

No. S 63

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

ENVIRONMENTAL PROTECTION AND MANAGEMENT ORDER, 2016

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Citation, application and long title
2. Order binding on Government
3. Interpretation

PART II

ADMINISTRATION

4. Authority
5. Delegation of powers
6. Public servants

PART III

GENERAL DUTY OF PERSON AND PRESCRIBED ACTIVITIES

7. Duty of person
8. Offence of breach of duty
9. Written notification for undertaking of prescribed activities
10. Environmental officer

PART IV

POWERS

11. Power of inspection

12. Powers of entry, search and seizure
13. Power to take samples
14. Power to direct
15. Powers to examine and secure attendance
16. Power for remediation of land
17. Power to issue remedial order or stop-work order
18. Appeal from remedial order or stop-work order
19. Power of arrest
20. Power to act in cases of emergency
21. Furnishing of deposits

PART V

INVESTIGATION OF ENVIRONMENTAL INCIDENTS

22. Investigation into environmental incidents
23. Minister may appoint Environmental Inquiry Committee

PART VI

OFFENCES AND PENALTIES

24. Assistance and co-operation to Authority
25. Penalty for obstructing Authority in his duty
26. Penalty for carrying out any prescribed activity without notification
27. Person to cease activity
28. Supplying false information
29. Persons not to reveal protected information
30. Offences by bodies corporate etc.
31. General penalty for offences not otherwise provided for

PART VII

CODES OF PRACTICE

- 32. Codes of practice
- 33. Use of approved codes of practice in criminal proceedings

PART VIII

GENERAL

- 34. Relation to other laws
- 35. Civil liability
- 36. Limitation of liability
- 37. Compounding of offences
- 38. Jurisdiction of Courts of Magistrates
- 39. Exemption
- 40. Amendment of Schedules
- 41. Regulations

SCHEDULE 1 – PRESCRIBED ACTIVITIES

**SCHEDULE 2 – DETAILS IN WRITTEN NOTIFICATION OF
PRESCRIBED ACTIVITIES**

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

ENVIRONMENTAL PROTECTION AND MANAGEMENT ORDER, 2016

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 I

PRELIMINARY

Citation, application and long title

1. (1) This Order may be cited as the Environmental Protection and Management Order, 2016.

(2) This Order shall apply to the territory of Brunei Darussalam.

(3) The long title of this Order is “An Order to provide for the protection and management of the environment and for other purposes connected therewith”.

Order binding on Government

2. (1) Subject to subsection (2), this Order binds 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.

Interpretation

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

“analysis” includes the taking of a sample or any test, measurement, calculation or examination made for the purpose of determining the characteristics of any matter or substance or the effects of any discharge, emission or deposit of trade effluent, air impurity, hazardous substance or other pollutants;

“approved code of practice” means a code of practice approved by the Authority under section 32(1)(b);

“authorised officer” means any person authorised by the Authority under section 4(2);

“Authority” means the Authority appointed under section 4(1);

“environment” means the physical factors of the surroundings of the human beings including land, water, atmosphere, climate, sounds, odours, tastes, the biological factors of animals and the social factor of aesthetics;

“environmental audit” means a periodic, systemic, documented and objective evaluation to determine —

- (a) the compliance status to environmental regulatory requirement;
- (b) the environmental management system; and
- (c) the overall environment risk of the premises or activities;

“environmental impact” means the likely impact of any prescribed activity on various aspects of the environment, and includes the impact on land (including changes in shape of the terrain and dredging being conducted simultaneously), or within the structure (including the establishing, modifying and expanding of a structure for specific purposes), after the implementation of a prescribed activity;

“environmental impact assessment” means the process of —

- (a) surveying, predicting and assessing environmental impact;
- (b) studying possible environmental protection measures relating to the prescribed activity; and
- (c) assessing the likely overall environmental impact of such measures;

“environmental incident” is an event where there has been a detrimental impact resulting in pollution or damage to environment;

“Environmental Inquiry Committee” means the Environmental Inquiry Committee appointed under section 23;

“environmental management system” means a system comprising an organisational structure with its responsibilities, practices, procedures, processes and resources for implementing and maintaining the system relating to the management of the environment;

“environmental officer” means the Environmental Officer appointed under section 10;

“hazardous substance” means —

(a) any natural or artificial substance including any raw material, whether in a solid, semi-solid or liquid form, or in the form of gas or vapour, or in a mixture of a least two of these substances; or

(b) any living organism,

intended for any environmental protection, conservation and control activity, which can cause pollution or detrimental effect to the environment, as the case may be;

“inland waters” means any reservoir, pond, lake, river, stream, canal drain, spring or well, or any part of the sea above the low water line along the coast, or any other body of natural or artificial surface or sub-surface water;

“material change” means any change in environmental impact that is significant to require a re-submission of the notification of prescribed activities to the Authority, and includes —

(a) physical changes to the premises;

(b) changes to operational parameters of the facility;

(c) change in risk profile or environmental impact;

“Minister” means the Minister responsible for environmental protection and management matters;

“notification of prescribed activities” means a written report as set out in Schedule 2;

“occupier”, in relation to —

(a) any premises, means the person in occupation of the premises or having the charge, management and control thereof; and

(b) any part of the premises, different parts of which are occupied by different persons, means the person in occupation or having the charge, management or control of that part;

“owner”, in relation to —

(a) any premises, includes the person for the time being receiving the rent of the premises, whether on his account or as an agent or trustee or as receiver, or who would receive the rent if the premises were let to a tenant;

(b) any premises where the building works are carried out, includes the developer and the building contractor; and

(c) the common property of any subdivided building, includes the strata corporation established under the Land Code (Strata) Act (Chapter 189) having control of the building, or the person receiving any rent or charge for the maintenance of that common property;

“pollutants” means any natural or artificial substances, whether in a solid, semi-solid or liquid form, or in the form of gas or vapour, or in a mixture of at least two of these states, or any objectionable odour or heat emitted, discharged or deposited or is likely to be emitted, discharged or deposited from any source which can directly or indirectly cause pollution or damage to the environment;

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

(a) any building, vehicle, vessel or aircraft;

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

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

“prescribed activity” means any activity set out in Schedule 1;

“sale” includes barter, exchange, import and export and also includes offering or attempting to sell, or causing or allowing to be sold, or exposing for sale or receiving or sending or delivering for sale;

“sewage” includes water-borne domestic waste and trade effluent;

“smoke” includes soot, ash, grit and gritty particles emitted into the air;

“toxic substance” means any trade effluent, chemical, oil or any other substance which is noxious, injurious or polluting;

“trade effluent” means any liquid, either with or without particles of matter in suspension therein, which is the outflow from any trade, business or manufacture or of any works of engineering or building construction;

“waters” means all waters, whether manageable or not, included within Brunei Darussalam, and shall be deemed to include territorial waters;

“works” includes any activity, whether commercial or not, that may have an impact on the environment.

{2} For the purposes of this Order —

(a) references to the territory of Brunei Darussalam include the territorial waters and exclusive economic zone of Brunei Darussalam;

(b) references to the exclusive economic zone of a country are references to the exclusive economic zone of that country established in accordance with international law.

PART II

ADMINISTRATION

Authority

4. (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) Subject to the directions of the Authority in writing, the powers conferred and the duties imposed on the Authority under this Order and any regulations made thereunder may be exercised and carried out by —

(a) any public officer; and

(b) any body constituted by any other written law as the Minister may approve for the purpose,

generally or specially authorised by the Authority.

(3) Any person who is authorised under subsection (2) shall —

(a) be furnished by the Authority with an identification card of his appointment as an authorised officer;

(b) when exercising any powers under this Order, on demand, produce the identification card of his appointment to the person affected by the exercise of those powers; and

(c) when exercising any powers under this Order, conduct his activities in an appropriate and safe manner.

Delegation of powers

5. (1) The Authority may, with the approval of the Minister, delegate the exercise of all or any of the duties imposed and the powers conferred on him by this Order to such person as the Authority may think fit, subject to such conditions as the Authority may specify.

(2) The power of delegation under subsection (1) shall only be exercised by the Authority personally.

Public servants

6. The Authority shall be deemed to be public servants within the meaning of section 21 of the Penal Code (Chapter 22).

PART III

GENERAL DUTY OF PERSON AND PRESCRIBED ACTIVITIES

Duty of person

7. It shall be the duty of every person in Brunei Darussalam —

(a) to take, so far as is reasonably practicable, such measures to ensure the protection and management of the environment and the prevention, reduction, or control of any potential hazard that may cause pollution or damage to the environment; and

(b) to comply with the requirements of this Order and any regulations made thereunder.

Offence of breach of duty

8. In the event of any contravention by any person of any provision in this Order which imposes a duty on a person, that person is guilty of an offence.

Written notification for undertaking of prescribed activities

9. (1) It shall be the duty of every person, who intends to carry out the prescribed activity as set out in Schedule 1, before he undertakes such prescribed activity to submit a written notification to the Authority.

(2) Such written notification shall be accompanied with the details as required in Schedule 2.

(3) Upon receiving the written notification as required to be submitted under this section, the Authority shall forthwith consider the notification.

(4) If the Authority is of the opinion that the notification has been complied, the Authority shall give his written approval within 3 months of receipt of the notification.

(5) If the Authority is of the opinion that the notification has not been complied, the Authority shall immediately notify the person to revise and resubmit his notification to ensure compliance with this Order or any regulations made thereunder.

{6} Where the person is required to resubmit his notification under subsection (5) and the Authority is of the opinion that the notification has been complied, the Authority shall give his written approval within 3 months of receipt of the notification.

{7} Until he receives the written approval from the Authority, no person shall undertake any prescribed activity.

Environmental officer

10. (1) For the purposes of this Order, any person who undertakes a prescribed activity shall appoint an environmental officer.

(2) For the purposes of subsection (1), the Authority may determine —

(a) the manner of appointment of an environmental officer;

(b) the functions and duties of an environmental officer;

(c) the powers of an environmental officer, being necessary powers for the officer to discharge his functions and duties under this Order.

PART IV

POWERS

Power of inspection

11. Where the Authority considers it necessary, he may direct the immediate inspection of any premises or activity which is in his opinion necessary to prevent pollution or damage to the environment.

Powers of entry, search and seizure

12. (1) Except otherwise provided in this Order, the Authority shall not enter into any dwelling house in actual occupation unless with the consent of the owner or occupier thereof by giving at least 6 hours' notice to the owner or occupier.

(2) Where a notice under subsection (1) is issued in connection with investigations into a suspected offence against this Order, the Authority may, at any time after the expiry of the period specified therein, enter any such premises where the Authority has reason to believe that any document or information, in respect of which he has given the notice, may be found, and seize or take extracts or copies of any such document or information.

(3) The Authority may, subject to subsection (1) —

(a) enter any premises and make such examination, inspection and inquiry as may be necessary to ascertain whether the provisions of this Order or any regulations made thereunder are complied with;

(b) assess the levels of noise, illumination, heat or harmful or hazardous substances in any premises and the exposure levels of persons at work therein;

(c) take such photographs or video-recordings, in a safe manner, as he thinks necessary to record the conditions in a premises and the activities carried on therein which may impact the environment;

(d) require any person to produce any article which is relevant under the provisions of this Order or any regulations made thereunder and, if necessary, to take into custody any such article;

(e) require any person to produce evidence of his identity;

(f) require any person to give such particulars which are within his knowledge;

(g) require in specified circumstances persons to submit written particulars of measures proposed to be taken to achieve compliance with this Order or any regulations made thereunder;

(h) require the production of any documents relating or reasonably believed to relate to any duty under the provisions of this Order or any regulations made thereunder and take extracts therefrom.

(4) If entry to a premises cannot be obtained, the Authority may —

(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, inspection, examination or inquiry.

Power to take samples

13. (1) The Authority may, at any time, after informing the owner or occupier of a premises or any person apparently in charge of the premises or a person having control over the activities, take for analysis samples as required.

(2) No person shall interfere with any equipment, instrument or device used for monitoring the premises or activities or for taking samples for analysis.

{3} Any person who —

(a) contravenes subsection {2}; or

(b) without the written permission of the Authority, publishes or discloses to any person the results of any analysis made under this section, is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

Power to direct

14. The Authority may direct any person to undertake such actions, assessments or measures as may be necessary to prevent pollution or damage to the environment.

Powers to examine and secure attendance

15. The Authority may —

(a) take a statement from any person supposed to be acquainted with the facts and circumstances of matters under this Order or any regulations made thereunder, and to reduce into writing any statement made by the person so examined;

(b) require by notice in writing the attendance before himself of any person being within Brunei Darussalam who, from information given or otherwise, appears to be acquainted with the facts and circumstances of matters under this Order or any regulations made thereunder and that person shall attend as so required.

Power for remediation of land

16. (1) The Authority may, subject to subsection (2), enter upon any land or waters, adjoining any premises or activity, for the purpose of remediation of that premises or the location where the activity occurs without making any previous payment, tender or deposit and doing as little damage as may be reasonably practicable in exercising his powers under this subsection.

(2) Before the Authority enters upon any land or waters under subsection (1), the Authority shall give adequate notice of his intention to remediate the land or waters to the owner and the occupier of the land or waters.

Power to issue remedial order or stop-work order

17. (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 pollute or damage the environment; 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 —

(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 environment, 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

18. (1) Any person who is affected by any order made by the Authority under section 17 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.

Power of arrest

19. Any police officer or the Authority may arrest without warrant any person, whom they have reason to believe has committed an offence against this Order or any regulations made thereunder, provided that the person so arrested shall be detained no longer than is necessary to bring him before a court.

Power to act in cases of emergency

20. (1) Where the Authority considers it necessary in the case of an emergency, he may direct the immediate execution of any activity or the doing of any act which is in his opinion necessary to prevent serious pollution or damage to the environment.

(2) Any expenses reasonably incurred by the Authority under subsection (1) shall be recovered from the person whose act or omission resulted in the emergency.

Furnishing of deposits

21. (1) The Authority may require a deposit or other security to be furnished by a person for the purpose of remediation of the premises or the location where the activity occurs.

(2) Where such remediation executed by the person is not to the satisfaction of the Authority, the Authority may utilise the deposit or security or any part thereof to make good the defects.

PART V

INVESTIGATION OF ENVIRONMENTAL INCIDENTS

Investigation into environmental incidents

22. (1) Where the Authority becomes aware of any environmental incident or is of the opinion that a potential environmental incident is likely to occur, he may direct to investigate the circumstances.

(2) The Authority may direct the owner or occupier of premises or a person who appears to be carrying out the activities or having control over the carrying out of such activities in which an environmental incident occurs to take all reasonable measures to prevent further pollution or damage to the environment.

Minister may appoint Environmental Inquiry Committee

23. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint an Environmental Inquiry Committee to ascertain the causes and circumstances of an environmental incident.

PART VI

OFFENCES AND PENALTIES

Assistance and co-operation to Authority

24. Any person who is present in a premises or appears to be carrying out the activities or having control of such activities shall render all necessary assistance and co-operation to the Authority for the exercise of his powers under this Order in relation to that premises or activities.

Penalty for obstructing Authority in his duty

25. Any person who —

(a) hinders or obstructs the Authority, in the performance or execution of his duty under this Order or any regulations made thereunder;

(b) interferes with any activity directions authorised to be executed under this Order;

(c) fails to facilitate by all reasonable means the entry and inspection of any activities by the Authority or the examination of any equipment, industrial plant or container;

(d) fails to produce any document which he is required under this Order to produce;

(e) intentionally alters, suppresses or destroys any document or information which he has been required by a notice under section 12(2) to furnish;

(f) withholds any information as to who is the owner or occupier of the premises or a person who appears to be carrying out the activities or having control over the carrying out of such activities;

(g) refuses to provide, or wilfully mis-states his name and address or proof of identity or furnishes false particulars as required under section 12(3); or

(h) conceals or prevents, or attempts to conceal or prevent, a person from appearing before or being examined by the Authority,

is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 3 months or both and, in the case of a subsequent conviction, to a fine not exceeding \$50,000, imprisonment for a term not exceeding 6 months or both.

Penalty for carrying out any prescribed activity without notification

26. (1) Any person carrying out any prescribed activity set out in Schedule 1 without written notification to the Authority as required under section 9(1) 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.

(2) Upon conviction under subsection (1), the court may, in addition to any penalty, order the person to meet the costs of reinstating the site or area affected to its original condition.

Person to cease activity

27. (1) Where a person is charged with an offence against this Order, the person shall immediately cease the activity for which he is charged.

(2) Any person who fails to comply with the provision of subsection (1) 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.

Supplying false information

28. Any person who knowingly supplies false information which is required to be provided under this 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.

Persons not to reveal protected information

29. (1) If a person exercising any function under this Order obtains protected information about the affairs of another person, he shall not disclose that protected information to any other person unless the disclosure —

(a) is made with the written consent of the person to whom the information relates;

(b) is for the purpose of the administration or enforcement of this Order; or

(c) is 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.

(2) If any person acts in contravention of subsection (1), he is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 2 years or both.

(3) For the purposes of this section, the reference to a person disclosing any protected information includes his permitting any other person to have any access to any record, document or other thing containing that information which is in his possession or under his control by virtue of his being or having been an Authority.

(4) In this section, “protected information” means information, the disclosure of which would or could reasonably be expected to, disclose a trade secret or adversely affect a person in relation to his lawful business affairs.

Offences by bodies corporate etc.

30. (1) Where an offence against this Order or any regulations made thereunder 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 act or default 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 director of the body corporate.

(3) Where an offence against this Order or any regulations made thereunder 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 act or default 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 a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to any act or default on the part of, a partner or manager of the limited liability partnership, the partner or manager, as the case may be as well as the partnership is guilty of that offence and liable to be proceeded against and punished accordingly.

(5) 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 act or default on the part of such an officer or a 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.

(6) In this section —

(a) “body corporate” and “partnership” exclude a limited liability partnership within the meaning of the Limited Liability Partnerships Order, 2010 (S 117/2010);

(b) “officer” —

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

(c) “partner” includes a person purporting to act as a partner.

(7) Regulations may provide for the application of any provision of this section, with such modifications as the Authority considers appropriate, to any body corporate, limited liability partnership or unincorporated association formed or recognised under the written law of a country or territory outside Brunei Darussalam.

General penalty for offences not otherwise provided for

31. (1) Any person who is guilty of an offence against this Order, for which no penalty is expressly provided, is liable —

(a) on the first conviction, to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction; and

(b) on a second or subsequent conviction, to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part thereof during which the offence continues after conviction.

(2) The court before which such conviction is heard may, in addition to such fine, order the person to pay to the Authority the amount of any expense in connection with the execution of any work or activity, together with any interest due thereon to be due from such person at the date of his conviction and such amount may be recovered according to any written law for the time being in force for the recovery of fines.

PART VII

CODES OF PRACTICE

Codes of practice

32. (1) For the purposes of providing practical guidance with respect to the requirements of this Order relating to the protection and management of the environment, the Authority may —

(a) issue codes of practice, which may include any code of practice issued or approved under any other written law if he considers that code of practice suitable for this purpose;

(b) approve as a code of practice any document prepared by any person other than the Authority if the Authority considers the document as a suitable document for this purpose; and

(c) amend or revoke any code of practice issued or approved under this section.

(2) Where a code of practice is issued, approved, amended or revoked by the Authority under subsection (1), the Authority shall publish a notice of such issue, approval, amendment or revocation, as the case may be, in such manner as will secure adequate publicity for such issue, approval, amendment or revocation.

Use of approved codes of practice in criminal proceedings

33. (1) A person shall not be liable to any criminal proceedings by reason only that he has failed to observe any approved code of practice.

(2) In any proceedings for any offence against this Order or any regulations made thereunder, an approved code of practice that is relevant to any matter which it is necessary for the prosecution to prove in order to establish the commission of the offence shall be admissible in evidence in the proceedings.

PART VIII

GENERAL

Relation to other laws

34. Nothing in this Order or in any approved code of practice shall derogate from the effects of any other written laws.

Civil liability

35. (1) Nothing in this Order shall be construed as conferring —

(a) a right of action in any civil proceedings in respect of any contravention, whether by act or omission, of any provision of this Order; or

(b) a defence to an action in any civil proceedings or as otherwise affecting a right of action in any civil proceedings.

(2) Subsection (1) shall not affect the extent (if any) to which a breach of duty imposed under any other written law is actionable.

Limitation of liability

36. No action, suit or other legal proceedings shall lie or be brought, instituted or maintained in court against —

(a) the Authority; or

(b) any person lawfully acting on behalf of the Authority,

in respect of any act, neglect or default done or committed by him or it in good faith or any omission omitted by him or in good faith in such capacity.

Compounding of offences

37. (1) The Authority may compound any offence against this Order or any regulations made thereunder which is prescribed to be a compoundable offence by collecting from the person reasonably suspected of having committed that offence, a sum not exceeding one-half of the amount of the maximum fine that is prescribed as the offence.

(2) On payment of such sum of money, no further proceedings shall be taken against such person in respect of the offence except that any compensation, damages, fees, costs or expenses which are provided to be paid under this Order or any regulations made thereunder shall remain payable.

(3) Nothing in this section shall prevent the Authority from issuing any further notice in respect of the same matter to the person who has paid such sum of money.

Jurisdiction of Courts of Magistrates

38. A Court of a Magistrate shall have jurisdiction to hear and determine all offences under this Order and any regulations made thereunder and, notwithstanding anything to the contrary in any other written law, shall have power to impose the full penalty or punishment in respect of any such offence.

Exemption

39. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, exempt, either generally or for such time as the Minister may specify any person or any class of persons, premises or activities from any provision of this Order or any regulations made thereunder.

Amendment of Schedules

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

Regulations

41. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations which are necessary or expedient for giving effect to or for carrying out the provisions of this Order, including the prescription fees and anything required to be or which may be prescribed under this Order and for its due administration thereof.

(2) Without prejudice to subsection (1) the Minister may impose requirements with respect to —

(a) environmental impact assessments, including the requirements for any person who intends to carry out a prescribed activity stated in Schedule 1, which may have significant environmental impact to submit a written notification as prescribed in Schedule 2 of such activities to the Authority;

(b) control of noise pollution, including prohibiting or imposing requirements in connection with the emission of noise, vibrations or any ionizing or other radiations, including minimum standards to be met;

(c) control of water pollution, including the safe discharge of substances, including trade effluent, food, oil, chemical, sewage, toxic substances or other pollutants into any drain, inland waters or sea, as a result from any activities within state land, including minimum standards to be met;

(d) control of air pollution, including prohibiting or imposing requirements in connection with emissions into the atmosphere of any specified gas, smoke or dust or any other specified substance or pollutant whatsoever;

(e) the prescribing of types of air pollution control equipment that may be used in or on any activities and the manner in which such equipment shall be operated and maintained;

(f) control of land pollution, including industrial waste, domestic waste and littering;

(g) control of hazardous substances, including imposing requirements for testing, labeling, or examination of any hazardous substance and for the import, export, transit, possession for sale, sell or offer for sale of any hazardous substance and the storage, handling, transportation, use, dealing and disposal of hazardous substances;

(h) environmental audit, including requirements to carry out an environmental audit and to submit an audit report in such manner as may be prescribed for major accident hazard locations and activities meeting potentially significant impacts criteria;

(i) the design, construction, installation, commissioning, operations, guarding, siting, maintenance, decommissioning or abandonment or restoration, dismantling, examination, repair, alteration, adjustment, testing or inspection of any premises that may have an environmental impact or the undertaking of any work or activity that may have an environmental impact;

(j) a person who handles, stores, transports or uses hazardous substances to take out and maintain policies of insurance in such circumstances and against liabilities for such risks, costs or damages as may be prescribed;

(k) the terms and conditions including any minimum limit of indemnity of any policy of insurance required to be taken out or maintained, the form of the certificate of insurance, the different terms and conditions in different circumstances;

(l) notifying or submitting a report to the Authority, in the event of an environmental incident;

(m) appointment of an environmental officer coordinator, committee or auditor;

(n) prescribing environmental training courses and requiring persons to attend such courses;

(o) prescribing for the compensation, damages, recovery of costs, arrears and expenses with respect to the administration of this Order;

(p) subsidiary powers of Authority, which are in addition to the powers as specified in this Order; and

(q) prescribing types of tests to be carried out and the records to be maintained by occupiers or owners of a premises or a person who appears to

be carrying out the activities or having control of such activities with respect to the emission of air impurities.

SCHEDULE 1

(sections 9(1), 40 and 41(2)(a))

PRESCRIBED ACTIVITIES

1. Agricultural and farming.
2. Aviation, including airport development and airline operations.
3. Drainage and irrigation, including —
 - (a) dams and man-made lakes and artificial enlargement of lakes;
 - (b) drainage of wetland, wildlife habitat or of virgin forest;
 - (c) irrigation schemes;
 - (d) all other man-made drainage and irrigation arrangements.
4. Fisheries, including —
 - (a) fishing harbours;
 - (b) harbour expansion involving an increase of 50 *per cent* or more in fish landing capacity per annum;
 - (c) land based aquaculture projects accompanied by clearing of mangrove swamp forests;
 - (d) aquaculture, livestock and horticulture farms.
5. Forestry, including —
 - (a) conversion of hill forestland to other land use;
 - (b) logging or conversion of forestland to other land use within the catchment area of reservoirs used for municipal water supply, irrigation or hydropower generation or in areas adjacent to state and national parks and national marine parks;
 - (c) conversion of mangrove swamps or peat land for industrial and housing development or agriculture use;
 - (d) clearing of mangrove swamps on islands adjacent to marine parks and marine reserves.

6. Hazardous substance —

(a) activities related to construction, refurbishment and decommissioning of —

(i) pipelines;

(ii) onshore and offshore workplaces and facilities;

(b) processing, transporting, handling, storing and disposal.

7. Industry —

abrasive blasting works	being works in which equipment or structures are cleaned by abrasive blasting
asphalt works	for the manufacture of asphalt or tarmacadam
cement works	for the manufacture or packing of arboniz cement, similar cement or pozzolanic materials
ceramic works	in which any products such as bricks, tiles, pipes, pottery goods, refractories or glass are manufactured in furnaces or kilns fired by any fuel
chemical works	
coke or charcoal works	being works in which coke or charcoal is produced and quenched, cut, crushed or graded
concrete works	for the manufacture of concrete and of each batch capacity greater than 0.5 cubic meter
crushing, grinding and milling works	being works in which rock, ores, minerals, chemicals or natural grain products are processed by crushing, grinding, milling or separating into different sizes by sieving, air elutriation or in any other manner
ferrous and non-ferrous metal or ore works	being works in which metal melting process for casting and/or metal coating are carried out

food preparation	in which slaughtering, preparing and preserving meat, manufacturing of dairy products, canning and preserving of fruits and vegetables, canning, preserving and processing of fish, crustaceans and similar food, manufacture of vegetable and animals oils and fats, grain mill products, sugar factories and refineries and manufacture of prepared animal feeds.
gas works	in which coal, coke, oil or other mixtures or derivatives are handled or prepared for carbonised or gasification and in which such materials are subsequently carbonised or gasified
iron and steel	
petrochemicals	
pulp and paper production	
pulping works	being works in which wood or cellulose material is made into pulp
scrap metal works	recovery works, in which scrap metals are treated in any type of furnace for recovery of metal, irrespective of whether this is the primary object of any specific premises or not
shipyards	
vehicle	manufacturing, repair and servicing and maintenance of engine, motors, mechanical pumps, ship building and repair works

8. Infrastructure, including —

(a) hospitals;

(b) industrial estate development;

(c) roadways;

(d) any building and facilities in areas which are deemed to be environmentally or ecologically sensitive.

9. Land reclamation, including coastal and river reclamation.

10. Marine —

Any activities in Brunei Darussalam waters.

11. Mining —

(a) mining of minerals;

(b) ore processing;

(c) sand dredging.

12. Ports.

13. Power generation and transmission —

(a) steam generated power stations burning fossil fuels;

(b) hydroelectric power schemes;

(c) combined cycle-power stations;

(d) nuclear-fueled stations;

(e) hydrogen fuel stations;

(f) renewable energy.

14. Quarries —

Decorative quarrying of aggregate, limestone, silica, quartzite, sandstone, marble and building stone.

15. Resort and recreational development —

(a) construction of coastal resort facilities or hotels;

(b) hill station resort or hotel development;

(c) development of tourist or recreational facilities in national parks;

(d) development of tourist or recreational facilities which are gazetted as national marine parks.

16. Steam boilers.

17. Transportation —

(a) mass rapid transport projects;

(b) railways.

18. Waste treatment and disposal

(a) toxic and hazardous waste —

- (i)* incineration plant;
- (ii)* recovery plant (offsite);
- (iii)* recovery and recycling plant;
- (iv)* storage facility (offsite);

(b) municipal solid waste —

- (i)* incineration plant;
- (ii)* composting plant;
- (iii)* recovery and recycling plant;
- (iv)* municipal solid waste landfill facility;

(c) municipal sewage —

- (i)* wastewater treatment plant;
- (ii)* marine outfall;

(d) paste recycling, treatment and disposal facilities;

(e) waste treatment facilities;

(f) land-fill sites.

19. Water supply —

(a) dams or impounding reservoirs;

(b) groundwater exploration and development for domestic and non-domestic, for industrial, agricultural or urban water supply.

SCHEDULE 2
(sections 9(2), 40 and 41(2)(a))

DETAILS IN WRITTEN NOTIFICATION OF PRESCRIBED ACTIVITIES

1. Name of the person in charge of the activity and address in Brunei Darussalam.
2. Identification, by position held, of the person giving information.
3. Nature and size of prescribed activity proposed to be carried out.
4. Location where activity will be taking place.
5. Date the activity will commence and duration.
6. Explanation in simple terms of the activity or activities to be undertaken.
7. *(a)* An assessment of the impact of the activity will have on the environment, social and the public.

(b) An Environmental Impact assessment (EIA) and an Environmental Management and Monitoring Plan (EMMP) has been prepared that covers the prescribed activity's impacts on the environment, where applicable.

(c) A description of the measures adopted to identify the environmental baseline, measures to reduce, mitigate, control and monitor air, land, noise and water pollution from the activity.

(d) Any potential cross border impact on neighbours and details of any cumulative that may occur due to the activities of the owner or occupier or any person and that of his neighbours.
8. Measures undertaken to manage, mitigate and monitor the detrimental impact to the environment.
9. Confirmation that the person in charge of activity has made adequate arrangements, to respond and recover from environmental incidents, including liaison and arrangements required with relevant emergency services.

Made this 17th. day of Zulhijjah, 1437 Hijriah corresponding to the 19th. day of September, 2016 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM