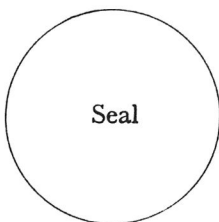




ENACTMENT No. 4 of 1961  
THE BRUNEI NATIONALITY ENACTMENT,  
1961

I assent,



SIR OMAR ALI SAIFUDDIN

*H.H. the Sultan of Brunei.*

12.12.61

**THE BRUNEI NATIONALITY ENACTMENT, 1961.**  
**ARRANGEMENT OF SECTIONS.**

**Section**

1. Short title and commencement.
  2. Interpretation.
  3. National status.
  4. Subject of the Sultan by operation of law.
  5. Subject of the Sultan by registration.
  6. Registration of minors.
  7. Effect of registration as a subject of the Sultan.
  8. Subject of the Sultan by naturalisation.
  9. Loss of status of subject of the Sultan.
  10. Renunciation of status of subject of the Sultan.
  11. Deprivation of status of subject of the Sultan.
  12. Saving of obligations incurred before loss of national status.
  13. Decision of the Sultan not subject to appeal or review.
  14. Birth on ship.
  15. Language Board.
  16. Evidence.
  17. Offences.
  18. Power of Sultan in Council to make regulations.
- First Schedule  
Second Schedule

*An Enactment to make provision for the status of a subject of His Highness the Sultan, for the acquisition and loss of such status and for other purposes connected therewith.*

[ 1.1.1962 ]

BE IT ENACTED by His Highness the Sultan with the advice and consent of the Legislative Council as follows:—

Short title and commencement.

1. This Enactment may be cited as the Brunei Nationality Enactment, 1961, and shall come into force on the 1st day of January, 1962.

Interpretation.

2. (1) In this Enactment, unless the context otherwise requires —

“child” includes any child whose adoption has been registered in accordance with any written law in force in the State;

“citizen of the United Kingdom and Colonies” means a person who is a citizen of the United Kingdom and Colonies under the British Nationality Act, 1948;

“minor” means a person who has not attained the age of eighteen years reckoned according to the Gregorian calendar;

“the appointed day” means the 1st day of January, 1962.

(2) A person shall for the purposes of this Enactment be of full capacity if he has attained the age of eighteen years reckoned according to the Gregorian calendar and is of sound mind.

(3) For the purposes of this Enactment, any reference therein to a woman who is, or has been, married shall be deemed to refer only to a woman

whose marriage has been registered in accordance with any written law in force in the State or in accordance with any regulations made under this Enactment.

(4) Any reference in this Enactment to the status or description of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the status or description of the father at the time of the father's death; and where that death occurred before, and the birth occurs after the appointed day, the status or description which would have been applicable to the father had he died after the appointed day shall be deemed to be the status or description applicable to him at the time of his death.

**National status.** 3. A subject of the Sultan shall have the status of a national of the State of Brunei.

**Subject of the Sultan by operation of law.** 4. (1) On and after the appointed day the following persons, and no others, shall be subjects of His Highness the Sultan by operation of law —

- (a) any person born in the State before, on or after the appointed day who is commonly accepted as belonging to one of the following indigenous groups of the Malay race, namely, Belait, Bisayah, Brunei, Dusun, Kedayan, Murut or Tutong;
- (b) any person born in the State before, on or after the appointed day whose father and mother were both born in the State and are members of any of the groups of people specified in the First Schedule to this Enactment;
- (c) any person born outside the State before, on or after the appointed day —
  - (i) whose father was, at the time of

birth of such person, a person born in the State before, on or after the appointed day and was a person commonly accepted as belonging to one of the following indigenous groups of the Malay race, namely, Belait, Bisayah, Brunei, Dusun, Kedayan, Murut or Tutong; or

- (ii) whose father and mother were both born in the State and were members of any of the groups specified in the First Schedule to this Enactment;
- (d) any person born in the State on or after the appointed day whose father was, at the time of the birth of such person, a subject of the Sultan; and
- (e) any person born outside the State on or after the appointed day whose father was at the time of birth of such person a subject of the Sultan by registration under section 5, if the birth was registered at a British Consulate or in the State within six months of its occurrence, or such longer period as the Sultan may in any particular case allow.

(2) His Highness the Sultan may from time to time by notification in the *Gazette* amend, repeal, add to or vary the First Schedule to this Enactment.

Subject of the  
Sultan by  
registration.

5. (1) Subject as hereinafter provided a person, not being a minor, born in the State before, on or after the appointed day, who is not a subject of the Sultan, shall be eligible on making application in the prescribed manner to be registered as a subject of the Sultan if he satisfies the Sultan that he —

- (a) has within the period of fifteen years immediately preceding the date of his application for registration resided in the State for periods amounting in the aggregate to not less than twelve years; and
- (b) has resided in the State throughout the two years immediately preceding the date of his application.

(2) In calculating the period of residence in the State for the purposes of subsection (1) of this section any period of absence from the State —

- (a) for purposes of education of such kinds in such countries and during such periods as may from time to time be either generally or specially approved by the Sultan in Council for the purposes of such subsection; or
- (b) while on duty in the service of the State or in the service of Her Britannic Majesty, where the Sultan is satisfied that such period is consistent with essential continuity of residence; or
- (c) between the first day of July, 1941, and the thirty-first day of December, 1946, in the case of a person who was residing in the State for a period of five years immediately preceding such absence; or
- (d) for reasons of health or any other cause prescribed generally or specially by the Sultan in Council;

shall be treated as residence in the State.

(3) In calculating the period of residence in the State for the purposes of subsection (1) of this section any period of residence in the State —

- (a) during which a person was not lawfully resident in the State; or

- (b) spent as an inmate of any prison or as a person detained in lawful custody in any other place other than in a mental hospital under the provisions of any written law in the State; or
- (c) during which a person is allowed to remain temporarily in the State under the authority of any pass or permit issued under the provisions of any written law in the State;

shall not be treated as residence in the State:

Provided that the period mentioned in paragraph (c) may be treated as residence with the consent of the Sultan in Council.

(4) For the purposes of this Enactment a person shall be deemed to be resident in the State on a particular day if he had been resident in the State before that day and that day is included in any such period of absence as is referred to in subsection (2) of this section.

(5) No person shall be eligible to be registered under subsection (1) unless —

- (a) the Sultan is satisfied that he has been examined by a Language Board and such Board has advised the Sultan that he —
  - (i) has a knowledge of the Malay language to such a degree of proficiency as may be prescribed; and
  - (ii) is able to speak the Malay language with proficiency or is unable to speak such language with proficiency by reason of a physical impediment or an impediment of speech or hearing;
- (b) the Sultan is satisfied that he is of good character; and

(c) he has taken the oath in the form set out in the Second Schedule.

(6) Subject as hereinafter provided a woman who —

(a) is not a subject of the Sultan; and

(b) is or has been married to a subject of the Sultan,

shall, on making application therefor to the Sultan in the prescribed manner, be eligible to be registered as a subject of the Sultan, whether or not she is of full capacity:

Provided that no woman shall be eligible to be registered under this subsection —

(A) unless she —

(i) satisfies the Sultan that she is of good character; and

(ii) has taken the oath in the form set out in the Second Schedule to this Enactment; or

(B) if at the time of her application she has ceased to be married to a subject of the Sultan and has married a man who is not a subject of the Sultan.

(7) A person who has renounced, or has been deprived of, the status of a subject of the Sultan conferred by or under this Enactment or of a citizen of the United Kingdom and Colonies, shall not be eligible to be registered as a subject of the Sultan under this section, but may be so registered with the approval of the Sultan.

**Registration  
of minors.**

6. (1) The Sultan may cause the minor child of any subject of the Sultan to be registered as a subject of the Sultan upon application made in the prescribed manner by a parent or guardian of the child.

(2) The Sultan may, in such special circumstances as he thinks fit, cause any minor to be registered as a subject of the Sultan.



(3) For the purposes of this section “parent” in relation to a child whose adoption has been registered means the adopter.

**Effect of registration as a subject of the Sultan.**

7. A person registered under section 5, 6 or subsection (4) of section 9 shall be a subject of the Sultan as from the date on which he is registered.

**Subject of the Sultan by naturalisation.**

8. (1) The Sultan may, if application therefor is made to him in the prescribed manner by any person who is not a subject of the Sultan and who is of full capacity, grant to such person a certificate of naturalisation if he satisfies the Sultan that he —

- (a) has within the period of twenty-five years immediately preceding the date of his application resided in the State for periods amounting in the aggregate to not less than twenty years; and
- (b) has resided in the State throughout the two years immediately preceding the date of his application; and
- (c) is of good character; and
- (d) is not likely to become a charge on the State; and
- (e) has been examined by a Language Board and such Board is satisfied that he —
  - (i) has a knowledge of the Malay language to such a degree of proficiency as may be prescribed; and
  - (ii) is able to speak the Malay language with proficiency or is unable to speak such language with proficiency by reason of a physical impediment or an impediment of speech or hearing; and
- (f) has made a declaration that he intends, in the event of a certificate being

granted to him, to settle permanently in the State.

(2) In calculating the period of residence in the State for the purposes of subsection (1) of this section any period of absence from the State —

- (a) for purposes of education of such kinds in such countries and during such periods as may from time to time be either generally or specially approved by the Sultan in Council for the purposes of such subsection; or
- (b) while on duty in the service of the State or in the service of Her Britannic Majesty, where the Sultan is satisfied that such period is consistent with essential continuity of residence; or
- (c) between the first day of July, 1941, and the thirty-first day of December, 1946, in the case of a person who was residing in the State for a period of five years immediately preceding such absence; or
- (d) for reasons of health or any other cause prescribed generally or specially by the Sultan in Council;

shall be treated as residence in the State.

(3) In calculating the period of residence in the State for the purposes of subsection (1) of this section any period of residence in the State —

- (a) during which a person was not lawfully resident in the State; or
- (b) spent as an inmate of any prison or as a person detained in lawful custody in any other place other than in a mental hospital under the provisions of any written law in the State; or
- (c) during which a person is allowed to remain temporarily in the State under

the authority of any pass or permit issued under the provisions of any written law in the State;

shall not be treated as residence in the State:

Provided that the period mentioned in paragraph (c) may be treated as residence with the consent of the Sultan in Council.

(4) For the purposes of this Enactment a person shall be deemed to be resident in the State on a particular day if he had been resident in the State before that day and that day is included in any such period of absence as is referred to in subsection (2) of this section.

(5) The person to whom a certificate of naturalisation is granted under this section shall, on taking the oath in the form set out in the Second Schedule, be a subject of the Sultan by naturalisation as from the date on which that certificate is granted.

**Loss of status  
of subject of  
the Sultan.**

9. (1) Subject as hereinafter provided, where a person who is a subject of the Sultan has, at any time after the appointed day, absented himself from the State, for a continuous period of five years and is unable to provide proof to the satisfaction of the Sultan that he has maintained substantial connection with the State during that period, such person shall cease to be a subject of the Sultan.

(2) A person who has absented himself from the State for the aforesaid period of five years but who, before the expiration thereof, has made application in the prescribed manner to the Sultan for a certificate that such person is maintaining substantial connection with the State shall not, because of his absence during that period, cease to be a subject of the Sultan unless and until he has been notified that such application has been refused. The grant of any such certificate shall be at the absolute discretion of the Sultan.

(3) A person who is a subject of the Sultan under section 4(1) (a), (b), (c), (d) or (e) shall not cease to be a subject of the Sultan under this section if, on such cesser, he would have no national status.

(4) If any person who has ceased to be a subject of the Sultan under this section, resumes residence within the State, he may apply to the Sultan, in the prescribed manner and subject to any conditions that may be prescribed, for registration as a subject of the Sultan and the Sultan may, in his discretion, cause him to be registered as such.

(5) A person who has the status of a subject of the Sultan shall cease to have such status if —

- (a) he voluntarily acquires the nationality or citizenship of any State or country outside Brunei other than citizenship of the United Kingdom and Colonies; or
- (b) being a woman who has acquired such status by registration under subsection (6) (B) of section 5, she acquires by reason of her subsequent marriage the nationality or citizenship of her husband being the nationality or citizenship of any State or country outside Brunei other than citizenship of the United Kingdom and Colonies.

**Renunciation of status of subject of the Sultan.**

10. If any person of full capacity who is a subject of the Sultan makes a declaration in the prescribed manner of renunciation of the status of a subject of the Sultan, the Sultan shall cause the declaration to be registered; and, upon the registration, that person shall cease to be a subject of the Sultan:

Provided that the Sultan may withhold registration of any such declaration if it is made during a period of emergency declared as such, at or after its commencement, by the Sultan in Council for the purposes of this section.

Deprivation of status of subject of the Sultan.

11. (1) A subject of the Sultan shall cease to have such status if he is deprived of that status by an order of the Sultan in Council made under this section.

(2) Subject to the provisions of this section, the Sultan in Council may by order deprive any person who is a subject of the Sultan —

- (a) by registration; or
- (b) by naturalisation,

of that status if he is satisfied that the registration of such person or the certificate of naturalisation granted to him under this Enactment was obtained by means of fraud, false representation or by concealment of any material fact or was made or granted by mistake:

Provided that no person shall be deprived, under the provisions of this section, of the status of a subject of the Sultan on the grounds of mistake unless notice of the intention so to do has been served on him or published in the *Gazette* within twenty-four months of the date of registration or the grant of a certificate, as the case may be.

(3) Subject to the provisions of this section, the Sultan in Council may by order deprive any person who is a subject of the Sultan —

- (A) by registration; or
- (B) by naturalisation,

of that status if he is satisfied that, subsequent to registration or subsequent to the grant of a certificate of naturalisation under this Enactment that person—

- (a) has shown himself by act or speech to have the intent to be disloyal or disaffected towards the Sultan; or
- (b) has exercised any right, power or privilege to which he may be eligible by reason of any nationality or citizenship,

other than the rights, powers or privileges of a citizen of the United Kingdom and Colonies; or

- (c) has, during any war in which Her Britannic Majesty is engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such manner as to assist an enemy in that war; or
- (d) has within five years after registration or becoming naturalised, been sentenced in any part of the Commonwealth to death or to imprisonment, by whatever name called, for a term exceeding twelve months and has not received a free pardon:

Provided that no order shall be made on any of the grounds specified in this subsection in the case of a subject of the Sultan who would, on being deprived of such status, have no national status, unless the Sultan in Council is, in the exercise of his discretion, satisfied that such a person is in a position effectively to enjoy the protection of some other State and to proceed thereto if he so wishes without thereby endangering his personal safety.

(4) Before making an order under this section the Sultan in Council shall cause to be given to the person against whom the order is proposed to be made a notice in writing informing him of the ground on which it is proposed to be made and of his right to an inquiry under this section.

(5) If the person against whom the order is proposed to be made applies in the prescribed manner for an inquiry the Sultan in Council shall refer the case to a Committee of Inquiry consisting of a chairman, being a person possessing judicial experience, appointed by the Sultan, and of such other members appointed by the Sultan as he thinks proper.

(6) The Sultan in Council shall not make an order under this section unless he is satisfied that it is not conducive to the public good that the person against whom the order is proposed to be made should continue to be a subject of the Sultan.

Saving of obligations incurred before loss of national status.

12. Where a subject of the Sultan ceases to be a subject of the Sultan, he shall not thereby be discharged from any obligations, duty or liability in respect of any act done before he ceased to be a subject of the Sultan.

Discretion of the Sultan not subject to appeal or review.

13. The Sultan shall not be required to assign any reason for the grant or refusal of any application under this Enactment, and the decision of the Sultan on any such application shall not be subject to appeal to or review in any Court.

Birth on ship.

14. (1) Birth on board a ship registered or belonging to the Government of the State shall be deemed to be birth in the State.

(2) A person born on board a registered ship or on board an unregistered ship of any country shall be deemed to have been born in the place in which the ship was registered or, as the case may be, in that country.

Language Board.

15. (1) There shall be one or more Language Boards each of which shall consist of a Chairman and two other members appointed by the Sultan in Council. Any such Board may act by a majority of the members thereof.

(2) It shall be the duty of a Language Board to advise the Sultan in accordance with such regulations as may be prescribed whether any person applying for registration or naturalisation under the Enactment has a knowledge of the Malay language to such a degree of proficiency as may be prescribed and is able to speak that language with proficiency or is unable to speak such language with proficiency by reason of a physical impediment or impediment of speech or hearing.

**Evidence.**

16. (1) Every document purporting to be a notice, certificate, order or declaration, or an entry in a register or a subscription of an oath, given, granted or made under this Enactment shall be received in evidence, and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.

(2) *Prima facie* evidence of any such document as aforesaid may be given by production of a document purporting to be certified as a true copy thereof by such person and in such manner as may be prescribed.

**Offences.**

17. Any person who, for the purpose of procuring anything to be done or not to be done under this Enactment, makes any statement which he knows to be false in any material particular, or recklessly makes any statement which is false in any material particular, shall be guilty of an offence and shall on conviction be liable to imprisonment for twelve months or to a fine of two thousand dollars or to both such imprisonment and fine.

**Power of Sultan in Council to make regulations.**

18. The Sultan in Council may by regulations make provision generally for carrying into effect the purposes of this Enactment, and in particular —

- (a) for prescribing anything which under this Enactment may be prescribed;
- (b) for the registration of anything required or authorised under this Enactment to be registered;
- (c) for prescribing forms of declaration, the administration and taking of oaths, the time within which such oaths shall be taken and the registration of such oaths;
- (d) for the giving of any notice required or authorised to be given to any person under this Enactment;



- (e) for the procedure to be followed by a Language Board for ascertaining the ability of any person to speak the Malay language with proficiency or by persons applying for registration or for certificates of naturalisation under this Enactment, the evidence to be required from such person as to their qualifications for the status of a subject of the Sultan, including evidence of ability to speak the Malay language with proficiency, and for imposing penalties for requiring any consideration for supplying any reference that may be required by any prescribed form;
- (f) for the issue of certified copies of documents made, and extracts from registers kept, under this Enactment, for the cancellation and amendment of entries in a register and of certificates and of certified copies of entries in a register and of certificates prepared under this Enactment and relating to persons who lose the status of a subject of the Sultan under this Enactment, and for requiring such documents to be delivered up for those purposes;
- (g) for the imposition and recovery of fees in respect of any application made under this Enactment or in respect of any registration, or the making of any declaration, or the grant of any certificates, or the taking of any oath, authorised to be made, granted or taken by or under this Enactment, and in respect of supplying a certified or other copy of any notice, certificate, order, declaration or entry given, granted or made as aforesaid; and for the application of any such fees;
- (h) for the issue of certificates that a person has produced *prima facie* proof that he is a subject of the Sultan by operation of law;

- (i) for the delegation of any of the powers conferred by this Enactment;
- (j) for the practice and procedure to be followed in connection with references under this Enactment to a Committee of Inquiry; and in particular for conferring on any such committee any powers, rights or privileges of any court and for enabling any powers so conferred to be exercised by one or more members of the committee;
- (k) for prescribing penalties for the breach of any of the provisions of such regulations; and
- (l) for providing for the publication by persons applying for certificates of naturalisation under section 8 of notice of intention to apply for such certificates, and for the hearing and disposal of any objections lodged in respect of any such notices.

### FIRST SCHEDULE

(section 4)

Members of groups of people who are considered to be indigenous to Brunei within the meaning of this Enactment.

Bukitans  
 Dayaks (sea)  
 Dayaks (land)  
 Kalabits  
 Kayans  
 Kenyahs (including Sabups and Sipengs)  
 Kajangs (including Sekapans, Kejamans, Lahanans,  
 Punans, Tanjongs and Kanowits)  
 Lugats  
 Lisums  
 Melanaus  
 Penans  
 Sians  
 Tagals  
 Tabuns  
 Ukits

and any admixture of the above with each other, or with a subject under section 4 (1) (a)

SECOND SCHEDULE

Section 5(5) (c), proviso (A) (ii) of section 5(6) and section 8(5)

OATH OF ALLEGIANCE

I..... of .....

.....hereby declare on oath that I will not exercise the rights, powers and privileges to which I may be eligible by reason of any nationality or citizenship, other than the rights, powers and privileges of a citizen of the United Kingdom and Colonies, and that I absolutely and entirely renounce and abjure all loyalty to any country, state or sovereign

other than loyalty to Her Majesty, and I .....

..... do swear that I will truly give whole-hearted affection to the State of Brunei and do swear that I will be faithful and bear true allegiance to His Highness the Sultan of Brunei and His successors according to the law.

Passed this 6th day of December, 1961.

PENGIRAN MOMIN  
*Clerk to the Legislative Council,  
Brunei.*

[AG. 24/59]