

LAWS OF BRUNEI

CHAPTER 227
SAFETY, HEALTH AND ENVIRONMENT
NATIONAL AUTHORITY

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CHAPTER 227

**SAFETY, HEALTH AND ENVIRONMENT NATIONAL
AUTHORITY**

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**SAFETY, HEALTH AND ENVIRONMENT NATIONAL
AUTHORITY ACT**

An Act to establish and incorporate the Safety, Health and Environment National Authority and to provide for all matters connected therewith or incidental thereto

Commencement: 1st April 2017

PART I

PRELIMINARY

Citation

1. This Act may be cited as the Safety, Health and Environment National Authority Act.

Interpretation

2. In this Act, 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 Act.

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 Act 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 Act 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 Act 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 is deemed to be fulfilling the purposes of this Act;

(b) the provisions of this Act 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 Act, 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 Act 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 Act, 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 Act.

Public servants

13. All officers and employees of the Authority are 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 Act, 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 Act and any regulations made thereunder.

Grants-in-aid

16. (1) The Minister of Finance and Economy 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 Act, the Authority may —

(a) raise loans from the Government; or

(b) with the approval of the Minister of Finance and Economy, 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 Act; 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 and Economy, 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 Act 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 Act.

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 Act 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 Act.

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 and Economy not later than 60 days before the commencement of the new financial year.

(4) The Minister of Finance and Economy 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 and Economy 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 Act; 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 Act.

(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 Act 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 Act 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 and Economy.

(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.

