concerning any matter or thing done prior to the revocation of the licence.

PART III

GENERAL

Furnishing
incorrect
particulars in
application

13. Any person who in any application for a licence makes any statement which is not correct in any material particular shall be guilty of an offence: Penalty, a fine of \$5,000.

Wrongful
conversion
and false
accounts

14. (1) Any licensee who —

(a) fraudulently converts to his own use or to the use of any other person —

(i) any moneys, or any part of any moneys, received by him on behalf of any person in respect of any transaction in his capacity as a travel agent; or

(ii) any moneys, or part of any moneys, so received which are held by him in trust pending the completion of any transaction;

(b) fraudulently omits to account for, deliver or pay —

(i) any such moneys or any part thereof so received by him on behalf of any person to such person; or

(ii) any such moneys or any part thereof so received by him which are or were held by him in trust as aforesaid pending the completion of the transaction to the person or persons entitled to such moneys; or

(c) fraudulently renders an account knowing such account to be false in any material particulars —

(i) of any such moneys or any part thereof so received by him on behalf of any person;

- (ii) of any moneys so received by him which are or were held by him in trust pending the completion of any transaction or any part of such moneys; or
- (iii) of expenses, commission or other charges incidental to any transaction or proposed or contemplated transaction as a travel agent,

shall be guilty of an offence: Penalty, imprisonment for 3 years.

(2) Nothing contained in this section shall be so construed as to limit or in any way affect the provisions of any other written law.

15. Any police officer, not below the rank of Inspector, on being satisfied upon any information and after any further inquiry which he thinks necessary that there is good reason to believe that any place is used for the carrying on of the business of a travel agent by a person who is not the holder of a licence, may with such assistance and by such force as is necessary, by day or by night, enter or go to such place and search the same and all persons found therein, and seize all documents and things reasonably supposed to have been used or intended to be used in connection with the business of a travel agent which are found in such place or on such persons, and also detain all such persons until they and the said place have been searched.

Power to
search
premises

16. (1) Any police officer may without warrant arrest any person whom he reasonably suspect to have committed an offence under this Act.

Power to
arrest

(2) Any police officer arresting a person under subsection (1) may search such person and take possession of all articles found on him which there is reason to believe were used in connection with the offence:

Provided that no female shall be searched except by a female.

(3) Every person so arrested shall be taken to a nearest police station.

Power to
investigate

17. In any case relating to the commission of an offence under this Act, any police officer may exercise all or any of the special powers in relation to seizable offences given by the Criminal Procedure Code.

Cap. 7

Power of the
Board

18. Any police officer, and any officer of the Board duly authorised in writing in that behalf by the Board, shall, for the purposes of the execution of this Act have power to do all or any of the following that is to say —

(a) to enter, inspect and examine by day or by night the place of business of any licensee;

(b) to require the production of records, accounts and documents kept by a licensee and to inspect, examine and copy any of them; and

(c) to make such inquiry as may be necessary to ascertain whether the provisions of this Act are complied with so far as regards any person employed by a licensee to assist in the work of a travel agent.

Obstruction
of search,
etc.

19. Any person who —

(a) refuses any police officer or any of the officers of the Board authorised to enter or search access to any place;

(b) assaults, obstructs, hinders or delays him in effecting any entrance which he is entitled to effect under this Act, or in the execution of any duty imposed or power conferred by this Act;

(c) fails to comply with any lawful demand of a police officer or an officer of the Board in the execution of his duty under this Act; or

(d) refuses or neglects to give any information which may reasonably be required of him and which he has it in his power to give,

shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for one year.

20. (1) Where an offence under this Act has been committed by a company, any person, who at the time of the commission of such offence was a director, secretary, manager or other officer of the company or who was purporting to act in any such capacity, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his function in that capacity and all the circumstances.

Liability of
directors
partners, etc.

(2) Any person who would have been guilty of an offence if anything had been done or omitted to be done by him personally shall be guilty of such offence and shall be liable to the same penalty if such thing had been done or omitted to be done by his partner, agent or servant in the course of partnership business or in the course of his employment, as the case may be, unless he proves that the offence was committed without his knowledge or consent and that he took all reasonable precautions to prevent the doing or omission to do such thing.

(3) Nothing in subsection (2) shall relieve any partner, agent or servant from any liability for an offence.

Disclosure of information

21. (1) A person shall not disclose any information obtained by him in connection with the administration or execution of this Act, unless the disclosure is made —

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the administration or execution of this Act;

(c) for the purposes of any legal proceedings arising out of this Act or of any report of such proceedings; or

(d) for the purpose of objecting to an application for a licence or of any investigation conducted under this Act.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence: Penalty, a fine of \$2,000 and imprisonment for 6 months.

Service of notices, orders and subpoena

22. A notice, order, determination, certificate or subpoena that may be given, made or issued under this Act may be served —

(a) by delivering it personally to the person to whom it is addressed; or

(b) where it is addressed to the licensee —

(i) by delivering it to any place shown on the application for the licence as the licensee's place of abode or business and by leaving it there with some person for that licensee; or

- (ii) by posting it by registered post in an envelope duly stamped and addressed to the person to whom it is addressed at any place shown on the application for the licence as the licensee's place of abode or business,

and shall be deemed to have been served upon its being so delivered or, in the case of a notice, order, certificate or subpoena served as referred to in sub-paragraph (ii) of paragraph (b), shall be deemed to have been served when it would be delivered in the ordinary course of post.

23. Any notice, summons, writ or other proceedings required to be served on the Board may be served by being left with some person apparently employed in the administration of this Act at the office of the Board or, in the case of notice, by posting it by registered post in an envelope duly stamped and addressed to the Board at its office, and shall be deemed to have been served upon its being left or, in the case of a notice served by so posting it, shall be prima facie deemed to have been served when it would be delivered in the ordinary course of post.

Service of
notice of
proceedings
on the Board

24. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman or Director of the Board.

Documents
how
authenticated

25. No court shall take cognizance of any offence under this Act or the regulations made thereunder except with the sanction in writing of the Public Prosecutor.

Sanction for
prosecution

26. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan make regulations generally for the carrying out of the provisions of this Act and without prejudice to such general power, may make regulations for all or any of the following purposes —

Regulations

(a) prescribing the information and documents to be furnished by an applicant for a licence;

(b) prescribing any forms to be used under this Act;

(c) prescribing the procedure to be followed on applications and other proceedings under this Act;

(d) prescribing the books, accounts (including trust accounts) and records to be kept by a licensee and the form and mode of keeping such books, accounts and records;

(e) prescribing the fees payable in respect of licences issued under this Act;

(f) prescribing the conditions for a licence issued under this Act;

(g) regulating the conduct of travel agents in their business and prescribing a code of conduct for travel agents;

(h) to exempt any person or classes of persons or any conveyance or types of conveyance from the provisions of this Act; and

(i) establishing a compensation fund which can be used to compensate travellers who may suffer from the financial collapse of a travel agent or from the malpractice of a travel agent, and the administration of such fund.

(2) Such regulations may provide that a contravention thereof shall be punishable by a fine of \$10,000 and to imprisonment for one year and in the case of a continuing offence may provide that a contravention thereof shall be punishable by a further fine not exceeding \$1,000 a day during which the offence is continued.

27. Notwithstanding anything contained in this Act, a person who, immediately before the date of the commencement of this Act was carrying on the business of a travel agent shall be entitled to do the same without a licence — Transitional provisions

(a) for a period of one month beginning from the date of the commencement of this Act; or

(b) if before the expiration of that period he applies for a licence in respect of the same, until the licence is granted or finally refused or the application is withdrawn.