No. S. 99—

THE CONSTITUTION OF THE STATE OF BRUNEI, 1959

THE CONSTITUTION (TRANSFER OF FUNCTIONS AND CONSEQUENTIAL PROVISIONS) ORDER, 1959

(Made under section 80)

In exercise of the powers conferred on him by section 80 of the Constitution of the State of Brunei, 1959, the Sultan has made the following Order—

1. This Order may be cited as the Constitution (Transfer of Functions and Consequential Provisions) Order, 1959, and shall come into force on the same date as Part III of the Constitution.

2. In this Order—

“Constitution” means the Constitution of the State of Brunei, 1959;
“functions” includes any powers, duties, privileges or benefits conferred or imposed by any written law on any person or authority;
“the Resident” means the British Resident for the State.

3. (1) Subject to paragraphs (2) and (3), the functions conferred or imposed on the person or authority specified in the first column of the First Schedule by the provision of law specified opposite thereto in the second column of that Schedule are hereby transferred to the person or authority specified opposite thereto in the third column of that Schedule.

(2) The Mentri Besar may, with the approval of the Sultan, delegate to the State Secretary, the Attorney-General or the State Financial Officer any of the functions vested in the Mentri Besar by virtue of paragraph (1).

(3) References to the Clerk to the Executive Council shall, until the commencement of Part V of the Constitution, be construed as references to the Clerk to the State Council.

4. The written laws specified in the first column of the Second Schedule are amended in the manner specified in the second and third columns of that Schedule.
## FIRST SCHEDULE

(Article 3)

### TRANSFER OF STATUTORY FUNCTIONS

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Oil Mining Enactment (Cap. 43)—

| The Resident | section 5 (1) | The Mentri Besar |
| " | section 5 (4) first reference | The Sultan in Council |
| " | section 5 (4) second reference | The Mentri Besar |
| " | section 5 (6) all references except last | The Sultan in Council |
| " | section 5 (6) last reference | The Sultan in Council or the Mentri Besar |
| " | section 5 (7) first reference | The Sultan in Council |
| " | section 5 (7) second reference | The Mentri Besar |
| " | section 8 | The Sultan in Council |
| " | section 9 first reference | The Mentri Besar |
| " | section 9 second reference | The Sultan in Council |
| " | section 11 | " |
| " | section 12 | " |
| " | section 13 | The Mentri Besar |
| " | section 14 first reference | The Sultan in Council |
| " | section 14 second and third references | The Mentri Besar |
| " | section 26 | " |

Petroleum (Pipe-lines) Enactment (Cap. 45)—

| The Resident | section 3 (2) | The Mentri Besar |
| The Resident subject to the approval of the High Commissioner | section 3 (4) | The Sultan in Council |
| The Resident | section 4 (1) and (3) | The Mentri Besar |
| " | section 8 | " |
| " | section 9 (2) and (3) (b) | " |
| " | section 10 | " |
| " | section 11 | " |

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**Post Office Enactment (Cap. 52)—**

**Post Office Savings Bank Enactment (Cap. 53)—**

**Municipal Boards Enactment (Cap. 57)—**
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Enactment (Cap. 89)—

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| **Motor Vehicles Insurance**
(Third Party Risks) Enactment (Cap. 90)—

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| **Mui Tsai Enactment** (Cap. 91)—

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| " | section 15 (1) | ... | ... | The Attorney-General |
| " | section 19 (1) (b) | ... | ... | The State Secretary |
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| **Education Enactment, 1952**
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| &quot; | section 17 (1), (3) and (4) | ... | ... | &quot; |
| &quot; | section 19 | ... | ... | &quot; |
| &quot; | section 25 | ... | ... | The Sultan |
| &quot; | section 28 (5) | ... | ... | The Sultan in Council |
| &quot; | section 29 (1) | ... | ... | &quot; |</p>
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<td>The Resident</td>
<td>Workmen’s Compensation Regulations, 1957 (G.N.S 40 of 1957)—</td>
<td>The Sultan in Council</td>
</tr>
<tr>
<td></td>
<td>regulation 47</td>
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<tr>
<td>British Resident</td>
<td>Forest Reserves (Labis Hills) Notification, 1958 (G.N.S 15 of 1958)—</td>
<td>The State Secretary</td>
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<tr>
<td></td>
<td>Second Schedule paragraph 2</td>
<td>The Mentri Besar</td>
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<td>Second Schedule paragraph 5</td>
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<tr>
<td>Police Regulations, 1958 (G.N.S 59 of 1958)—</td>
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<td></td>
<td>The Resident subject to the approval of the Sultan</td>
<td>The Sultan</td>
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<td></td>
<td>regulation 3</td>
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<tr>
<td>The Resident</td>
<td>The Resident in his discretion</td>
<td>The Mentri Besar</td>
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<tr>
<td></td>
<td>regulation 40 (7)</td>
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<td>regulation 41 (3)</td>
<td>The Sultan in Council</td>
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<td>regulation 47 (2)</td>
<td>The Sultan</td>
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<td>regulation 52 (5) and (6)</td>
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<tr>
<td>The Resident</td>
<td>Gazette Notification No. S 70 of 1959</td>
<td>The State Secretary</td>
</tr>
<tr>
<td></td>
<td>Rubber Dealers (Licensed Dealers and Fees) Rules, 1959 (G.N.S 30 of 1959)</td>
<td>The Mentri Besar</td>
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<tr>
<td></td>
<td>Land Code (Rules for reservation of land) (B.R.O. Notification No. 14 of 1938)—</td>
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<td>rule 1</td>
<td>The Sultan in Council</td>
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<td>rule 2 (4)</td>
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<td>rule 4</td>
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<td>Land Code (Rules governing the taking of stone, gravel, etc.) (B.R.O. Notification dated 14-10-35)—</td>
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<td>rule 1</td>
<td>The State Secretary</td>
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<td>rule 3</td>
<td>The Sultan in Council</td>
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<td></td>
<td>Prison Rules 1921-1939—</td>
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<td></td>
<td>rule 3</td>
<td>The Mentri Besar</td>
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<tr>
<td></td>
<td>rule 12</td>
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</table>

**PART III—MISCELLANEOUS SUBSIDIARY LEGISLATION OMITTED FROM REVISED EDITION OF SUBSIDIARY LEGISLATION**

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<td>Prison Rules 1921-1939—</td>
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<td>The Mentri Besar</td>
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<td>rule 12</td>
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<tr>
<td>Person or authority from whom functions transferred</td>
<td>Provisions of law concerned</td>
<td>Person or authority to whom functions transferred</td>
</tr>
<tr>
<td>The Resident</td>
<td>Prison Rules, 1953—</td>
<td>The State Secretary</td>
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<td></td>
<td>rule 54</td>
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<td>rule 81</td>
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<td>General Regulations for Schools, 1939—</td>
<td>The Mentri Besar</td>
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<tr>
<td>The Resident</td>
<td>rule 43</td>
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<td>rule 48</td>
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<tr>
<td>Dangerous Petroleum Rules (B.R.O. Notification dated 28-12-1926)—</td>
<td>The State Secretary</td>
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<tr>
<td>The Resident</td>
<td>rule 2</td>
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<td>Municipal By-laws—</td>
<td>The State Secretary</td>
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<tr>
<td>The Resident</td>
<td>by-law 2 (1)</td>
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<td>by-law 8 (1)</td>
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<td>by-law 15 (1)</td>
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<td>by-law 60 (1)</td>
<td>The Mentri Besar</td>
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<td>by-law 129 (1)</td>
<td>The State Secretary</td>
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<td>by-law 166</td>
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<td>by-law 183</td>
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<td>by-law 191</td>
<td>The State Financial Officer</td>
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<tr>
<td>Rules for fishery (B.R.O. Notification dated 1-1-1921)—</td>
<td>The State Secretary</td>
<td></td>
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<tr>
<td>The Resident</td>
<td>rule 33</td>
<td></td>
</tr>
<tr>
<td>Rules regarding licensing of passenger and cargo boats (B.R.O. Notification dated 11-1-1922)—</td>
<td>The Sultan</td>
<td></td>
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<tr>
<td>The Resident</td>
<td>rule 1</td>
<td></td>
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<td></td>
<td>rule 2</td>
<td>The State Secretary</td>
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<tr>
<td>Rules regarding Tugo fishery (B.R.O. Notification 144 of 1950)—</td>
<td>The Sultan</td>
<td></td>
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<tr>
<td>The Resident</td>
<td>rule 4</td>
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<td></td>
<td>rule 5</td>
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</tr>
</tbody>
</table>

**PART IV—GENERAL TRANSFERS**

The Resident | In all legislation save where express provision is otherwise made by this Order or by any written law | The Mentri Besar |

The Assistant Resident | | The District Officer of the area concerned |
| The Secretary to the Resident | | An Assistant State Secretary |
| The Legal Adviser | | The Attorney-General |
| The Deputy Legal Adviser | | The Assistant Attorney-General |
| The State Treasurer | | The State Financial Officer |
| The Chief Police Officer | | The Commissioner of Police |
**SECOND SCHEDULE**

(Article 4)

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Section</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal Procedure Code (Cap. 7)</td>
<td>sections 307 (1) and 312 (1)</td>
<td>Delete the words “through the Resident” in each subsection.</td>
</tr>
<tr>
<td>Extradition Enactment (Cap. 8)</td>
<td>section 7 (1)</td>
<td>Substitute the following—</td>
</tr>
<tr>
<td></td>
<td></td>
<td>“(1) A requisition for the surrender of a fugitive criminal of any foreign country who is in, or suspected of being in, the State shall be made to the High Commissioner by a diplomatic representative of that country. The High Commissioner shall forward the requisition to the Attorney-General who may, by order under his hand and seal, signify to a Magistrate that such requisition has been made and require him to issue his warrant for the apprehension of the fugitive criminal.”.</td>
</tr>
<tr>
<td>Second Schedule—Form I</td>
<td></td>
<td>Substitute the following—</td>
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<tr>
<td></td>
<td></td>
<td>“Form I Order of Attorney-General to the Magistrate</td>
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<td></td>
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<td>To , a Magistrate</td>
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<td></td>
<td></td>
<td>Whereas, in pursuance of an arrangement between Her Majesty and , the operation whereof has been extended to the State of Brunei promulgated by public notification on the day of 19 , a requisition has been made to the High Commissioner, Brunei, by , the diplomatic representative of , for the surrender of , accused (or convicted) of the commission of the crime of within the jurisdiction of . Now I, Attorney-General, Brunei, do hereby by this my order under my hand and seal, signify to you that such requisition has been made and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of the Extradition Enactment relating to the issue of such warrant are, in your judgment, complied with. Given under the hand and seal of the undersigned, Attorney-General, Brunei this day of 19 .</td>
</tr>
<tr>
<td>Penal Code (Cap. 22)</td>
<td>section 54</td>
<td>Repeal</td>
</tr>
<tr>
<td>Sedition Enactment (Cap. 24)</td>
<td>section 3 (1) (i)</td>
<td>Substitute the words “High Commissioner” for the words “British Resident” in the sixth line thereof.</td>
</tr>
</tbody>
</table>
Amendment
(i) Delete the words "and the Resident" in the first and second lines thereof; and
(ii) Substitute the word "he" for the words "unless the Public Prosecutor directs that it is required in connection with the prosecution of any offence, the Resident".

Repeal

Substitute the words "Clerk to the Executive Council for and on behalf of His Highness the Sultan in Council (hereinafter called 'the licensor')" for the words "the Resident of Brunei (hereinafter called the Resident) for and on behalf of His Highness the Sultan".

Substitute the words "Mentri Besar" for the word "Resident".

Substitute the word "licensor" for the word "Resident".

Substitute the word "licensor" for the word "Resident".

Substitute the word "licensor" for the word "Resident".

Substitute the word "licensor" for the word "Resident".

Substitute "Clerk to the Executive Council for and on behalf of His Highness the Sultan in Council (hereinafter called 'the lessor')" for the words "Resident (hereinafter called the 'lessor') for and on behalf of His Highness the Sultan".

Delete the words "on the Resident".

Substitute the following—
"8. (1) The Sultan shall appoint a Public Officer to be Senior Marriage Registrar.

(2) The Sultan may appoint a Public Officer to be a Marriage Registrar for any place, area or district."
<table>
<thead>
<tr>
<th>Enactment</th>
<th>Section</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Marriage Enactment</strong></td>
<td>Sixth Schedule—First Form</td>
<td>Substitute the following—</td>
</tr>
<tr>
<td>(Cap. 76)—(cont.)</td>
<td></td>
<td>&quot;(Section 6)</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>FIRST FORM</strong></td>
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<td></td>
<td></td>
<td>Licence to solemnize Marriages</td>
</tr>
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<td></td>
<td>Whereas the Reverend residing at a Priest/Minister of Religion of the (here specify the religious denomination), is desirous of being authorized to celebrate marriages within the</td>
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<td>Now therefore in pursuance of the Marriage Enactment (Chapter 76), the Sultan in Council has authorised the said, so long as this licence remains unrevoked to solemnize marriages in the</td>
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<td></td>
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<td>Dated this day of , 19 .</td>
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<td></td>
<td></td>
<td>Clerk to the Executive Council.&quot;.</td>
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<tr>
<td><strong>Volunteers Enactment</strong></td>
<td>section 17 (1)</td>
<td>Substitute the following—</td>
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<tr>
<td>(Cap. 82)</td>
<td></td>
<td>&quot;(1) When a state of emergency has been declared under section 83 of the Constitution or under section 2 of the Emergency Regulations Enactment, the Sultan shall, thereupon, have power to call out all or any part of the Brunei Volunteer Force.&quot;.</td>
</tr>
<tr>
<td><strong>Chinese Marriage Enactment</strong></td>
<td>section 3 (2)</td>
<td>Substitute the words “the State Secretary” for the words “the Assistant Resident in charge of the District.”.</td>
</tr>
<tr>
<td>1955 (No. 6 of 1955)</td>
<td>section 11—line 3</td>
<td>Substitute the words “a Public Officer” for the words “the Assistant Resident.”.</td>
</tr>
<tr>
<td></td>
<td>line 5</td>
<td>Substitute the words “that Public Officer” for the words “the Assistant Resident.”.</td>
</tr>
<tr>
<td><strong>Pensions Enactment, 1957</strong></td>
<td>section 2 (1)</td>
<td>Delete definition of Sultan in Council.</td>
</tr>
<tr>
<td>(No. 23 of 1957)</td>
<td>section 3 (1)</td>
<td>Delete the words “with the sanction of the High Commissioner”.</td>
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<td></td>
<td>section 5 (3)</td>
<td>Delete the words “with the approval of the High Commissioner”.</td>
</tr>
<tr>
<td></td>
<td>section 18</td>
<td>Substitute the words “any agreement” for the words “the Agreement” in subsection (2).</td>
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<td>Insert the following after subsection (2)—</td>
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</tbody>
</table>
|                                  |                                              | “(3) The provisions of this Enactment shall apply to Overseas Officers, within the meaning of section 78 of the Constitution of the State of Brunei, 1959, subject to such modifications as may be contained in any agreement relating to such officers made between the Secretary of State and the Sultan”.

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Subsidiary Legislation

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Section</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Post Office (Licensed Stamp Vendors) Rules</td>
<td>Schedule</td>
<td>(i) Delete the words “by the Resident” in the first line thereof.</td>
</tr>
<tr>
<td>—Revised Edition of Subsidiary Legislation</td>
<td></td>
<td>(ii) Delete the words “the power vested in him by” in the second line thereof.</td>
</tr>
<tr>
<td>1956—page 294</td>
<td></td>
<td>Delete item 3 thereof.</td>
</tr>
<tr>
<td>The Customs Duties (Exemption) Order, 1956—G.N. S 30 of 1956</td>
<td>Schedule</td>
<td></td>
</tr>
</tbody>
</table>

Made this 29th day of September, 1959, at Our Istana Darul Hana, Brunei, Darul-Salam.

OMAR ALI SAIFUDDIN
Sultan