

STATE OF SABAH

LEGISLATIVE ASSEMBLY (PRIVILEGES, IMMUNITIES AND POWERS) ENACTMENT 1963

(Sabah No. 36 of 1963)

LIST OF AMENDMENTS

<i>Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
11/1967	33 (1) (c), (3) (b) (ii)	30-12-1967
Act 160	14, 15 (2), 16, 17, 18, 19, 20, 23	29-8-1975
2/1995	33 (1), (a), (b), (c), (2), (3)	28-11-1994

An Enactment to declare and define the privileges, immunities and powers of the Legislative Assembly and of the Speaker, members, officers and committees thereof; to regulate the conduct of members and other persons in connection with the proceedings thereof; and for matters incidental to or connected with the foregoing.

[21 November 1963]

ENACTED by the Legislature of the State of Sabah as follows:

PART I
PRELIMINARY

Short title.

1. This Enactment may be cited as the Legislative Assembly (Privileges, Immunities and Powers) Enactment 1963.

Interpretation.

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

“Assembly” means the Legislative Assembly;

“authorised committee” means any committee duly authorised by the Standing Orders* or by a resolution of the Assembly to send for persons, papers and records;

“Clerk” means the Clerk of the Legislative Assembly and includes any person acting as such on the authority of the Speaker;

“committee” means a committee of the whole Assembly and any sessional, select or other committee of the Assembly;

“contempt” includes any breach of privilege of the Assembly and the commission of any offence mentioned in Part IV of this Enactment other than section 21 or 22;

“journals” means the votes and proceedings of the Assembly, the official reports or records thereof, and the minutes or records of the proceedings of any committee;

“member” means a member of the Assembly, and shall, where the context so admits, include the Speaker;

“officer” means the Clerk and any Clerk-Assistant of the Assembly, the Serjeant-at-Arms and such other officers and persons as may be appointed to the staff of the Assembly and any other officer or person acting within the precincts of the Assembly under the orders of the Speaker;

* see G.N.S. 112/64.

“precincts of the Assembly” means the chamber in which the Assembly sits for the transaction of business, together with the offices, rooms, lobbies, galleries, courtyards, gardens and other places provided for the use or accommodation of members, officers or strangers, and any passages connecting such places, and any other places immediately contiguous thereto as may from time to time be designated by the Speaker as precincts of the Assembly;

“Speaker” means the person appointed as such under the provisions of Clause (1) of Article 15 of the Constitution;

“Standing Orders” means the Standing Orders of the Assembly for the time being in force;

“stranger” means any person who is not a member or an officer.

PART II
PRIVILEGES AND IMMUNITIES OF ASSEMBLY AND
MEMBERS, ETC.

Evidence of proceedings not to be given without leave.

3. (1) No member or officer and no person employed to take or transcribe minutes of evidence before the Assembly or any committee shall give evidence elsewhere in respect of the contents of such minutes or the contents of any document laid before the Assembly or any committee; or in respect of any proceedings or examination had before the Assembly or any committee without the special leave of the Assembly first had and obtained.

(2) The special leave referred to in subsection (1) of this section may be given after a dissolution or during a recess or adjournment by the Speaker.

Certificate in respect of publications of Assembly.

4. In any proceedings against any person in respect of the publication of any matter, a certificate under the hand of the Speaker stating that such matter was published by or under the authority of the Assembly shall be conclusive evidence that such matter was so published.

Strangers.

5. (1) No stranger shall be entitled as of right to enter or remain within the precincts of the Assembly and the Speaker or any officer authorised in that behalf by the Speaker may at any time order any stranger to withdraw therefrom.

(2) The Speaker may issue such orders as he may deem necessary or desirable for the regulation of the admittance of strangers to, and the conduct of strangers within, the precincts of the Assembly.

(3) The exhibition in a conspicuous position in the precincts of the Assembly of a copy, duly authenticated by the Clerk, of any orders made by the Speaker under this section shall be deemed to be sufficient notice to all persons affected thereby.

(4) Any person failing to obey an order given under subsection (1) of this section may be forcibly removed from the precincts of the Assembly by an officer or a police officer.

Privileges and immunities of House of Commons to be enjoyed by Assembly and members.

6. (1) Save as is otherwise expressly provided by this Enactment or any other written law, the Assembly and the members thereof respectively shall hold, enjoy and exercise such and the like privileges and immunities and powers relating thereto as are held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom and by the members thereof.

(2) Any member who claims to be entitled to any privilege, immunity or power under this section may be required by the Speaker to refer to the authority, apart from the provision of this section, on which he bases his claim.

(3) The Speaker may from time to time declare the authorities to which reference may be made for the purposes of this section.

PART III
EVIDENCE

Power to order the attendance of persons.

7. The Assembly and any authorised committee may order any person to attend before the Assembly or before such committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

Attendance to be notified by summons.

8. (1) Any order to attend to give evidence or to produce documents before the Assembly or an authorised committee shall be notified to the person required to attend or to produce documents by a summons under the hand of the Clerk issued by the direction of the Speaker.

(2) In every summons under this section there shall be stated the time when and the place where the person summoned is required to attend and the particular documents which he is required to produce, and such summons shall be served on the person mentioned therein either by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in the State with some adult person.

(3) Where any person summoned under this section does not reside within five miles of the place of attendance specified in the summons there shall be paid or tendered to him such sum for his expenses as may be specified by the Standing Orders.

(4) A summons under this section may be served by an officer or by a police officer.

Witnesses may be examined on oath, etc..

9. (1) The Assembly or an authorised committee may require that any facts, matters and things relating to the subject of inquiry before the Assembly or such committee be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined on oath, or if the witness so desire, upon affirmation.

(2) An oath or affirmation required to be taken under the provisions of this section may be administered by the Clerk or by any other person appointed by the Assembly for that

purpose, or, in the case of a witness before a committee, by the chairman of the committee or member presiding in the absence of the chairman, or by the clerk to the committee.

Objection to answer or produce papers.

10. If any person ordered to attend or to produce any paper, book, record or document before the Assembly or before any authorised committee refuses to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of inquiry, the Speaker or the chairman of the committee, as the case may be, may —

- (a) excuse the answering of such question or the production of such paper, book, record or document; or
- (b) order such answering or production; or
- (c) report such refusal, with the reason therefor to the Assembly which may direct the Speaker or chairman to take such action as it deems proper.

Privileges of witnesses.

11. (1) Every person summoned to attend to give evidence or to produce any paper, book, record or document before the Assembly shall be entitled, in respect of such evidence or the disclosure of any communication or such production, to the same rights and privileges in respect thereof as he would have before a court.

- (2) No public officer shall —
 - (a) produce before the Assembly or any committee any paper, book, record or document; or
 - (b) give before the Assembly or any committee any evidence,

which relates to the correspondence of any naval, military, air force or civil department or to any matter affecting the public service, except with the consent of the Yang di-Pertuan Agong in the case of a naval, military or air force department or a civil department of the Federal Government or of the Chief Minister in the case of a department of the Government of the State or of any of the other States of Malaysia; nor shall secondary evidence be received by

or produced before the Assembly or any committee of the contents of any such paper, book, record or document.

Certificate to be issued to witnesses.

12. Every witness before the Assembly or an authorised committee who shall answer fully and faithfully any question put to him by the Assembly or such committee to its satisfaction shall be entitled to receive a certificate under the hand of the Speaker or the chairman of the committee, as the case may be, stating that such witness was, upon his examination, so required to answer and did answer any such questions.

Questions relating to evidence, etc., to be determined in accordance with usages of House of Commons.

13. Where at any time any question arises in the Assembly or in a committee regarding —
- (a) the right or power of the Assembly or committee to hear, admit or receive oral evidence; or
 - (b) the right or power of the Assembly or committee to peruse or examine any paper, book, record or document or to summon, direct or call upon any person to produce any paper, book, record or document before the Assembly or committee; or
 - (c) the right or privilege of any person (including a member) to refuse to produce or lay any paper, book, record or document before the Assembly or committee,

that question shall, subject to the provisions of this Enactment and except in so far as express provisions is made thereby for the determination of such question, be determined in accordance with the usage and practice of the Commons House of Parliament of the United Kingdom.

PART IV
OFFENCES AND PENALTIES

Contempt.

14. Any person who —

- (a) having been called upon to give evidence before the Assembly or an authorised committee refuses to be sworn or make an affirmation; or
- (b) being a witness before the Assembly or a committee prevaricates or otherwise misconducts himself; or
- (c) causes an obstruction or disturbance within the precincts of the Assembly while the Assembly or a committee is sitting; or
- (d) shows disrespect in speech or manner towards the Speaker or the chairman of a committee; or
- (e) commits any other act of intentional disrespect to or with reference to the proceedings of the Assembly or of a committee or to any person presiding at such proceedings,

shall be guilty of an offence and liable to imprisonment for six months and a fine of one thousand ringgit.

Member not to vote, etc., on matter in which he has pecuniary interest.

15. (1) A member shall not in or before the Assembly or any committee take part in the discussion of any matter in which he has a direct pecuniary interest without disclosing the extent of that interest and shall not in any circumstances vote upon any such matter.

(2) Any member who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and liable to imprisonment for two years and a fine of five thousand ringgit.

(3) The provisions of this section shall not apply to any vote or discussion concerning any remuneration or allowance to be received by members in their capacity as

such or as members of the Cabinet, or to any interest which a member may have in any matter in common with the public generally, or with any category or section thereof.

Disobedience.

16. Any person who —

- (a) fails without just cause to comply with any summons issued under the provisions of section 8 or 27 of this Enactment and duly served upon him; or
- (b) wilfully fails or refuses to obey any rule or order of the Assembly or a committee or any order of the Speaker duly made under the Standing Orders or this Enactment; or
- (c) refuses to be examined before, or to answer any lawful or relevant question put to him by, the Assembly or an authorised committee unless such refusal is based on privilege or is excused; or
- (d) being a member and having been suspended from the service of the Assembly contravenes, or attempts to contravene any of the provisions of subsection (1) of section 25 of this Enactment,

shall be guilty of an offence and liable to imprisonment for two years and a fine of five thousand ringgit:

Provided that no offence shall be committed under paragraph (b) of this section unless the Speaker or an officer has drawn to the attention of the person concerned the fact that such failure or refusal is contrary to such rule or order and such person thereafter continues in such failure or refusal as aforesaid.

False documents.

17. Any person who presents to the Assembly or to any committee any false, untrue, fabricated or falsified document with intent to deceive the Assembly or committee shall, where such presentation does not constitute an offence under section 21 of this Enactment, be guilty of an offence and liable to imprisonment for two years and a fine of five thousand ringgit.

False copies of laws.

18. Any person who —

- (a) prints or causes to be printed a copy of any Enactment now or hereafter in force, or a copy of any report, paper or journals of the Assembly or of any committee as purporting to have been printed by the Government Printer, or by or under the authority of the Assembly or any committee, or of the Speaker, and the same is not so printed; or
- (b) tenders in evidence any such copy as purporting to be so printed knowing that the same was not so printed,

shall be guilty of an offence and liable to imprisonment for three years and a fine of seven thousand ringgit.

Interference with witnesses.

19. Any person who —

- (a) tampers with, deters, threatens, molests, beguiles or in any way unduly influences any witness in regard to any evidence to be given by him before the Assembly or any committee; or
- (b) threatens, molests or in any way punishes, damnifies or injures, or attempts to punish, damnify or injure, any other person for having given evidence before the Assembly or any committee or on account of any evidence which such other person has given before the Assembly or a committee,

shall be guilty of an offence and liable to imprisonment for three years and a fine of seven thousand ringgit.

Improper practice.

20. Any person who endeavours to compel either directly or indirectly any member by force, insult or menace to declare himself in favour of, or against, any Bill, resolution, rule or

other proposition or thing submitted to, or intended or expected to be submitted to, the Assembly or any committee shall be guilty of an offence and liable to imprisonment for three years and a fine of seven thousand ringgit.

Corrupt practice.

21. (1) Any person who offers any fee, gift, compensation, profit, reward, loan, consideration or other advantage whatsoever, either directly or through any other person or otherwise indirectly, —

- (a) to any member or officer for or in respect of the promotion of or opposition to any Bill, resolution, rule or other proposition or thing submitted to, or intended or expected to be submitted to, the Assembly or any committee, or otherwise with a view to influencing him in his capacity as member or officer; or
- (b) to any person in order to obtain his services for the purpose of influencing any member or officer in respect of or in regard to anything connected with any matter mentioned in paragraph (a) of this subsection,

shall be guilty of an offence.

(2) Any person mentioned in paragraph (a) or (b) of subsection (1) of this section who demands or accepts, directly or indirectly, any fee, gift, compensation, profit, reward, loan, consideration or other advantage whatsoever the offering of which would constitute an offence under the said subsection shall be guilty of an offence.

(3) Any person who is guilty of an offence under this section shall be liable to imprisonment for seven years and a fine.

(4) In any proceedings against any person for an offence under this section, the court, if it finds the offence proved, shall in addition to or in lieu of any penalty which it may impose order that the value of the fee, gift, compensation, profit, reward, loan, consideration or other advantage (where the nature thereof so allows) offered or accepted or received in contravention of this section shall be forfeited.

False evidence.

22. Any person who before the Assembly or an authorised committee (and whether or not that person has been sworn or has made an affirmation) wilfully gives a false answer to any question or knowingly produces any false, untrue, fabricated or falsified document, material to the subject of inquiry which may be put to him during the course of any examination or which he has been required to produce under the provisions of section 8 of this Enactment, as the case may be, shall be guilty of an offence and liable to imprisonment for seven years and a fine.

Other offences.

23. Any person who —

- (a) assaults, obstructs or insults any member or officer in or going to or from the precincts of the Assembly on account of his position or conduct as such; or
- (b) assaults, interferes with, resists, obstructs, threatens or insults any officer while in the execution of his duty as such; or
- (c) unlawfully threatens or sends any threatening letter to a member, or challenges any member to a fight, on account of his conduct as a member; or
- (d) publishes, save by the general or special leave of the Assembly —
 - (i) a report of any proceedings of the Assembly or any committee when such proceedings have not been held in public;
 - (ii) any paper, report or other document prepared expressly for submission to the Assembly before the same has been laid on the Table of the Assembly; or
 - (iii) the report of any committee, or any extract therefrom, before such report has been presented to the Assembly; or
- (e) publishes any statement, whether in writing or otherwise —
 - (i) which falsely or scandalously defames, or which reflects on the character

of, any member touching on his conduct in the Assembly or anything done or said by him in the Assembly;

- (ii) which falsely or scandalously defames the proceedings or the character of the Assembly; or
- (f) wilfully publishes any false or perverted report or any writing containing a gross or scandalous misrepresentation of any debate or proceedings of the Assembly; or
- (g) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Assembly while it is sitting,

shall be guilty of an offence and liable to imprisonment for twelve months and a fine of two thousand ringgit.

PART V

PROCEDURE IN RESPECT OF OFFENCES

Powers of Assembly in respect of contempts.

24. (1) For any dishonourable conduct, abuse of privilege or contempt on the part of a member, the Assembly may —

- (a) direct that he be reprimanded or admonished in his place by the Speaker;
- (b) suspend him from the service of the Assembly for the remainder of the current session of the Assembly or for any part thereof.

(2) For any contempt on the part of a stranger, the Assembly may —

- (a) direct that he be reprimanded or admonished at the Bar of the House by the Speaker;
- (b) exclude him from the precincts of the Assembly either permanently or for such period as the Assembly may think fit.

Procedure in cases of contempt.

25. (1) If it is alleged or appears that any person has been guilty of any contempt the Assembly may —

- (a) if such contempt is alleged to have been or has apparently been committed in the view of the Assembly or in the precincts of the Assembly when the Assembly is sitting, or in any committee, deal with the matter summarily, in the case of a member, under Standing Orders and, in the case of a stranger, if satisfied that he is guilty of the contempt, inflict one or other or both of the sanctions provided in subsection (2) of section 24 of this Enactment; or
- (b) refer the matter to a select committee for investigation, consideration and report to the Assembly; or
- (c) direct that the Speaker refer the matter to the Attorney-General.

(2) If, on the report of a select committee to which a matter has been referred under the provisions of paragraph (b) of subsection (1) of this section, it appears that any person has been guilty of a contempt, the Assembly may follow the procedure laid down in paragraph (a) or (c) of that subsection.

Punishment in one session or Assembly in respect of contempts committed in another.

26. (1) Nothing in this Enactment shall be taken to prohibit the Assembly from punishing in one session or in one Assembly contempts which have been committed in the preceding session or in the last session of the previous Assembly:

Provided that in the event of the prorogation or dissolution of an Assembly, the Assembly shall not take cognisance of any contempt committed by a member before such prorogation or dissolution unless a complaint thereof has been lodged by way of motion or reference to a committee within twenty-one days of the commencement of the next Assembly.

(2) Where the Assembly considers that an offender has not been punished, or not

been sufficiently punished, in one session or in one Assembly by reason of the ending of a session he may again be dealt with in the next session or, if the Assembly is dissolved in the same session in the first session of the next Assembly.

Power to order attendance of offenders.

27. (1) The Assembly may order any person guilty of a contempt to attend before the Assembly to be informed of or to receive any punishment which the Assembly has decided to inflict upon him.

(2) An order under subsection (1) of this section shall be notified to the person concerned by a summons under the hand of the Clerk issued by the direction of the Speaker.

(3) In every summon issued under this section there shall be stated the time when and the place where the person summoned is required to attend and the summons shall be served on such person either by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in the State with some adult person.

(4) A summons under this section may be served by an officer or by a police officer.

Effect of suspension on member.

28. (1) A member who has been suspended from the service of the Assembly shall withdraw from the precincts of the Assembly and shall not enter or remain therein while such suspension remains in force.

(2) A member who is found in the precincts of the Assembly in contravention of subsection (1) of this section may be forcibly removed therefrom by an officer or a police officer.

(3) Notwithstanding the provisions of any other Enactment, no salary or other allowance payable to a member for his service as such shall be paid in respect of any period during which he is suspended from the service of the Assembly.

Removal or arrest of persons disturbing proceedings.

29. Any person creating or joining in any disturbance in the precincts of the Assembly

when the Assembly is sitting may, on the verbal order of the Speaker —

- (a) be forcibly removed from the precincts of the Assembly; or
- (b) arrested without warrant,

by an officer or a police officer, and any person so arrested may be kept in the custody of an officer until the rising of the Assembly or until the Assembly has dealt with the matter under the provisions of section 25 of this Enactment, whichever is the earlier.

Restrictions on prosecution.

30. No person shall be prosecuted for an offence under the provisions of this Enactment without the written consent of the Attorney-General, and in the case of a contempt such consent shall only be given upon information given to the Attorney-General in writing by the Speaker.

PART VI
MISCELLANEOUS

Speaker to act notwithstanding dissolution, etc..

31. For the purposes of this Enactment, the person who fills the office of the Speaker at the time of prorogation or dissolution of the Assembly shall be deemed to be the Speaker until the Assembly is again summoned or until another person has been appointed as Speaker under the Constitution.

Journals to be admitted as evidence.

32. Upon any inquiry touching the privileges, immunities and powers of the Assembly or of any committee or member —

- (a) any copy of the journals or Standing Orders printed or purporting to be printed by the Government Printer or any copy of the journals or Standing Orders duly authenticated as such under the hand of the Clerk; and
- (b) any copy of the Journals of the Commons House of Parliament of the United

Kingdom, or of any record or official report of the proceedings or debates thereof or of any committee thereof, which has been printed or which purports to have been printed by the order or by the printer of the Commons House aforesaid,

shall be admitted as evidence in all courts and places without proof of its being such copy or that such copy was so printed.

Absence of Speaker.

33. (1) For the purpose of this section —

“absent” in relation to the Speaker or Deputy Speakers means —

- (a) that the office of Speaker is vacant or, as the case may be, no Deputy Speaker has been appointed; or
- (b) that the Speaker or both Deputy Speakers are incapable of, or are from any cause prevented from, performing the duties of the office of Speaker; or
- (c) that the Speaker or both Deputy Speakers are absent from Kota Kinabalu;

“Deputy Speaker” means any of the two Deputy Speakers appointed under Article 15A of the Constitution and includes a member appointed to act as Speaker under the Standing Orders pursuant to clause (4) of Article 15 of the Constitution.

(2) For the duration of any period during which the Speaker is absent, the powers and privileges vested in the Speaker by this Enactment shall be vested in the Deputy Speakers, if any.

(3) For the duration of any period during which both the Speaker and the Deputy Speakers are absent —

- (a) the powers vested in the Speakers by subsection (2) of section 3 and sections 4 and 12 of this Enactment shall vest in the Clerk; and
- (b) all other powers vested in the Speaker by this Enactment shall —

- (i) in so far as they relate to any other matter arising whilst the Assembly is sitting for the transaction of business, be vested in the member presiding over the meeting of the Assembly when such matter arises; and
- (ii) in so far as they relate to any other matter, be vested in the member most senior in precedence who is present in Kota Kinabalu and not incapacitated or from any cause prevented from performing the duties of the office of Speaker.

Transitional provision.

34. So long as the Legislative Council of the State of Sabah continues in being by virtue of Article 52 of the Constitution, references in this Enactment to “the Assembly” shall be construed as references to the said Legislative Council.