

No. S 56

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

**SAFETY, HEALTH AND ENVIRONMENT NATIONAL AUTHORITY ORDER, 2018**

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

**SAFETY, HEALTH AND ENVIRONMENT NATIONAL AUTHORITY 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 Safety, Health and Environment National Authority Order, 2018 and shall be deemed to have commenced on 1st April 2017.

(2) The long title of this Order is “An Order to establish and incorporate the Safety, Health and Environment National Authority and to provide for all matters connected therewith or incidental thereto”.

**Interpretation**

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

“Authority” means the Safety, Health and Environment National Authority established by section 3;

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under section 10 and includes any person acting in that capacity;

“Fund” means the Safety, Health and Environment National Authority Fund established by section 14;

“Minister” means the Minister responsible for the administration of this Order.

PART 2

AUTHORITY

**Establishment of Safety, Health and Environment National Authority**

3. There is hereby established a body to be known as the Safety, Health and Environment National Authority which shall be a body corporate with perpetual succession and a common seal and shall, by that name, be capable of —

- (a) suing and being sued;
- (b) acquiring, owning, holding, developing or disposing of property, both movable and immovable; and
- (c) doing all such other acts or things as a body corporate may lawfully do.

**Common seal**

4. (1) The Authority shall have a common seal and such seal may be changed, altered or made anew as the Authority thinks fit.

(2) All deeds and other documents requiring the seal of the Authority shall be sealed with the common seal of the Authority.

(3) All instruments to which the common seal is affixed shall be signed by any two members generally or specially authorised by the Authority for that purpose.

(4) The Authority may, by resolution or otherwise in writing, appoint an officer of the Authority or any other person either generally or in any particular case to execute or sign on behalf of the Authority any agreement or other instrument not under seal in relation to any matter within the powers of the Authority.

(5) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to any document and shall presume that it was duly affixed.

**Committees**

5. (1) The Authority may, in its discretion, appoint one or more committees for purposes which, in the opinion of the Authority, would be better regulated and managed by such committees.

(2) The Authority may define or vary the terms of reference of the committees.

(3) Subject to this Order and to the control of the Authority, each committee may regulate its procedure in such manner as the committee thinks fit.

#### **Delegation of powers**

6. (1) The Authority may, in respect of a specified matter or class of matter, in writing, delegate any of its powers to an officer of the Authority.

(2) Every officer of the Authority purporting to act pursuant to a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of that delegation.

(3) No delegation under this section shall prevent the exercise of any power of the Authority under this Order or any other written law.

### **PART 3**

#### **FUNCTIONS AND POWERS**

##### **Functions of Authority**

7. (1) The functions of the Authority shall include –

*(a)* to act as the Authority to regulate in respect of workplace safety and health, environment and radiation matters;

*(b)* to advise and make recommendations to the Government on national needs and policies in respect of workplace safety and health, environment and radiation matters;

*(c)* to collaborate, in the performance of its functions, with other public bodies that have similar or related functions;

*(d)* to undertake licensing, provision of consultancy services and promotion of professionalism in relation to matters concerning workplace safety and health, environment and radiation matters;

*(e)* to advise and make recommendations to the Government on matters, measures and regulations related to or connected with the workplace safety and health, environment and radiation;

*(f)* to represent the Government internationally on matters related to or connected with the workplace safety and health, environment and radiation;

(g) to do all such other matters as may be incidental to or consequential upon the discharge of its functions under this Order or any other written laws.

(2) In addition to the functions imposed by this section, the Authority may undertake such other functions as the Minister may assign to the Authority, and in so doing —

(a) the Authority shall be deemed to be fulfilling the purposes of this Order;

(b) the provisions of this Order shall apply to the Authority in respect of such functions.

(3) Nothing in this section shall be construed as imposing on the Authority, directly or indirectly, any form of duty or liability enforceable by proceedings before any court.

#### **Powers of Authority**

8. (1) Subject to this Order, the Authority may carry on such activities as appear to the Authority to be advantageous, necessary or incidental for it to carry on for or in connection with the discharge of its functions and duties under this Order or any other written law, and in particular, the Authority may exercise any of the powers as set out in Schedule 1.

(2) This section shall not be construed as limiting any power of the Authority as may be conferred by or under any other written law.

#### **Directions by Minister**

9. (1) The Minister may give to the Authority such directions, not inconsistent with the provisions of this Order, as he thinks fit, as to the discharge of its functions and exercise of its powers and the Authority shall give effect to any such directions.

(2) The Authority shall furnish the Minister with such information in respect of the carrying out of its functions and its property and activities, in such manner and at such times as the Minister may reasonably require.

**PART 4**

**PROVISIONS RELATING TO STAFF**

**Appointment of Chief Executive Officer**

10. (1) The Authority shall, with the approval of the Minister, appoint a Chief Executive Officer on such terms and conditions as the Authority may determine.

(2) The Chief Executive Officer shall —

(a) be known by such designation as the Authority may determine;

(b) be responsible to the Authority for the proper administration and management of the functions and affairs of the Authority in accordance with the policy laid down by the Authority; and

(c) not be removed from office without the consent of the Minister.

(3) The Minister shall consult the Public Service Commission before granting his approval under subsection (1) or before giving his consent under subsection (2)(c).

(4) If the Chief Executive Officer is temporarily absent from Brunei Darussalam, or is temporarily unable to perform his duties by reason of illness or otherwise, another person may be appointed by the Authority to act in place of the Chief Executive Officer during any such period of absence from duty.

**Employment of staff**

11. The Authority may employ for such terms of office and on such conditions of service as the Authority may determine such other officers, employees, consultants and agents as may be necessary for the effective performance of its functions.

**Protection from personal liability**

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

**Public servants**

13. All officers and employees of the Authority shall be deemed to be public servants for the purposes of the Penal Code (Chapter 22).

PART 5

FINANCIAL PROVISIONS

**Safety, Health and Environment National Authority Fund**

14. For the purposes of this Order, there is established a fund to be known as the Safety, Health and Environment National Authority Fund into which shall be paid —

*(a)* such sums as may be paid to the Authority out of the general revenues of Brunei Darussalam;

*(b)* such sums as may be raised by the Authority by loan;

*(c)* all rents and proceeds of sale profits and income and other funds derived by the Authority directly or indirectly from the property belonging to the Authority;

*(d)* all such other sums as may be paid to the Authority.

**Purposes of Fund**

15. The Fund shall be expended for the purposes of —

*(a)* the payment of the expenses connected with the administration of the Authority; and

*(b)* the payment or discharge of all expenses, obligations, liabilities of the Authority, necessary for carrying out the purposes of this Order and any regulations made thereunder.

**Grants-in-aid**

16. (1) The Minister of Finance shall cause to be paid to the Authority such moneys as may be approved by the Government as grants-in-aid to the Authority.

(2) All moneys provided for under subsection (1) may be applied or expended by the Authority for all or any of the purposes of the Authority.

**Power to accept gifts**

17. (1) The Authority may accept by way of grant, gift, testamentary disposition or otherwise, property and moneys in aid of the finances of the Authority on such conditions as it may determine.



(2) The Authority shall keep a register of all donations to the Authority, including the names of donors and any special conditions on which any donation may have been given.

(3) Any property, moneys or funds donated for any specific purposes shall be applied and administered in accordance with the purposes for which they have been donated and shall be separately accounted for.

**Power to borrow and invest**

18. (1) For the discharge of its functions under this Order, the Authority may —

(a) raise loans from the Government; or

(b) with the approval of the Minister of Finance, raise loans from banks or other financial institutions (whether in Brunei Darussalam or elsewhere) by —

(i) mortgage, overdraft or otherwise;

(ii) charge, whether legal or equitable, on any property vested in the Authority or on any other revenue receivable by the Authority under this Order; and

(iii) the creation and issuance of debentures, bonds or other instruments.

(2) Subject to the approval of the Minister who shall consult the Minister of Finance, the Authority may invest its funds in such manner as the Minister thinks fit.

**Annual report**

19. The Authority shall, within 6 months after the end of each financial year, submit to the Minister an annual report on the activities of the Authority during the preceding financial year, and the Minister shall cause a copy of every such annual report to be presented to His Majesty the Sultan and Yang Di-Pertuan.

**Other financial provisions**

20. The financial provisions set out in Schedule 2 shall have effect with respect to the Authority.

**PART 6**

**GENERAL**

**Validity of act and transactions of Authority**

21. The validity of an act or transaction of the Authority shall not be called in question in any court on the ground that any provision of this Order has not been complied with.

**Preservation of secrecy**

22. (1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any other written law, no person who is or has been an officer, an employee, a consultant or an agent of the Authority or a member of a committee, shall disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions.

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

**Amendment of Schedules**

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

**Regulations**

24. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as may be necessary or expedient for giving effect to and carrying out the provisions of this Order and for the due administration thereof, including the prescription of fees and of any other thing required to be or which may be prescribed under this Order.

**Transitional and savings provisions**

25. (1) All acts done by the Commissioner or the Deputy Commissioner under the Workplace Safety and Health Order, 2009 (S 44/2009) shall continue to remain valid and applicable as though done by the Authority under the corresponding provisions of that Order until such time as invalidated, revoked, cancelled or otherwise determined by the Authority.

(2) Any code of practice, decision, direction, document, certificate, licence, consent, notice, permit, approval or authorisation prepared, made, issued,

approved or granted by the Commissioner or the Deputy Commissioner under the Workplace Safety and Health Order, 2009 (S 44/2009) shall be deemed to be a code of practice, decision, direction, document, certificate, licence, consent, notice, permit, approval or authorisation prepared, made, issued, approved or granted by the Authority under the corresponding provisions of that Order.

(3) Where anything has been commenced by or on behalf of the Commissioner or the Deputy Commissioner under the Workplace Safety and Health Order, 2009 (S 44/2009), such thing may be carried on and completed by the Authority, under the corresponding provisions of that Order.

(4) In this section —

“Commissioner” means the Commissioner of Workplace Safety and Health referred to in section 7(1)(a) of the Workplace Safety and Health Order, 2009 (S 44/2009) (repealed in Schedule 3 to this Order);

“Deputy Commissioner” means the Deputy Commissioner of Workplace Safety and Health referred to in section 7(1)(b) of the Workplace Safety and Health Order, 2009 (S 44/2009) (repealed in Schedule 3 to this Order).

#### **Consequential amendments**

26. The provisions of the written laws specified in the first column of Schedule 3 are amended in the manner set out in the second column thereof.

**SCHEDULE 1**  
(sections 8(1) and 23)

**POWERS OF AUTHORITY**

1. To prescribe and implement regulatory policies, strategies, measures, standards or any other requirements on any matter related to or connected with workplace safety and health, environmental protection, radiation control and such other subject matter as may be necessary for the performance of the functions of the Authority.
2. To enter into such contracts as may be necessary or expedient for the purpose of discharging its functions.
3. To become a member or an affiliate of any international body, the functions or objects of which are similar to or connected with those of the Authority.
4. To establish and administer such systems or schemes as the Authority may consider necessary or expedient for the discharge of its functions.
5. To engage in any activity, either alone or in conjunction with any other organisation or agency, whether local or international, that is connected with or that is conducive to the discharge of its functions.
6. To provide advisory, consultancy and informational services on any matter related to its functions.
7. To specify, by notification published in the *Gazette*, all the accreditation, certification or inspection marks of the Authority for use in relation to any function of the Authority, and control the use of such marks.
8. To regulate, accredit or certify any person to carry out any test, study, activity or service related to or connected with workplace safety and health, environmental protection and radiation control.
9. To request information from and collaborate or co-operate with any person, whether in Brunei Darussalam or elsewhere, on matters related to or connected with workplace safety and health, environmental protection and radiation control.
10. To charge fees for the issuance of any licence, certificate or approval, and fees, charges or commissions for services rendered by the Authority or for the use of any facilities of the Authority.

**SCHEDULE 2**  
(sections 20 and 23)

**FINANCIAL PROVISIONS**

**Financial year**

1. The financial year of the Authority shall begin on 1st April of each year and end on 31st March of the succeeding year.

**Budget**

2. (1) The Authority shall prepare its annual budget, which shall be approved by the Minister.

(2) There shall be reported in the annual budget all revenue and income projected to be generated by the Authority or granted to the Authority from any source together with projected expenditures, including depreciation and provisions for losses.

(3) The Authority shall then cause a copy of the approved budget to be transmitted to the Minister of Finance not later than 60 days before the commencement of the new financial year.

(4) The Minister of Finance shall submit a copy of the approved budget, together with his recommendation to His Majesty the Sultan and Yang Di-Pertuan, for approval.

**Accounts and financial statements**

3. (1) The Authority shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Authority and over the expenditure incurred by it.

(2) The Authority shall, as soon as practicable after the close of each financial year, cause financial statements in respect of that year to be prepared and submitted to the auditor of the Authority.

**Audit**

4. (1) The accounts and financial statements of the Authority shall be audited annually by –

(a) the Auditor General; or

*(b)* any person who has been authorised to perform the duties required by the Companies Act (Chapter 39) to be performed by an auditor, who shall be appointed annually by the Authority;

Provided that where the accounts of the Authority have been audited by a person appointed under sub-paragraph *(b)*, they may be verified by the Auditor General before they are presented to the Minister of Finance pursuant to paragraph 6(1).

(2) The auditor shall in his report state —

*(a)* whether the financial statements show fairly the financial transactions and the state of affairs of the Authority;

*(b)* whether proper accounting and other records have been kept, including records of all assets of the Authority whether purchased, donated or otherwise;

*(c)* whether receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Authority during the financial year were in accordance with the provisions of this Order; and

*(d)* such other matter arising from the audit as he considers necessary.

#### **Powers of auditor**

5. (1) The auditor or any person authorised by him shall be entitled at all reasonable time to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Authority.

(2) The auditor or a person authorised by him may make copies of, or make extracts from, any such accounting and other records.

(3) The auditor or any person authorised by him may require any person to furnish him with such information which that person possesses or has access to as the auditor or any duly authorised person considers necessary for the purposes of the functions of the auditor under this Order.

(4) Any person who refuses or fails without any reasonable cause to allow the auditor access to any accounting and other records of the Authority in his custody or power or to give any information possessed by him as and when required or who otherwise hinders, obstructs or delays the auditor in the performance of his duties or the exercise of his powers under this Order is guilty of an offence and liable on conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

### Presentation of financial statements and audited reports

6. (1) As soon as the accounts of the Authority and the financial statements have been audited in accordance with this Order and in any case not later than 6 months after the end of the financial year, a copy of the audited accounts and financial statements, together with a copy of the report made by the auditor, shall be presented to the Minister of Finance.

(2) Where the Auditor General is not appointed to be the auditor, a copy of the audited accounts and financial statements and any report made by the auditor shall be forwarded to the Auditor General at the same time as they are submitted to the Authority.

(3) The Minister shall cause a copy of the audited accounts and financial statements and of the auditor's report to be presented to His Majesty the Sultan and Yang Di-Pertuan.

### SCHEDULE 3 (Section 26)

#### CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

*First column*

*Second column*

1. Workplace Safety and Health Order, 2009 (S 44/2009)

Section 4(1)

- i. In the definition of "authorised officer" delete "7(3) and substitute with "7(2)" therefor.
- ii. To insert the following new definition immediately after the definition of "authorised officer" therefor —  
 " "Authority" means the Safety, Health and Environment National Authority established by section 3 of the Safety, Health and Environment National Authority Order, 2018;"
- iii. Delete the definition of "Commissioner".
- iv. Delete the definition of "Deputy Commissioner".
- v. In the definition of "inspector", delete "7(3) and includes the Commissioner and any Deputy Commissioner" and substitute with "7(2)" therefor.

- vi. In the definition of “Minister”, delete “of Home Affairs” and substitute with “responsible for the administration of the Safety, Health and Environment National Authority Order, 2018” therefor.
- Section 7
- i. Repeal and substitute with the following new section therefor —
- “Authority and authorised officers**
7. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published 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 on which that responsibility is to be exercised.
- (2) The Authority may appoint such number of persons as inspectors, and such number of other persons as authorised officers, as may be necessary to assist the Authority in the administration of this Order.”.
- Section 8
- Repeal and substitute with the following new section therefor —
- “Public servants**
8. All officers and employees of the Authority, inspectors and authorised officers shall be deemed to be public servants within the meaning of, and for the purposes of, the Penal Code (Chapter 22).”.
- Section 14
- Insert the following new section immediately after section 14 therefor —
- “Additional duties of principals in relation to contractors**
- 14A. (1) It shall be the duty of every principal to take, so far as is reasonably practicable, such measures as are necessary to ensure that any contractor engaged by the principal —
- (a) has the necessary expertise to carry out the work for which the contractor is engaged by the principal to do; and



*(b)* has taken adequate safety and health measures in respect of any machinery, equipment, plant, article or process used, or to be used, by the contractor or any employee employed by the contractor.

(2) The duty imposed on every principal under subsection (1)*(a)* includes ascertaining that the contractor engaged by the principal and any employee of the contractor —

*(a)* have sufficient experience and training to carry out the work for which the contractor is engaged by the principal to do; and

*(b)* have obtained any necessary licence, permit, certificate or any other document in order to carry out the work for which the contractor is engaged by the principal to do.

(3) The duty imposed on every principal under subsection (1)*(b)* includes ascertaining that the contractor engaged by the principal —

*(a)* has conducted a risk assessment in relation to the safety and health risks posed to any person who may be affected by the work for which the contractor is engaged by the principal to do; and

*(b)* has informed any person who may be affected by the work for which the contractor is engaged by the principal to do of the nature of the risk involved in the work and any measure or safe work procedure which is implemented at the workplace.

(4) In any proceeding for an offence under this section, it shall not be a defence for the principal to prove that he has taken, so far as is reasonably practicable, such measures as are necessary to ensure compliance with this section solely by providing directly or indirectly, by a term in a contract with his contractor, that the

contractor has complied with or will comply with the requirements referred to in subsection (1)(a) or (b).

(5) In this section, “risk assessment” means the process of evaluating the probability and consequences of injury or illness arising from exposure to an identified hazard, and determining the appropriate measure for risk control.

(6) Nothing in section 14 limits the duty of a principal under this section.”.

PART V (Part heading)	Delete “COMMISSIONER” and substitute with “ENFORCEMENT” therefor.
Section 21(5)	Repeal.
Section 23(1)	i. Delete “he” from the first line and substitute with “the Authority” therefor. ii. Delete “him” from the second line and substitute with “the Authority” therefor.
Section 24	Delete “he” from the second line and substitute with “the Authority” therefor.
Section 31(4)	Delete “he” from the second line and substitute with “the Authority” therefor.
Section 33(2)	Delete “he” from the second line and substitute with “the Authority” therefor.
Section 35(1)(a)	Delete “he” from the first line and substitute with “the Authority” therefor.
Section 35(1)(b)	Delete “he” and substitute with “the Authority” therefor.
Section 35(2)(a)	Delete “his intention” and substitute with “the intention of the Authority” therefor.
Section 39(1)(a)	Delete “he” from the second line and substitute with “the Authority” therefor.
Section 55(1)	Delete “Commissioner or any person authorised in writing by him” from the first line and substitute with “Authority or any person authorised in writing by the Authority” therefor.
Section 60(1)(b)	Delete.

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- Section 60(3) Delete “Commissioner or any Deputy Commissioner” from the second line and substitute with “Authority” therefor.
- All applicable sections Delete “Commissioner” whenever it appears in the Order and substitute with “Authority” therefor.
2. Workplace Safety and Health (Compoundable Offences) Regulations, 2009 (S 54/2009)
- Regulation 2 Delete “Commissioner” and substitute with “Authority” therefor.
3. Workplace Safety and Health (General Provisions) Regulations, 2014 (S 34/2014)
- All applicable regulations Delete “Commissioner” wherever it appears in the Regulations and substitute with “Authority” therefor.
4. Workplace Safety and Health (Construction) Regulations, 2014 (S 35/2014)
- All applicable regulations Delete “Commissioner” wherever it appears in the Regulations and substitute with “Authority” therefor.
5. Workplace Safety and Health (Workplace Safety and Health Officers) Regulations, 2014 (S 36/2014)
- Regulation 2(1) Delete “Commissioner for his” and substitute with “Authority for the Authority’s” therefor.
- All applicable regulations Delete “Commissioner” wherever it appears in the Regulations and substitute with “Authority” therefor.
6. Workplace Safety and Health (Workplace Safety and Health Committees) Regulations, 2014 (S 37/2014)
- All applicable regulations Delete “Commissioner” wherever it appears in the Regulations and substitute with “Authority” therefor.
7. Workplace Safety and Health (Incident Reporting) Regulations, 2014 (S 38/2014)
- All applicable regulations Delete “Commissioner” wherever it appears in the Regulations and substitute with “Authority” therefor.

8. Workplace Safety and Health (Risk Management) Regulations, 2014  
(S 39/2014)

Regulation 5(1)(b) Delete “Commissioner when required by him”  
and substitute with “Authority when required by  
the Authority” therefor.

All applicable regulations Delete “Commissioner” wherever it appears in the  
Regulations and substitute with “Authority”  
therefor.

Made this 26th. day of Muharram, 1440 Hijriah corresponding to the  
6th. day of October, 2018 at Our Istana Nurul Iman, Bandar Seri Begawan,  
Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM