

No. S 67

**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

RADIATION PROTECTION ORDER, 2018

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SCHEDULE — DEFINITION OF NUCLEAR MATERIAL

CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))

RADIATION PROTECTION ORDER, 2018

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

PART 1

PRELIMINARY

Citation, commencement and long title

1. (1) This Order may be cited as the Radiation Protection Order, 2018 and shall commence on the same date as the Safety, Health and Environment National Authority Order, 2018.

(2) The long title of this Order is “An Order to control and regulate the import, export, manufacture, sale, disposal, transport, storage, possession, and use of radioactive materials and controlled apparatus, to make provision in relation to the non-proliferation of nuclear weapons, to establish a system for the imposition and maintenance of nuclear safeguards, and to provide for matters connected therewith or incidental thereto”.

Interpretation

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

“authorised officer” means any person appointed as an authorised officer under section 5(3);

“Authority” means the Authority appointed under section 5(1);

“controlled apparatus” means —

(a) an apparatus that produces ionising radiation when energised or that would, if assembled or repaired, be capable of producing ionising radiation when energised;

(b) an apparatus that produces ionising radiation because it contains radioactive material;

(c) an apparatus prescribed by regulations made under this Order that produces harmful non-ionising radiation when energised;

“conveyance” includes any vessel, vehicle, aircraft or other mode of transport;

“disposal”, in relation to waste, includes —

(a) its removal, deposit or destruction;

(b) its discharge, whether onto land, into water or air, into a sewer or drain, or otherwise; and

(c) its burial, whether underground or otherwise,

and “dispose of” shall be construed accordingly;

“IAEA” means the International Atomic Energy Agency established by the IAEA Statute;

“IAEA inspector” means an individual designated as an inspector by the IAEA Board of Governors according to the procedures set out in the Safeguards Agreement to carry out an inspection or a visit in accordance with that Agreement;

“IAEA Statute” means the Statute of the International Atomic Energy Agency, being the Statute which was ratified by Brunei Darussalam on 18th February 2014, and includes any amendment to, or substitution of, the Statute that is binding on Brunei Darussalam;

“ionising radiation” means electromagnetic radiation and corpuscular radiation which give rise to the formation of ion pairs on interaction with matter;

“licence” means a licence granted under section 8(3)(a);

“licensee” means a person granted with a licence;

“medical practitioner” means any person who is registered or deemed to be registered as a medical practitioner under the Medical Practitioners and Dentists Act (Chapter 112);

“Minister” means the Minister responsible for radiation protection and nuclear safety matters;

“non-ionising radiation” means electromagnetic radiation and fields with wavelengths greater than 100 nanometers and all acoustic radiation and fields with frequencies below 16 Hz and above 16 kHz;

“nuclear material” has the meaning assigned to it in the Schedule;

“owner”, in relation to any premises, includes the person for the time being receiving the rent for the premises, whether on his own account or as an agent or a trustee for any other person, or the person who would so receive the rent if the premises were let to a tenant;

“premises” includes any place whether enclosed or built on or not, whether situated underground or under water and, in particular, includes —

(a) any building or conveyance;

(b) any structure, whether a fixed structure or a movable structure such as tent; and

(c) a part of any premises, including a part of premises of a kind referred to in paragraph (a) or (b);

“radiation” means ionising radiation or non-ionising radiation;

“radioactive material” means any material containing a radioactive substance giving it a specific or total radioactivity greater than 70 becquerels per gram (70 Bq/g) (0.002 u(i/g) or 70 kBq/kg;

“radioactive substance” means a radionuclide or mixture of radionuclides, either alone or in chemical combination with other elements;

“radioactive waste” means any waste which consists wholly or partly of —

(a) the substance or article which, if it were not waste, would be radioactive material; or

(b) a substance or an article which has been contaminated in the course of the production, keeping or use of radioactive material or by contact with, or proximity to other waste falling within paragraph (a).

“radionuclide” means an isotope of any element which spontaneously emits any ionising radiation;

“Safeguards Agreement” means the Agreement between Brunei Darussalam and the IAEA for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons signed on 4th November 1987, and includes —

(a) that Agreement as amended from time to time; and

(b) the protocol thereto signed on 4th November 1987;

“sell” includes —

(a) supplying or otherwise dealing in or disposing of, whether by way of sale, loan or gift;

(b) offering or attempting to sell, receiving for sale, exposing for sale, having in possession for sale, sending or delivering for sale, or causing to be sold, offered or exposed for sale; and

(c) barter;

and “sale” and “purchase” shall have corresponding meanings.

(2) Any word or expression used and not defined in this Order but defined in the Safeguards Agreement shall, unless the context otherwise requires, have the same meaning as in the Safeguards Agreement.

Order binds Government

3. (1) Parts 3 to 8 and regulations made for the purposes of these Parts bind the Government.

(2) For the avoidance of doubt, this Order shall be read subject to Article 84C of the Constitution of Brunei Darussalam, and nothing in this Order shall be construed as conferring on any court any jurisdiction or power to entertain any proceedings referred to in Article 84C of the Constitution of Brunei Darussalam.

Operation of other written laws not affected

4. Nothing in this Order shall be construed as to limit or in any way affect the provisions of any other written law.

PART 2

ADMINISTRATION

Administration of Order and appointment of authorised officers

5. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*, appoint such person or body of persons as he thinks fit to be the Authority responsible for the administration of this Order, and may in the notification specify the extent of and manner in which that responsibility is to be exercised.

(2) The Authority shall be charged with the general administration of this Order and the exercise of the powers conferred and duties imposed upon it by this Order.

(3) The Authority may in writing appoint any person to be an authorised officer for the purposes of this Order.

(4) Subject to any general or special directions of the Authority, the powers conferred and duties imposed on the Authority by this Order may be exercised or performed by any authorised officer.

(5) Every authorised officer and IAEA inspector when performing any of his duties or exercising any of his powers under this Order, shall —

(a) carry his identification certificate issued by the Authority under section 26; and

(b) produce his identification certificate to any person appearing to own, or be in control of, the premises entered —

- (i) on entering the premises (if such a person is then present); or
- (ii) at any reasonable time thereafter, if asked to do so by the person.

PART 3

CONTROL OF IMPORT, EXPORT ETC. OF RADIOACTIVE MATERIALS AND CONTROLLED APPARATUS

Control of import, export etc. of radioactive materials

6. (1) No person shall, except under and in accordance with a licence —

(a) import into, or export out of, Brunei Darussalam any radioactive material;

(b) keep, have in his possession or under his control, or use any radioactive material;

(c) manufacture, sell or otherwise deal in any radioactive material; or

(d) transport any radioactive material.

(2) Every person who sells any radioactive material shall immediately give notice of the sale to the Authority, together with the name, address and

prescribed particulars of the person to whom it was sold, in such form and manner as may be determined by the Authority.

(3) Every person who purchases any radioactive material shall immediately give notice of the purchase to the Authority, together with the name, address and prescribed particulars of the person from whom it was purchased, in such form and manner as may be determined by the Authority.

(4) No person shall dispose of any radioactive material, whether in a working condition or otherwise, without the prior written approval of the Authority.

(5) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$100,000, imprisonment for a term not exceeding 5 years or both;

(b) in the case of a body corporate, to a fine not exceeding \$10,000,000.

(6) Any person who contravenes subsection (2), (3) or (4) is guilty of an offence and liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$100,000, imprisonment for a term not exceeding 12 months or both; and

(b) in the case of a body corporate, to a fine not exceeding \$10,000,000.

Control of import, export etc. of controlled apparatus

7. (1) No person shall, except under and in accordance with a licence —

(a) import into, or export out of, Brunei Darussalam any controlled apparatus;

(b) keep, have in his possession or under his control, or use any controlled apparatus;

(c) manufacture, or otherwise produce, any controlled apparatus; or

(d) sell, deal with or otherwise deal in any controlled apparatus.

(2) Every person who sells any controlled apparatus shall immediately give notice of the sale to the Authority, together with the name, address and prescribed particulars of the person to whom it was sold, in such form and manner as may be determined by the Authority.

(3) Every person who purchases any controlled apparatus shall immediately give notice of the purchase to the Authority, together with the name, address and prescribed particulars of the person from whom it was purchased, in such form and manner as may be determined by the Authority.

(4) No person shall dispose of any controlled apparatus, whether in a working condition or otherwise, without the prior written approval of the Authority.

(5) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$100,000, imprisonment for a term not exceeding 5 years or both; and

(b) in the case of a body corporate, to a fine not exceeding \$10,000,000.

(6) Any person who contravenes subsection (2), (3) or (4) is guilty of an offence and is liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$100,000, imprisonment for a term not exceeding 12 months or both; and

(b) in the case of a body corporate, to a fine not exceeding \$10,000,000.

PART 4

LICENCES

Application for licences etc.

8. (1) An application for the grant or renewal of a licence shall be made to the Authority in such form and manner as the Authority may require and shall be accompanied by the prescribed fee.

(2) An applicant for a licence shall furnish such information and documents as the Authority may in any case require.

(3) The Authority may, in his discretion —

(a) grant or renew a licence subject to such conditions as may be specified by the Authority ;

(b) revoke or vary any condition attached to the licence, or attach new conditions to the licence;

(c) refuse any application for the grant or renewal of a licence; or

(d) suspend a licence for such period as he may determine, or cancel a licence.

(4) A licence shall, unless earlier suspended or cancelled, remain in force for such period as may be specified in the licence.

(5) The licensee shall not have any claim or be entitled to compensation for any loss caused to him by the suspension or cancellation of a licence issued under this Order or by the refusal to renew such licence.

(6) For the avoidance of doubt, a suspended licence does not imply that a licensee ceases to implement safety measures.

Register of licences

9. (1) The Authority shall keep or cause to be kept such registers of licences as may be prescribed.

(2) The contents of every such register may be evidenced in any proceedings by a certificate under the hand of the Authority, and every such certificate shall be *prima facie* evidence of the matters stated therein.

(3) A certificate under the hand of the Authority stating that on a date specified in the certificate any person named therein did or did not appear in any register as the holder of a licence or any specified class of licence shall, until the contrary is proved, be sufficient evidence of the matters specified therein.

PART 5

GENERAL PROVISIONS RELATING TO RADIATION PROTECTION AND SAFETY

Duties of licensees to employees

10. (1) Every licensee shall provide and maintain, so far as is reasonably practicable, for his employees who are exposed or likely to be exposed to radiation a working environment that is safe and without risks to health.

(2) Without prejudice to the generality of subsection (1), every licensee shall —

(a) protect or cause to be protected all of his employees from exposure to radiation;

(b) provide such information, instruction, training and supervision to such employees as are necessary to enable the employees to perform their work in a manner that is safe and without risks to health;

(c) submit such particulars, information or documents as the Authority may require regarding each of his employees who is likely to be exposed to radiation;

(d) provide each of his employees such monitoring equipment or devices as may be determined by the Authority and require all such employees to wear these personnel monitoring equipment and devices; and

(e) provide all of his employees with medical examinations by such medical practitioners as may be approved by the Authority.

(3) The medical practitioners performing the medical examinations under subsection (2)(e) shall inform the Authority, in such form and manner as the Authority may require, of all employees of a licensee whose health is affected, or is reasonably suspected to be affected, by radiation.

(4) If the Authority is satisfied that it is detrimental to the health of any employee of a licensee if he continues to be exposed to radiation, the licensee shall not permit or require that employee –

(a) to perform any duty which will or is likely to cause that employee to be further exposed to radiation; or

(b) to work in any place where that employee will be or is likely to be further exposed to radiation.

(5) For the purposes of this section –

(a) “employee”, in relation to a licensee, includes –

(i) an independent contractor engaged by the licensee; and

(ii) any employee of an independent contractor engaged by the licensee; and

(b) the duties of a licensee shall extend to any independent contractor engaged by the licensee and to the employees of the independent contractor, in relation to matters over which the licensee –

(i) has control; or

(ii) would have had control but for any agreement between the licensee and the independent contractor to the contrary.

Duties of licensees to third parties

11. Every licensee shall ensure so far as is reasonably practicable that persons (other than the employees of the licensee) are not exposed to risks to their health or safety arising from the conduct of the undertaking or activities of the licensee.

PART 6

DISPOSAL OF RADIOACTIVE WASTE

Disposal of radioactive waste

12. (1) No person shall, except with the prior written approval of the Authority and in accordance with such conditions as may be specified by the Authority, dispose of or cause to be disposed of any radioactive waste.

(2) Any person who, without reasonable excuse, contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 12 months or both.

Accumulation of radioactive waste

13. (1) Subject to subsection (2), no person shall, except with the prior written approval of the Authority and in accordance with such conditions as may be specified by the Authority, accumulate any radioactive waste on any premises.

(2) Where the disposal of any radioactive waste has been approved by the Authority under section 12 and, in accordance with that approval, the radioactive waste is required or permitted to be accumulated with a view to subsequent disposal thereof, no further approval under subsection (1) shall be required to enable the radioactive waste to be accumulated in accordance with the approval granted under that section.

(3) For the purposes of this section, where any radioactive material is produced, kept or used on any premises and any substance arising from the production, keeping or use of that radioactive material is —

(a) accumulated in any part of the premises appropriated for the purpose; and

(b) retained there for a period of 3 months or more,

that substance shall, unless the contrary is proved, be presumed —

(i) to be radioactive waste; and

- (ii) to be accumulated on the premises with a view to a subsequent disposal thereof.

(4) If it appears to the Authority that adequate facilities are not available for the safe accumulation, storage or disposal of any radioactive waste, the Authority may direct the licensee to rectify the situation and the licensee shall give effect to such direction.

(5) Any person who contravenes subsections (1) and (2) is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 12 months or both.

Authority may dispose of radioactive waste

14. (1) If there is radioactive waste on any premises and the Authority is of the opinion that the radioactive waste is unlikely to be lawfully disposed of, the Authority shall have the power —

(a) to dispose of that radioactive waste in such manner as the Authority thinks fit; and

(b) to recover from the occupier of the premises or, if the premises are unoccupied, from the owner thereof any expenses reasonably incurred by the Authority in disposing the radioactive waste.

(2) Subject to section 34, the decision of the Authority shall be final.

(3) For the exercise of the power referred to in subsection (1)(a), the Authority or any other authorised officer may do anything that is necessary or expedient for carrying out the disposal of the radioactive waste, including entry to the premises and taking the radioactive waste for disposal.

Transport of radioactive waste

15. (1) No person shall, except with the prior written approval of the Authority and in accordance with such conditions as may be specified by the Authority, transport any radioactive waste.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 12 months or both.

PART 7

INFORMATION AND DOCUMENTS

Maintenance of records etc.

16. (1) Every licensee, and every person who has been granted any approval by the Authority under this Order, shall —

(a) keep and maintain such records in such form and manner, and containing such information, as may be required by the Authority; and

(b) prepare and give to the Authority such periodic reports and such special reports relating to the activity licensed or approved as may be required by Authority.

(2) Any person who, without reasonable excuse, contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 months or both.

Power to obtain particulars etc.

17. (1) The Authority may, by notice in writing to any person whom the Authority considers to be capable of giving any particulars, information or document, require the person to give such particulars, information or document to the Authority in such form and manner, and within such period, as may be specified in the notice.

(2) Notwithstanding section 4, the duty to comply with a notice given under subsection (1) is not affected by any obligation as to secrecy or other restriction on disclosure, whether imposed by written law or otherwise.

(3) Any person who, without reasonable cause, contravenes a notice given under subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 months or both.

Confidentiality

18. (1) Subject to subsection (2), every person exercising any function under this Order shall keep confidential any information that is obtained pursuant to this Order concerning the affairs of another person, including but not limited to information with regard to any manufacturing process or trade secret.

(2) The information referred to in subsection (1) may be disclosed —

(a) with the consent of the person to whose affairs it relates;

(b) in connection with anything done for the purposes of this Order, and the Safeguards Agreement;

(c) in connection with the investigation of a criminal offence or for the purposes of criminal proceedings;

(d) in compliance with the requirement of any court, tribunal, authority or person having lawful authority to require the production of documents or the answering of questions;

(e) for the purpose of dealing with an emergency involving public safety or ensuring the security of Brunei Darussalam; or

(f) if the information is already in the public domain.

(3) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$6,000, imprisonment for a term not exceeding 12 months or both.

PART 8

INSPECTIONS

Interpretation of this Part

19. (1) A reference in this section and in section 20 to a compliance purpose is a reference to the purpose of —

(a) determining whether the provisions of this Order have been or are being complied with;

(b) determining whether the conditions applicable to a licence have been or are being complied with by the licensee; or

(c) ensuring the proper functioning at any premises of any device, apparatus or equipment installed.

(2) A reference in sections 20 and 23 to an inspection power is a reference to a power to —

(a) search or examine any premises;

(b) inspect or examine any matter or thing (including examining and calibrating any controlled apparatus, instrument or measuring and control equipment);

(c) take samples of any matter or thing for the purpose of examination or testing;

(d) measure any quantity of radioactive material and nuclear material;

(e) examine, take extracts from, or make copies of, any document (including any record kept in accordance with the requirements of this Order or the conditions of a licence);

(f) interview any person on the premises (including making recordings of such interviews);

(g) operate any photographic or video-recording equipment anywhere in or around the premises;

(h) operate any radiation detection or measurement device;

(i) apply any surveillance or containment measures; or

(j) do anything that is prescribed or that is necessary or expedient for the carrying out of any of the acts referred to in paragraphs (a) to (i), including —

(i) restricting or prohibiting the access of persons and vehicles to or from the premises; and

(ii) applying labels, seals or other identifying and tamper-indicating devices.

(3) A power referred to in subsection (2)(a), (b), (c), (d), (h), (i) or (j) may only be exercised in a manner that the person authorised to exercise it believes, on reasonable grounds, to be in accordance with safety procedures applicable at the premises.

Authorised officers and inspection

20. An authorised officer may enter any premises and exercise, on or in the premises, any inspection power for a compliance purpose.

Power to issue remedial order or stop-work order

21. (1) This section applies if the Authority is satisfied that —

(a) any person has done any act, or has refrained from doing any act which, in the opinion of the Authority, is likely to cause any person to be exposed to radiation; or

(b) any person has contravened any duty imposed by this Order or any regulations made thereunder.

(2) A remedial order under this section shall —

(a) direct the person served with the order to take such measures, to the satisfaction of the Authority —

(i) to comply with any duty imposed by this Order; or

(ii) to do or refrain from doing any act referred to in subsection (1)(a); and

(b) specify the date on which it is to take effect and the period (which shall run from the date the remedial order takes effect) within which any step required by the order shall be taken.

(3) A stop-work order shall direct the person served with the order to immediately cease to carry on any activity on the premises —

(a) indefinitely; or

(b) until such measures as are required by the Authority have been taken, to the satisfaction of the Authority, as the case may be, to remedy such act so as to enable the activity to be carried on with due regard to the safety and health of any person concerned, and specify the date on which it is to take effect.

(4) Any person who fails to comply with a remedial order is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000, imprisonment for a term not exceeding 3 years or both and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(5) Any person who fails to comply with a stop-work order is guilty of an offence and liable on conviction to a fine not exceeding \$10,000,000, imprisonment for a term not exceeding 5 years or both and, in the case of a continuing offence, to a further fine not exceeding \$200,000 for every day or part thereof during which the offence continues after conviction.

(6) Where any person fails to comply with a remedial order or stop-work order, the Authority may —

(a) at all reasonable times enter upon the premises and take such measures and execute such work as may be necessary to give effect to the order; and

(b) take appropriate measures to prevent —

- (i) unauthorised entry to any area within the premises; or
- (ii) unauthorised access to any machinery, equipment, plant or article affected by the order.

(7) Any costs and expenses incurred by the Authority or under subsection (6) may be recovered as a debt due to the Government from the person served with the remedial order or stop-work order.

Appeal from remedial order or stop-work order

22. (1) Any person who is affected by any order made by the Authority under section 21 may, within 14 days of the date of service of the order, appeal to the Minister who may rescind or vary the order and whose decision shall be final.

(2) Where an appeal is made to the Minister against any remedial order, that order shall not have effect pending the outcome of the appeal.

(3) Where an appeal is made to the Minister against any stop-work order, the affected person shall comply with the order pending the outcome of the appeal, and the stop-work order shall have effect until it is otherwise rescinded or varied.

Persons who may accompany IAEA inspectors

23. (1) In order to facilitate an inspection under section 24, an authorised officer shall accompany an IAEA inspector.

(2) An authorised officer may exercise any inspection power for the purpose of facilitating an inspection under section 24.

IAEA inspectors and inspection

24. An IAEA inspector may enter and inspect the premises pursuant to the Safeguards Agreement and exercise, in connection with the inspection, any function contemplated, and power provided for, in the Safeguards Agreement.

Written directions

25. (1) The Authority may, by notice in writing, issue directions to any person for the purpose of facilitating any inspection under this Part.

(2) Any person who, without reasonable excuse, contravenes any direction given by the Authority under subsection (1) is guilty of an offence and liable on

conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 12 months or both.

Identification certificates

26. The Authority shall issue to every authorised officer and IAEA inspector a certificate identifying him as such authorised officer or IAEA inspector, as the case may be.

Obligations of persons carrying out inspections

27. Every authorised officer or IAEA inspector shall —

(a) if, at any time between the time of entry of any premises to be inspected and the time the inspection is completed, there is no person appearing to own, or be in control of, the premises, as soon as is practicable after completing the inspection, give the owner, occupier or person in control of the premises a written notice stating that the premises have been entered, and specifying the following matters —

- (i) the time and date of entry;
- (ii) the circumstances and purpose of entry; and
- (iii) the name of every person entering; and

(b) where any matter, thing or document is taken, give the owner, occupier or person in control of the premises a written inventory thereof.

PART 9

ENFORCEMENT

Power of arrest

28. (1) An authorised officer may —

(a) arrest without warrant any person whom he has reason to believe to be committing or to have committed an offence against section 6, 7, 12 or 15; and

(b) search the person arrested and seize anything which he reasonably considers to be evidence of the commission of the offence.

(2) No woman or girl shall be searched except by a woman.

(3) Where the authorised officer makes an arrest without warrant, he shall, without unnecessary delay, produce the person arrested before a Magistrate.

(4) The authorised officer shall not detain in custody a person arrested without a warrant for a longer period than is reasonable under the circumstances of the case.

(5) The period that a person arrested without a warrant may be detained in custody shall not exceed 48 hours, excluding the time for any necessary journey to the Courts of Magistrates.

Search and seizure

29. (1) An authorised officer who enters the premises may —

(a) take with him such other person and such equipment as appear to him to be necessary;

(b) inspect any record, register or other document found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence against this Order;

(c) take copies of, or seize and remove, such document;

(d) inspect, seize and remove any device, apparatus or equipment found on the premises which he has reasonable cause to believe may be required as such evidence;

(e) inspect, sample, seize and remove any substance, material, or other matter or thing found on the premises which he has reasonable cause to believe may be required as such evidence; or

(f) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession or control of any document, device, apparatus, equipment, substance, material or other matter or thing.

(2) No woman or girl shall be searched except by a woman.

Use of force

30. If entry to a premises cannot be obtained, the Authority may use such force as is reasonable in the circumstances to —

(a) break open any outer or inner door or window;

- (b)* forcibly enter such premises and every part thereof; or
- (c)* remove by force any obstruction to his entry or inspection.

Forfeiture

31. (1) A court may order that anything shown to the court's satisfaction to be the subject matter of an offence against this Order or to have been used in the commission of such an offence shall be forfeited to the Government, and either destroyed or otherwise dealt with in such manner as the court may order.

(2) The court may, in particular, order the thing to be dealt with as the Authority may think fit, and in such a case the Authority may direct that it be destroyed or otherwise dealt with.

(3) Where —

(a) the court proposes to order anything to be forfeited under this section; and

(b) a person claiming to have an interest in it applies to be heard by the court,

the court shall not order it to be forfeited unless that person has been given an opportunity to show cause why the order should not be made.

(4) The court may make an order under this section notwithstanding that no person has been charged with or convicted of an offence against this Order in relation to the thing to be forfeited.

False or misleading statements and documents

32. Where any person who for the purpose of obtaining, whether for himself or any other person, the grant of any licence or approval under this Order, or for any other purpose in relation to this Order —

(a) in any document prepared pursuant to this Order, makes any declaration or statement or omits any matter knowing that, or being reckless as to whether, the declaration, statement or omission makes the document false or misleading in a material particular; or

(b) otherwise produces or makes use of any document which is to his knowledge false or misleading in any material particular,

he is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 12 months or both.

Obstruction etc. of authorised officer or IAEA inspectors

33. Any person who obstructs, hinders, resists or deceives any authorised officer or IAEA inspector who is exercising any function contemplated, or any power provided for, in this Order is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 12 months or both.

PART 10

GENERAL

Appeals

34. (1) Any applicant who is dissatisfied with any decision of the Authority under section 8, 14 or 15 may appeal to the Minister in writing within 30 days of the communication to him of the decision of the Authority.

(2) Upon receipt of any appeal, the Minister shall appoint one or more persons to hear representations made by the appellant and the Authority and, if such persons think fit, to inspect the premises or controlled apparatus and to report to the Minister, who shall thereupon determine the appeal as soon as practicable.

(3) In the exercise of his power to determine an appeal, the Minister may –

(a) dismiss the appeal;

(b) require the Authority to issue a licence;

(c) quash any suspension or cancellation of a licence, or substitute a suspension of a licence for cancellation or *vice versa*; or

(d) vary or revoke any decision of the Authority or substitute any decision for a decision made by the Authority.

(4) The decision of the Minister under this section shall be final.

Protection of persons acting under Order

35. No suit or other legal proceedings shall lie personally against any authorised officer, any person acting under his direction and any other person for anything which is in good faith done or intended to be done in the execution or purported execution of this Order.

Public servants

36. All authorised officers shall be deemed to be public servants for the purposes of the Penal Code (Chapter 22).

Offences by bodies corporate etc.

37. (1) Where an offence against this Order committed by a body corporate is proved —

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence against this Order committed by a partnership is proved —

(a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on his part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where an offence against this Order committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In this section —

“body corporate” includes a limited liability partnership which has the same meaning as in section 2(1) of the Limited Liability Partnerships Order, 2010 (S 117/2010);

“officer” —

(a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, any member of the committee or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(6) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a country or territory outside Brunei Darussalam.

Penalty for offences not otherwise provided for

38. Any person who contravenes any provision of this Order for which no penalty is expressly provided is guilty of an offence and liable on conviction —

(a) in a case where the contravention is of such a nature as to endanger or is likely to endanger human life —

(i) in the case of an individual, to a fine not exceeding \$50,000, imprisonment for a term not exceeding 12 months or both;

(ii) in the case of a body corporate, to a fine not exceeding \$10,000,000; or

(b) in any other case —

(i) in the case of an individual, to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 months or both;

- (ii) in the case of a body corporate, to a fine not exceeding \$10,000,000.

Composition of offences

39. (1) The Authority may, in its discretion, compound any offence against this Order which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

(a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$2,000,

whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations to prescribe the offences which may be compounded.

Cost of enforcement

40. Where a person has been convicted by a court for an offence under section 6 or 7, the court may order that person to pay reasonable costs of any enforcement action taken by an authorised officer in respect of the offence, including any cost of storage of the subject-matter of the offence or anything used in the commission of the offence.

Exemption

41. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, either permanently or for such period as the Minister thinks fit, by order published in the *Gazette*, exempt any person, premises, material or thing, or any class thereof, from all or any of the provisions of this Order, subject to such conditions as may be prescribed.

Amendment of Schedule

42. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, amend the Schedule to this Order.

Regulations

43. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as may be necessary or expedient to give

full effect to the provisions of this Order and for the due administration thereof and, in particular, may make regulations for or with respect to –

(a) the form and manner of applying for and granting, and the fees for licences and renewals thereof, and the matters to be taken into consideration in respect of any application for or for the renewal of a licence or in respect of any proposal to suspend or cancel a licence;

(b) the granting of different classes or types of licences under this Order;

(c) the form of the registers to be kept under this Order;

(d) regulating the sale, purchase or manufacture of, or the dealing with, any radioactive substance and controlled apparatus;

(e) regulating the transport, storage, use and disposal of any radioactive substance or controlled apparatus;

(f) preventing injury by radiation to any person;

(g) securing the safe disposal of any radioactive waste product resulting from the manufacture, production, treatment, storage or use of any radioactive substance;

(h) imposing requirements with respect to the construction or structural alteration of buildings used or intended to be used for the manufacture, production, treatment, storage or use of any radioactive substance, or in which any controlled apparatus is used or intended to be used;

(i) requiring persons who are exposed or are likely to be exposed to the risk of disease due to radiation from any radioactive substance or controlled apparatus to submit to screening and decontamination procedures by such persons as may be approved by the Authority, as well as to medical examinations, including blood tests;

(j) prohibiting the use of any prescribed radioactive substance or any prescribed class or description of controlled apparatus either generally, or for prescribed purposes or otherwise than for prescribed purposes;

(k) prescribing the maximum working hours and minimum age of persons engaged in the manufacture, production, treatment, storage, sale or use of any radioactive substance or the use, testing or repair of any controlled apparatus, prescribing the minimum holidays to be taken by those persons, and providing for the medical examination of those persons;

(l) regulating the use of any radioactive substance for therapeutic or diagnostic purposes;

(m) regulating the dispensing and compounding of any prescription containing any radioactive substance;

(n) providing for the making of returns by owners of radioactive materials of the quantities and classes of radioactive materials held by them;

(o) providing for the keeping by purchasers of radioactive substances of records specifying the purposes to which those substances are put, and for the inspection of those records, and for the making of returns of entries in those records;

(p) providing for the keeping of records of all application of radioactive substances or controlled apparatus for diagnostic or therapeutic purposes;

(q) regulating the registration of mobile radioactive and controlled laboratories;

(r) prescribing the fees payable for services rendered by the Authority ;

(s) prescribing offences in respect of the contravention of any regulations made under this section, and prescribing penalties, not exceeding \$50,000, imprisonment term not exceeding 6 months or both, that may, on conviction, be imposed in respect of any such offence; and

(t) any other matter which is required or permitted to be prescribed or which is necessary or expedient to be prescribed to carry out or give effect to the provisions of this Order.

(2) Without prejudice to the generality of subsection (1), the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for the purposes of implementing the Safeguards Agreement or any agreement that is concluded between Brunei Darussalam and the IAEA pursuant to the Safeguards Agreement, and, in particular, may make regulations for or with respect to —

(a) imposing on any importer, exporter, agent, forwarding agent, common carrier, consignor or consignee of goods or on any owner, agent, master or person in charge of a conveyance as may be prescribed in the regulations, the duty to furnish —

(i) to the Authority; or

- (ii) to the owner, agent, master or person in charge of a conveyance, or to such other person as may be prescribed,

such particulars, information or documents as may be prescribed in respect of any nuclear material that is imported or exported;

(b) requiring the master of any vessel to attend at the office of the Authority or Port Master, and to furnish such particulars, information and documents, as may be prescribed;

(c) prohibiting the issuance of a port clearance to the master of any vessel pending compliance with any provision of the regulations; and

(d) the registration of any nuclear material that is imported or exported.

Transitional provisions

44. (1) Any person who has been issued with or granted a written permission under administrative arrangements by a competent authority, relating to radioactive material and controlled apparatus, immediately before the commencement of this Order is deemed to be licensed under section 6 for a period of 3 months from the date of commencement of this Order.

(2) Within the period of 3 months referred to in subsection (1), such person shall apply for a licence in accordance with section 8(1).

SCHEDULE

(sections 2(1) and 42)

DEFINITION OF NUCLEAR MATERIAL

1. In this Order, “nuclear material” means —

(a) any source material (not being ore or ore residue); or

(b) any special fissionable material.

2. For the purposes of paragraph 1 —

“source material” means —

(a) uranium containing the mixture of isotopes occurring in nature;

(b) uranium depleted in the isotope 235;

(c) thorium;

(d) any of the foregoing in the form of metal, alloy, chemical compound, or concentrate; or

(e) any other material containing one or more of the foregoing in such concentration as the IAEA Board of Governors may determine;

“special fissionable material” means —

(a) plutonium-239;

(b) uranium-233;

(c) uranium containing the isotopes 235 or 233, or both, in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

(d) any material containing one or more of the foregoing,

but does not include source material.

Made this 30th. day of Rabiulawal, 1440 Hijriah corresponding to the 8th. day of December, 2018 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM