

No. S 30

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

VALUERS AND ESTATE AGENTS ORDER, 2009

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

VALUERS AND ESTATE AGENTS ORDER, 2009

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, commencement and long title.

1. (1) This Order may be cited as the Valuers and Estate Agents Order, 2009 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*.

(2) The long title of this Order is "An Order to provide for the registration of valuers and estate agents and for purposes connected therewith or incidental thereto".

Interpretation.

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

"Board" means the Board of Valuers and Estate Agents established by section 3;

"certificate of registration" means a certificate of registration issued under section 12(1);

"member" means member of the Board;

"Minister" means the Minister responsible for valuers and estate agents matters;

"Register" means the Register of Valuers and Estate Agents referred to in section 11;

"registered estate agent" means a person whose name has been placed on the Register and to whom a certificate of registration has been issued by the Board;

"registered valuer" means a person whose name has been placed on the Register and to whom a certificate of registration has been issued by the Board;

"Registrar" means the Registrar of Valuers and Estate Agents referred to in section 10.

PART II

BOARD OF VALUERS AND ESTATE AGENTS

Establishment of Board.

3. There is hereby established a Board known as the Board of Valuers and Estate Agents.

Membership of Board.

4. (1) The Board shall consist of the following members —

(a) the Commissioner of Lands, who shall be the chairman;

(b) the following members to be appointed by the Minister —

(i) 2 valuers who are public officers;

(ii) 2 valuers who are in private practice with at least 6 years' experience as valuers and who hold a recognised degree in valuation or estate management or who are members of the Royal Institute of British Chartered Surveyors or the Malaysian Institute of Surveyors or any similar body that the Board may recognise;

(iii) 2 estate agents who are citizens of Brunei Darussalam with at least 6 years' experience as estate agents; and

(iv) 2 land officers from the Lands Department.

(2) The period of appointment of members, other than the chairman, shall be 3 years but they shall be eligible for re-appointment.

(3) All acts done by the Board shall, notwithstanding any vacancy in the Board or that it is afterwards discovered that there was a defect in the appointment of any person purporting to be a member thereof, be as valid as if no such vacancy or defect had existed.

Meetings of Board.

5. (1) The Board shall meet at least once in 3 months and at such other times as may be considered necessary by the chairman.

(2) At any meeting, the chairman shall preside, and in his absence from any meeting members present shall elect one of their number to preside over the meeting.

(3) The quorum of the Board shall be 5.

(4) The chairman at a meeting shall have an original vote and also a casting vote.

(5) Subject to the provisions of this Order, the Board may determine its own procedure.

Termination of appointment.

6. The appointment of a member, other than the chairman, shall terminate if he resigns his office.

Revocation of appointment.

7. The Minister may revoke the appointment of any member, other than the chairman —

(a) if his conduct, whether in connection with his duties as a member of the Board or otherwise, has been such as to bring discredit to the Board;

(b) if he has become incapable of properly carrying out his duties as a member;

(c) if he is convicted of —

(i) an offence involving fraud, dishonesty or moral turpitude;

(ii) an offence under any law relating to corruption;

(iii) any offence under this Order; or

(iv) any other offence punishable with imprisonment exceeding 2 years;

(d) if he has been adjudicated bankrupt;

(e) if he has been found or declared to be of unsound mind or has otherwise become incapable of managing his affairs;

(f) if he absents himself from 3 consecutive meetings of the Board without obtaining leave in writing from the chairman;

(g) his registration has been cancelled or has become void; or

(h) his name has been removed from the Register.

Functions of Board.

8. The functions of the Board are —

(a) to approve or reject applications for registration under this Order or to approve any such application subject to such conditions as it may consider fit to impose;

(b) to hold disciplinary proceedings in accordance with Part IV;

(c) to hold or cause to be held examinations of persons who desire to qualify themselves for registration as valuers or estate agents;

(d) to recommend to the Minister the scale of fees to be charged by registered valuers and estate agents for professional advice or services rendered;

(e) to hear and determine disputes relating to the professional conduct and ethics of valuers and estate agents or to appoint an arbitrator to hear and determine any such dispute;

(f) to regulate the professional conduct and ethics of valuers and estate agents; and

(g) generally, to do all such acts, matters and things as it considers necessary to carry out the provisions of this Order.

Appointment of examiners and other staff.

9. The Board may appoint examiners and other officers and employees as it may consider necessary for the discharge of its functions.

PART III

REGISTRATION OF VALUERS AND ESTATE AGENTS

Appointment and duties of Registrar.

10. (1) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may appoint a Registrar of Valuers and Estate Agents for the purposes of this Order.

(2) The Registrar shall —

(a) keep and maintain the Register;

(b) sign all certificates of registration and record all entries of registration, cancellation, suspension and reinstatement in the Register.

(3) The Registrar may annually publish and offer for sale copies of the Register.

Register.

11. The Register shall be in such form as the Board may determine. It shall be in 2 parts —

(a) Part I, which shall contain the names, addresses, qualifications and such other particulars of registered valuers;

(b) Part II, which shall contain the names, addresses, qualifications and such other particulars of registered estate agents.

Certificate of registration.

12. (1) The Registrar shall issue to any registered valuer or registered estate agent whose application for registration has been approved by the Board, a certificate of registration in a form approved by the Board upon payment of the prescribed fee.

(2) The certificate of registration shall, subject to the provisions of this Order, expire on the 31st December of the year in which it was issued and shall be renewable annually upon payment of the prescribed fee.

(3) Every registered valuer and registered estate agent shall notify the Registrar of any change in his business address within 14 days of the change and such change shall be entered in the register.

Persons eligible for registration as valuer.

13. Subject to this Order, the following persons are eligible to be registered as a valuer —

(a) any person who has passed the examinations set by the Board after completing a period of practical training as a valuer of not less than 3 years;

(b) any person who has passed any professional examination in Brunei Darussalam or overseas recognised by the Board as qualifying for exemption and completed a period of practical training as a valuer of not less than 3 years;

(c) any person who has obtained any qualification in Brunei Darussalam or overseas recognised by the Board as qualifying for exemption and who has completed a period of practical training as a valuer of not less than 3 years;

(d) any person who has passed the examinations set by the Board and who has been practising as a valuer for at least 3 years prior to the commencement of this Order is entitled for registration provided the Board is satisfied that his valuation practice had been his principal work.

Registered valuer.

14. (1) A registered valuer who has paid the prescribed annual registration fee shall be entitled to undertake the following professional work —

(a) the valuation of all land and buildings, including furniture, fixtures, trade stocks, plant or machinery and other effects;

(b) the valuation of all land and buildings required for feasibility studies, court proceedings, arbitration or other purposes; and

(c) property management and the making and checking of inventories of furniture, fixtures, trade stocks, plant or machinery and other effects.

(2) No person shall carry on business or take up employment as a valuer under any name, style or title which confers the meaning that he is a valuer, and no person shall undertake for a fee any work of a valuer unless he is a registered valuer.

Persons eligible for registration as estate agent.

15. Subject to this Order, the following persons are eligible to be registered as an estate agent —

(a) any person who has passed the examinations set by the Board after completing a period of practical training as an estate agent of not less than 3 years;

(b) any person who has obtained any qualification in Brunei Darussalam or overseas recognised by the Board as qualifying for exemption and who has completed a period of practical training as an estate agent of not less than 3 years;

(c) any person who has passed the examinations set by the Board and who has been practising as an estate agent for at least 3 years prior to the commencement of this Order is entitled for registration, provided the Board is satisfied that his estate agency had been his principal work.

Registered estate agent.

16. (1) A registered estate agent who has paid the prescribed annual registration fee shall be entitled to undertake estate agency practice, including negotiations for sales, purchases, lettings and leaseings by agreement, tender or auction.

(2) No person shall, unless he is a registered estate agent, carry on business as an estate agent or describe himself in any manner which could be construed to imply that he is a registered estate agent.

Practice of partnership or body corporate.

17. The Board may approve, subject to such conditions and restrictions as it considers fit, a partnership or body corporate to practise valuation, estate agency or property services.

PART IV

DISCIPLINARY PROCEEDINGS

Cancellation, suspension and reprimand.

18. (1) Subject to the provisions of this Part, if a registered valuer or a registered estate agent —

(a) has been convicted of any offence involving dishonesty, fraud or moral turpitude;

(b) has been found to have obtained his registration under this Order by fraud or misrepresentation;

(c) has his qualification under sections 13 or 15 withdrawn or cancelled by the authority through which it was acquired or by which it was awarded;

(d) has contravened or failed to comply with any of the provisions of this Order or any of the rules made thereunder;

(e) has not observed any restrictions subject to which he is registered;

(f) has repeatedly refused or neglected to comply with any order of the Board acting under any of the provisions of this Order or of any rules made thereunder; or

(g) has been found guilty by the Board of any professional misconduct or of any act or conduct which in the opinion of the Board is infamous or disgraceful,

the Board may make an order to cancel his registration, suspend his practice for a period not exceeding 3 years or reprimand him.

(2) The Board shall not make any order under subsection (1) unless —

(a) there has been a hearing at which not less than two-thirds of the total number of members of the Board are present; and

(b) an opportunity of being heard, with or without the assistance of counsel, has been given to the person concerned.

Removal from Register.

19. The Registrar shall remove from the Register the name and other particulars of a registered valuer or a registered estate agent —

(a) who has died;

(b) who has applied in writing for such removal;

(c) who has failed to renew his registration within 3 months of its expiry;

(d) whose registration has been cancelled under section 18;

(e) who has been found or declared to be of unsound mind or has otherwise become incapable of managing his affairs.

Reinstatement.

20. Where a name has been removed from the Register under section 19(c), it shall be reinstated forthwith upon payment of the prescribed fee.

Appeal.

21. Any person aggrieved by the refusal of registration, by the removal of his name from the Register or any order of the Board under section 18 may appeal to the Minister, whose decision is final.

PART V

GENERAL

Offences.

22. Any person who —

(a) procures or attempts to procure registration under this Order by knowingly making or producing or causing to be made or produced any false or fraudulent declaration, certificate, application or representation whether in writing or otherwise;

(b) wilfully makes or causes to be made any falsification in the register;

(c) forges, alters or counterfeits any certificate under this Order;

(d) utters or uses any forged, altered or counterfeit certificate under Order, knowingly the same to be forged, altered or counterfeited;

(e) buys or fraudulently obtains any certificate under this Order issued to another person;

(f) sells any certificate issued under this Order; or

(g) not being a person acting under the immediate personal direction and supervision of a registered valuer or a registered estate agent carries out or undertakes to carry out any work provided under sections 14 and 16,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, and to a further fine of \$500 for each day during the continuance of such offence.

Penalty for offences not otherwise provided for.

23. Any person who commits any offence under this Order for which no other penalty is expressly provided is liable on conviction to a fine not exceeding \$5,000.

Offences by bodies corporate.

24. (1) Where an offence under this Order which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of that body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that 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 that body corporate.

Rules.

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

Made this 7th. day of Rejab, 1430 Hijriah corresponding to the 30th. day of June, 2009 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM