

STATE OF SABAH

I assent,

TUN DATUK HAJI MOHAMMAD ADNAN ROBERT,
Yang di-Pertua Negeri.

8TH MARCH, 1984.

No. 3 of 1984

An Enactment to give consent under Article 2 of the Federal Constitution.

WHEREAS the Federation and the State of Sabah have agreed that the Federal Territory of Labuan shall be established;

AND WHEREAS by virtue of Article 2 of the Federal Constitution a federal law altering the boundaries of a State shall not be passed without the consent of that State (expressed by a law made by the Legislature of that State) and the consent of the Conference of Rulers;

AND WHEREAS the Conference of Rulers has consented to the passing of the Constitution (Amendment) (No. 2) Bill 1984 altering the boundaries of the State of Sabah.

IT IS HEREBY ENACTED by the Legislature of the State of Sabah as follows:

Short title and commencement.

1. (1) This Enactment may be cited as the Federal Territory of Labuan Enactment, 1984.

(2) Sections 2, 3 and 4 shall come into force on 16th April, 1984.

Alteration of State Boundaries.

2. (1) The boundaries of the State of Sabah are hereby altered by the exclusion of the area described hereunder for the purpose of the establishment of the Federal Territory of Labuan.

(2) The Federal Territory of Labuan shall consist of the area bounded by boundary lines joining the points whose coordinates are:

U 05° 26!5	U 05° 09!9
T 115° 15!8	T 115° 05!1
U 05° 25!5	U 05° 12!1
T 115° 17!3	T 115° 04!1
U 05° 22!0	U 05° 13!9
T 115° 20!0	T 115° 05!1
U 05° 12!8	U 05° 15!5
T 115° 20!0	T 115° 04!5
U 05° 11!9	U 05° 22!5
T 115° 15!3	T 115° 08!9
U 05° 08!6	U 05° 25!3
T 115° 10!1	T 115° 11!7
U 05° 08!2	U 05° 26!0
T 115° 08!6	T 115° 12!4
U 05° 08!8	U 05° 26!5
T 115° 06!3	T 115° 13!9

and as shown in a Map identified by Reference No. DPNM,10.22(56).

(a) prepared by the Director of National Mapping, Malaysia;

- (b) dated and certified as a true and correct map of the area by the Director of National Mapping, Malaysia and the Director of Lands and Surveys, Sabah;
- (c) filed in the office of the Director of National Mapping, Malaysia.

(3) The boundaries and the area of the Federal Territory of Labuan as shown in the map referred to in subsection (2) shall be conclusive evidence of the boundaries and the area of the Federal Territory of Labuan.

Exclusion of Federal Territory of Labuan from Sabah and relinquishment of powers, etc. by Sabah.

3. The area referred to in section 2 shall cease to form part of the State of Sabah and the State of Sabah shall relinquish and cease to exercise any sovereignty over the said area and all power and jurisdiction of the Yang di-Pertua Negeri and the Legislative Assembly of the State of Sabah in or in respect of the said area shall come to an end.

Succession to rights, liabilities and obligations.

4. (1) All rights, liabilities and obligations relating to any matter which was immediately before the commencement of this Enactment the responsibility of the Government of the State of Sabah but which on that day becomes the responsibility of the Government of the Federation, shall on that day devolve upon the Federation, unless otherwise agreed between the Federal Government and the Government of that State.

(2) Where any moneys required to be paid pursuant to any such liability for obligation as is referred to in subsection (1) were immediately before the commencement of this Enactment charged on the Consolidated Fund of the State of Sabah, then, to the extent to which the liability or obligation devolves upon the Federation on that day, the moneys required for the payment thereof shall be a charge on the Consolidated Fund of the Federation, but to the extent to which the liability or obligation continues to be the responsibility of the State of Sabah it shall remain charged on the Consolidated Fund of that State.

Consent under Article 2 of the Federal Constitution.

5. (1) Consent is hereby given to the alteration of the boundaries of the State of Sabah, being the alteration described in section 2 of this Enactment and the corresponding provision in Clause 2 of the Constitution (Amendment) (No. 2) Bill 1984.

(2) The relevant provisions of the Constitution (Amendment) (No. 2) Bill, 1984 are set out in the Schedule hereto.

SCHEDULE

Section 5(2)

PART I

THE FEDERAL TERRITORY OF LABUAN

Alteration of boundaries of the State of Sabah.

2. (1) The boundaries of the State of Sabah are hereby altered by the exclusion of the Federal Territory of Labuan as described hereunder.

(2) The Federal Territory of Labuan shall consist of the area bounded by boundary lines joining the points whose coordinates are:

U 05°	26!5	U 05°	09!9
T 115°	15!8	T 115°	05!1
U 05°	25!5	U 05°	12!1
T 115°	17!3	T 115°	04!1
U 05°	22!0	U 05°	13!9
T 115°	20!0	T 115°	05!1
U 05°	12!8	U 05°	15!5
T 115°	20!0	T 115°	04!5
U 05°	11!9	U 05°	22!5
T 115°	15!3	T 115°	08!9
U 05°	08!6	U 05°	25!3

T 115°	10!1	T 115°	11!7
U 05°	08!2	U 05°	26!0
T 115°	08!6	T 115°	12!4
U 05°	08!8	U 05°	26!5
T 115°	06!3	T 115°	13!9

and as shown in a Map identified by Reference No. DPNM, 10.22(56).

- (a) prepared by the Director of National Mapping, Malaysia;
- (b) dated and certified as a true and correct map of the area by the Director of National Mapping, Malaysia and the Director of Lands and Surveys, Sabah;
- (c) filed in the office of the Director of National Mapping, Malaysia.

(3) The boundaries and the area of the Federal Territory of Labuan as shown in the map referred to in subsection (2) shall be conclusive evidence of the boundaries and the area of the Federal Territory of Labuan.

Exclusion of Federal Territory of Labuan from Sabah and relinquishment of powers, etc. by Sabah.

3. The area referred to in section 2 shall cease to form part of the State of Sabah and the State of Sabah shall relinquish and cease to exercise any sovereignty over such area and all power and jurisdiction of the Yang di-Pertua Negeri and the Legislative Assembly of the State of Sabah in or in respect of the said area shall come to an end.

Jurisdiction over Federal Territory of Labuan.

4. The Federation shall exercise sovereignty over the Federal Territory of Labuan and all power and jurisdiction in or in respect of the Federal Territory of Labuan shall be vested in the Federation.

Vesting of lands within the Federal Territory of Labuan.

5. (1) The entire property in and control of all lands within the area referred to in section 2 which immediately before the coming into force of this Enactment were vested in the State of Sabah or any person or public authority on its behalf, save for the land specified in subsection (3), and all minerals and rock material within or upon any land within the said area the rights to which have not been specifically disposed of shall, upon the commencement of this Act without any transfer or conveyance, be vested solely in the Federation and may be disposed of or dealt with in accordance with the Land Ordinance [Sabah Cap. 68.], the Mining Ordinance [Sabah Ord. 20/1960.], the Forest Ordinance [Sabah En. 2/1968.].

(2) All estates and interest in any land, mining rights and forest rights within the area referred to in section 2 which were held by any person from the State of Sabah immediately before the coming into force of this Act shall continue to be held from the Government of the Federation on the same terms and conditions as they were held from the State of Sabah.

(3) The building known as "Sri Labuan" together with the land occupied in conjunction therewith shall, upon the commencement of this Act, vest in the State of Sabah and may be dealt with or disposed of by the State of Sabah in accordance with the land law in force in the Federal Territory at the time it is dealt with or disposed of.

Continuation of existing laws etc.

6. (1) All written laws (including those specified in sections 5 and 8), other than the Constitution of the State of Sabah, existing and in force in the area referred to in section 2 immediately before the coming into force of this Act shall continue to have effect in the Federal Territory of Labuan until repealed, amended or replaced by laws passed by Parliament.

(2) Whereby any such laws as is referred to in subsection (1), any power or function is vested in the Yang di-Pertua Negeri of the State of Sabah or in any authority of the State, that power or function may in relation to the Federal Territory of Labuan be exercised or performed by the Yang di-Pertuan Agong or the Minister responsible for the relevant subject or such other person or authority as the Yang di-Pertuan Agong may by order direct:

Provided that the Yang di-Pertuan Agong may with the concurrence of the State Authority by order direct that any such power or function may be exercised or performed on behalf of the Government of the Federation by the authority of the State in which it was vested immediately before the coming into force of this Act; and while that direction remains in force the authority of the State shall, in regard to the exercise or performance of that power or function be deemed to be an authority of the Government of the Federation.

(3) The Yang di-Pertuan Agong may, whenever it appears to him necessary or expedient to do so whether for the purpose of removing difficulties or in consequence of the passing of this Act, by order make such modifications to any provisions in such written law as is referred to in subsection (1) as he may think fit.

Extension of Legislation having effect in West Malaysia.

7. Upon the commencement of this Act, any federal law having effect only in West Malaysia or any part thereof may, by order of the Yang di-Pertuan Agong, be extended to the Federal Territory of Labuan with or without modifications and any such order may provide for the repeal of any written law in its application to the Federal Territory of Labuan.

Continuation of local government and customs provisions.

8. Upon the commencement of this Act –

- (a) the municipality of Labuan, in so far as Local Government is concerned, shall continue to function as such municipality under the provisions of the Local Government Ordinance 1961 [*Sabah Ord. 11/1961.*];
- (b) the Federal Territory of Labuan shall continue to be governed by PART XVIII of and be subject to the Customs Act 1967 [*Act 235.*].

Succession to rights, liabilities and obligations.

9. (1) All rights, liabilities and obligations which immediately before the commencement of this Act were those of the Government of the State of Sabah in respect of the area referred to in section 2, shall on the commencement of this Act devolve upon the Federation, except as provided in subsection (2) or unless

otherwise agreed to between the Federal Government and the Government of the State.

(2) For the purpose of section 4 of the Petroleum Development Act 1974 [Act 144.] the State of Sabah shall be construed as including the Federal Territory of Labuan and the reference to the State of Sabah in any Agreement made before or after the commencement of this Act pursuant to the said section 4 shall be construed accordingly.

(3) Where any moneys required to be paid pursuant to any such liability or obligation as is referred to in subsection (1) were immediately before the commencement of this Act charged on the Consolidated Fund of the State of Sabah, then, to the extent to which the liability or obligation devolve upon the federation on the commencement of this Act, the moneys required for the payment thereof shall be a charge on the Consolidated Fund of the Federation, but to the extent to which the liability or obligation continues to be the responsibility of the State of Sabah it shall remain charged on the Consolidated Fund of that State.

(4) The Attorney-General shall on the application of any party interested in any legal proceedings, other than proceedings between the Federation and the State of Sabah, certify whether any right, liability or obligation is by virtue of this section a right, liability or obligation of the Federation or of the State; and any such certificate shall for the purposes of those proceedings be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and the State as between themselves.

Succession in civil proceedings.

10. (1) In any legal proceedings relating to civil matters pending on the commencement of this Act there shall be made such substitution of one party for another as may be necessary to take account of any transfer on that day of jurisdiction or executive authority or of any transfer under this Act of rights, liabilities or obligations.

(2) Any appeal brought on or after the commencement of this Act against a decision given in any legal proceedings before that day may be brought by or against the party who should, by virtue of subsection (1) have been the appellant or respondent if the proceedings had continued after that day, but if it is not so

brought, subsection (1) shall apply to it as it applies to proceedings pending on that day.

(3) Subsection (2) shall apply with the necessary modifications to proceedings for leave to appeal as it applies to an appeal.

(4) The Attorney-General shall, on the application of a party to any proceedings, certify whether any, and if so what, substitution of one party for another is to be made by virtue of subsections (1) to (3) in those proceedings or for the purpose of any appeal arising out of them; and any such certificate shall for purposes of the proceedings or any such appeal, be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and the State as between themselves.

PART II
AMENDMENT AND APPLICATION OF CERTAIN
PROVISIONS OF THE CONSTITUTION

Amendment of Article 1.

11. Article 1 of the Constitution is amended by substituting for Clause (4) the following Clause (4):

“(4) The territory of the State of Selangor shall exclude the Federal Territory of Kuala Lumpur established under the Constitution (Amendment) (No. 2) Act 1983 and the territory of the State of Sabah shall exclude the Federal Territory of Labuan established under the Constitution (Amendment) (No. 2) Act 1984, and both the said Federal Territories shall be territories of the Federation.”.

Amendment of Article 42.

12. Article 42 of the Constitution is amended –

- (a) by substituting in Clauses (1), (2) and (10) for the word “Territory” the words “Territories of Kuala Lumpur and Labuan”;
- (b) by substituting for Clause (3) for the words “the Federal Territory shall be regarded as a State” the words “the Federal Territory of Kuala Lumpur and Labuan shall be regarded as a State”.

Lumpur or the Federal Territory of Labuan, as the case may be, shall each be regarded as a State.”; and

(c) by substituting for Clause (11) the following Clause (11):

“(11) For the purpose of this Article there shall be constituted a single Pardons Board for the Federal Territory of Kuala Lumpur and the Federal Territory of Labuan and the provisions of Clauses (5), (6), (7), (8) and (9) shall apply *mutatis mutandis* to the Pardons Board under this Clause except that reference to “Ruler or Yang di-Pertua Negeri” shall be construed as reference to the Yang di-Pertuan Agong and reference to “Chief Minister of the State” shall be construed as reference to the “Minister responsible for the Federal Territory of Kuala Lumpur and the Federal Territory of Labuan.”.

Amendment of Article 45.

13. Article 45 in Clause (1) is amended by substituting for paragraph (aa) the following paragraph (aa) –

“(aa) Two members for the Federal Territory of Kuala Lumpur and one member for the Federal Territory of Labuan shall be appointed by the Yang di-Pertuan Agong; and”.

Amendment of Article 46.

14. Article 46 is amended –

(a) by substituting in Clause (1) for the words “seventy-six” the words “seventy-seven”; and

(b) by substituting for paragraph (b) of Clause (2) the following paragraph (b) –

“(b) eight members from the Federal Territory as follows –

- (i) seven members from the Federal Territory of Kuala Lumpur; and
- (ii) one member from the Federal Territory of Labuan.”.

Amendment of Article 113 and provisions relating to constituencies.

15. (1) Article 113 in Clause (6) of the Constitution is amended by inserting immediately after the words “the State” the words, “and the expression “States of Malaya” shall include the Federal Territory of Kuala Lumpur and the Federal Territory of Labuan”.

(2) Upon the commencement of this Act the area which constitutes the Federal Territory of Labuan shall cease to form part of a State constituency:

Provided however that until the dissolution of the Legislative Assembly of the State of Sabah next following the commencement of this Act the member of the said Assembly elected from such State constituency shall, notwithstanding the exclusion of the said area from the said constituency, continue to be a member of the said Assembly.

(3) Until the dissolution of Parliament next following the commencement of this Act the federal constituency which includes the area which constitutes the Federal Territory of Labuan shall continue to exist and the member elected from the said constituency shall continue to be a member of Parliament.

(4) Notwithstanding anything contained in PART VIII of this Constitution, where the review under Clause (2) of Article 113 in progress at the commencement of this Act in relation to the State of Sabah –

- (a) provides for the Federal Territory of Labuan to be part of a State constituency, it shall cease to have effect to the extent that it so provides; and
- (b) provides for a federal constituency from the area which constitute the Federal Territory of Labuan, it shall be deemed to provide for a federal constituency from the Federal Territory of Labuan.

Application of Article 121 and 161B to Federal Territory of Labuan.

16. (1) The High Court in Borneo constituted under Clause (1) (b) of Article 121 shall, until such time as the Yang di-Pertuan Agong by order otherwise provides have jurisdiction in the Federal Territory of Labuan.

(2) Notwithstanding Article 161B of the Constitution any person entitled to practise before a court in the States of Malaya or in the State of Sabah shall be entitled to practise before the High Court in the States of Malaya or Borneo, or before the Federal Court, wherever sitting, in any proceeding relating to a matter which has arisen in the Federal Territory of Labuan.

Application of Article 161 to the Federal Territory of Labuan.

17. Clause (5) of Article 161 shall, in so far as it relates to the use of a native courts or for any code of native law and custom, shall apply in the Federal Territory of Labuan in the like manner that it applies in the State of Sabah.

Application of Article 161A to the Federal Territory of Labuan.

18. (1) The reference in Clause (6) (b) of Article 161A to "Sabah" shall be construed as including a reference to the Federal Territory of Labuan.

(2) Article 89 shall not apply to the Federal Territory of Labuan and Article 8 shall not invalidate or prohibit any provision of a federal law for reservation of land for natives in the Federal Territory of Labuan or for alienation to them, or for giving them preferential treatment as regards the alienation of land in the Federal Territory of Labuan by the Federation.

Application of Article 161E to the Federal Territory of Labuan.

19. (1) Notwithstanding anything contained in Article 161E, for the purposes of sections 66 and 71 of the Immigration Act 1959/63, a person who immediately before the commencement of this Act was a person belonging to the State of Sabah within the meaning of those said sections, and is resident in the Federal Territory of Labuan after the commencement of this Act shall continue to have the right to enter into and reside in Sabah as a person belonging to the State of Sabah.

Consequential Amendments to the Constitution.

20. The amendments specified in the Schedule hereto relating to the Federal Territory of Labuan shall have effect.

SCHEDULE

(Section 20)

CONSEQUENTIAL AMENDMENTS TO THE CONSTITUTION

<i>Article</i>		<i>Amendments</i>
3	...	In Clause (5) substitute for the word "Territory" the words "Territories of Kuala Lumpur and Labuan".
11	...	In Clause (4) substitute for the word "Territory" the words "Territories of Kuala Lumpur and Labuan".
55	...	In Clause (4) insert after the word "Malaya" the words "and the Federal Territories of Kuala Lumpur and Labuan".
97	...	In Clause (3) substitute for the word "Territory" the words "Territories of Kuala Lumpur and Labuan".
Ninth Schedule.	...	(1) In the Federal List – (a) Substitute for item 6(e) the following: “(e) Government and Administration of the Federal Territory of Kuala Lumpur and Labuan including Muslim law therein to the same extent as provided in item 1 in the State List and in respect of the Federal Territory of Labuan, native law and custom to the same extent as provided in item 1 of the Supplement to State List for States of Sabah and Sarawak”; and

- (b) in item 27, insert after the word "List" the words "and in the case of the Federal Territory of Labuan the matters enumerated in items 15, 16 and 17 of the Supplement to the State List for States of Sabah and Sarawak".
- (2) In the State List, in items 1, 2, 3, 4 and 5 substitute for the word "Territory" the words "Territories of Kuala Lumpur and Labuan".

CERTIFIED by me to be a true copy of the Bill passed by the Assembly on Thursday, 8th March, 1984.

DATUK HAJI MOHD. SUNOH MARSO,
Speaker.