

No. S 44

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

INDUSTRIAL CO-ORDINATION ORDER, 2001

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

INDUSTRIAL CO-ORDINATION ORDER, 2001

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation, commencement and long title.

1. (1) This Order may be cited as the Industrial Co-ordination Order, 2001 and shall commence on 1st. June, 2001.

(2) The long title of this Order is "An Order to provide for the co-ordination and orderly development of manufacturing activities in Brunei Darussalam, for the establishment of an Industrial Co-ordination Advisory Council and for matters connected therewith or incidental thereto".

Interpretation.

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

"Council" means the Industrial Co-ordination Advisory Council established under subsection (1) of section 12;

"licence" means a licence issued under this Order to engage in any manufacturing activity;

"licensing officer" means any public officer appointed to be a licensing officer under section 4;

"manufacturer" means a person who is engaged in any manufacturing activity;

"manufacturing activity" includes the making, altering, blending, ornamenting, finishing or otherwise treating or adapting any article or substance, the assembly of parts and ship repairing, but shall not include any trade, business or occupation specified in the Schedule to the Miscellaneous Licences Act (Chapter 127);

"Minister" means the Minister charged with the responsibility for industrial development;

"product" means any article, thing, substance or service produced as a result of any manufacturing activity.

Licence required for manufacturing activity.

3. (1) No person shall engage in any manufacturing activity except under and in accordance with a licence issued under this Order.

(2) Any person who fails to comply with the provision of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding one year, and to a further fine not exceeding \$1,000 for every day during which such failure continues.

Appointment of licensing officer.

4. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint any public officer to be a licensing officer for the purpose of this Order.

Application, issue and conditions of licence.

5. (1) An application for a licence shall be made in the prescribed form to the licensing officer.

(2) One application may be made for one or more products manufactured in one or more places of manufacturing activity but a separate licence shall be issued for each place of manufacturing activity.

(3) The licensing officer shall, in deciding whether an application for a licence should be approved or refused, consider whether the issue of a licence is consistent with national and social objectives and would promote the orderly development of manufacturing activities in Brunei Darussalam.

(4) The licensing officer in issuing a licence, may, in furtherance of the aforesaid objectives impose such conditions as he may think fit, and such conditions may be varied on the application of the manufacturer or on the licensing officer's own motion after consultation with the manufacturer in respect of whom the conditions in the licence are to be varied.

(5) Every licence issued shall be in the prescribed form and shall be subject to such fee as may be prescribed.

Revocation of licence.

6. (1) The licensing officer may in his discretion revoke a licence granted to any manufacturer if such manufacturer —

(a) fails to comply with any condition imposed in the licence;

(b) is no longer engaged in the manufacturing activity in respect of which the licence is issued; or

(c) made any false statement in his application for the licence.

(2) Before exercising his power to revoke a licence the licensing officer may call upon the manufacturer to show within such period as may be prescribed due cause why his licence should not be revoked.

(3) The licensing officer may withhold or suspend the revocation of a licence if he is satisfied that the act or omission on the part of the manufacturer under subsection (1) was due to some cause beyond his control and there is a reasonable prospect of such act or omission being remedied within such period as the licensing officer may direct.

(4) An appeal shall lie to the Minister (whose decision shall be final) from the decision of the licensing officer under this section.

Transfer of licence.

7. (1) No licence shall be transferable from a licensee to any other person without the prior approval of the licensing officer.

(2) Without prejudice to subsection (1), the licensing officer may in the event of the death, incapacity, bankruptcy, or in the case of a company, liquidation of the holder of a licence, or where a receiver or manager is appointed in relation to the business of the holder of a licence, or where for any reason the licensing officer is satisfied it would be unjust not to do so, authorise the transfer of the licence.

(3) An application for the transfer of a licence shall be made in writing to the licensing officer.

Variation.

8. (1) A manufacturer shall not produce any product other than those specified in the licence issued to him under this Order without the prior approval of the licensing officer.

(2) A manufacturer may suspend or discontinue the manufacture of a product that is specified in such a licence after notifying the licensing officer in writing of his intention to do so.

(3) An application for an approval under subsection (1) shall be made in writing to the licensing officer.

Compliance with other laws.

9. The issue of a licence shall not relieve the manufacturer to whom a licence is issued from complying with any other written law.

Enforcement.

10. (1) The Minister may authorise in writing any public officer (referred to in this section as the authorised officer) to exercise the powers under this section.

(2) In exercising any of the powers under this section the authorised officer shall on demand produce to the person against whom he is acting under this Order or any regulations made thereunder the authority issued to him by the Minister.

(3) Wherever it appears to any magistrate upon written information on oath and after any enquiry which he may think necessary that there is reasonable cause to believe that in any building or place there is manufactured, concealed, deposited or kept any product, manufacturing equipment or other thing in respect of which an offence against this Order or any regulations made thereunder has been committed, he may issue a warrant authorising any authorised officer named therein by day or night and with or without assistance to enter such building or place and there search for and seize any product, manufacturing equipment or other thing in respect of which any such offence is suspected to have been committed and may also seize any book or document which may reasonably be believed to contain information as to any offence so suspected of having been committed.

(4) Wherever it appears to any authorised officer that there is reasonable cause to believe that in any building or place there is manufactured, concealed, deposited or kept any products, manufacturing equipment or other thing in respect of which an offence against this Order or any regulations made thereunder has been committed and if he has reasonable ground for believing that by reason of the delay in obtaining a search warrant such product, manufacturing equipment or other thing is likely to be removed, such officer may exercise in or upon or in respect of such building or place all the powers mentioned in subsection (3) as if he were authorised to do so by a warrant issued under that subsection.

(5) Every authorised officer who is exercising his power under subsection (4) shall, before exercising such powers, obtain the written approval of the Minister.

(6) Any person who obstructs or impedes any authorised officer in the lawful exercise of any of the powers under this Order or under any regulations made thereunder shall be guilty of an offence and liable on conviction to a fine of \$2,000, imprisonment for a term not exceeding 6 months or both.

Exemption.

11. The Minister may by order exempt on such terms and conditions as he shall think fit, any manufacturing activity from all or any of the provisions of this Order.

Establishment and composition of Industrial Co-ordination Advisory Council.

12. (1) There is hereby established a body called the Industrial Co-ordination Advisory Council, whose function is to advise the Minister on matters pertaining to this Order.

(2) The Council shall consist of the following members who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan —

- (a) a Chairman;
- (b) a representative from the Ministry of Industry and Primary Resources;
- (c) a representative from the Brunei Economic Development Board;
- (d) a representative from the Land Department;
- (e) a representative from the Town and Country Planning Department;
- (f) a representative from the Labour Department;
- (g) a representative from the Ministry of Health; and
- (h) at the discretion of the Minister, not more than three other members.

(3) His Majesty the Sultan and Yang Di-Pertuan may revoke the appointment of a member of the Council who is appointed under this section or an alternate member thereof who is appointed under subsection (1) of section 13 without assigning any reason therefor and where he so does the revocation shall be final and shall not be questioned in any court.

Appointment of alternate member of Council.

13. (1) His Majesty the Sultan and Yang Di-Pertuan may in respect of each member of the Council, other than a member appointed under paragraphs (a) and (h) of subsection (2) of section 12, appoint another person from the same body or representing the same interests as that member to be that member's alternate, and such alternate member may attend the meetings of the Council in place of that member if that member is for any reason unable to attend.

(2) When attending a meeting of the Council, or in the absence of the member in respect of whom he is appointed to be an alternate, an alternate member shall for all purposes be deemed to be a member of the Council.

Person aggrieved may appeal.

14. (1) Any person who —

(a) being an applicant for the issue of a licence is aggrieved by a refusal to issue such licence;

(b) being the holder of a licence is aggrieved by —

(i) the imposition of any term or condition in his licence;

(ii) the variation of, or the refusal to vary, any term or condition imposed in his licence; or

(iii) the revocation of his licence; or

(c) is aggrieved by a refusal to approve a transfer of a licence,

may, within 45 days from the date on which the decision of the licensing officer was communicated to him, appeal to the Minister.

(2) The Minister may after hearing the appeal make such order as he thinks fit and that order shall be final and shall not be questioned in any court.

Continuation of licence pending appeal.

15. (1) Where any person lodges an appeal under paragraph (b) or (c) of subsection (1) of section 14, the licence shall continue in force until the appeal has been disposed of as though no decision had been made by the licensing officer.

(2) Notwithstanding subsection (1), the licensing officer may in the meantime exercise any of the powers conferred upon him by this Order in relation to the licence on any ground not covered by the appeal.

Revocation to be published.

16. (1) In the event that there is no appeal against the revocation of a licence by the licensing officer within the prescribed period, the Minister shall by notification in the *Gazette* publish such revocation.

(2) In the event that the Minister makes an order for a revocation of a licence the Minister shall by notification in the *Gazette* publish such revocation.

Failure to comply with or give effect to order under section 14 to be an offence.

17. Any person who fails to comply with or give effect to an order made under subsection (2) of section 14 commits an offence and shall be liable on conviction to a fine not exceeding \$10,000, a term of imprisonment not exceeding one year or both, and to a further fine not exceeding \$1,000 for every day during which such failure continues.

Liability of certain persons for offences committed by company, partnership or body of persons.

18. (1) Where an offence under this Order has been committed by a person or a manufacturer being a company, partnership or body of persons, any person who at the time of the commission of the offence was a director, manager or other officer serving in a managerial capacity or a partner of the company, partnership or body of persons or purported to act in such capacity shall also be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, consent and connivance and that he had exercised all necessary diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and all prevailing circumstances.

(2) For the purposes of this section, the expressions "companies" and "partnership" shall respectively have the meanings assigned to those expressions in the written laws relating to companies and partnerships.

Transitional provisions.

19. Notwithstanding anything contained in this Order, a person who immediately before the date of commencement of this Order was engaged in any manufacturing activity, shall be entitled to do the same without a licence —

- (a) for a period 12 months beginning from date of commencement of this Order; or
- (b) if before the expiration of that period he applies for a licence in respect of the same, until the licence is issued or finally refused or the application is withdrawn.

Regulations.

20. The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may make regulations —

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- (a)* providing for application and the form and conditions of any licence granted under this Order, the fees thereof, and the period for which such licence shall be issued;
- (b)* providing for the procedure for application and issue of replacement and duplicate licences in case of loss, damage or destruction and the fees thereof;
- (c)* prescribing on appeals under this Order the fees payable; and
- (d)* generally for carrying out the purposes and provisions of this Order.

Made this 28th. day of Safar, 1422 Hijriah corresponding to the 22nd. day of May, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM