

# STATE OF SABAH

## THE CONSTITUTION OF THE STATE OF SABAH

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### ARRANGEMENT OF ARTICLES

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#### PART I

#### THE STATE GOVERNMENT

##### *Chapter 1 - The Head of State*

Article

1. Yang di-Pertua Negeri
2. Qualifications and disabilities of Yang di-Pertua Negeri
3. Civil List of Yang di-Pertua Negeri
4. Oath of office of Yang di-Pertua Negeri

##### *Chapter 2 - The Executive*

5. Executive authority
- 5A. Religion of the State
- 5B. Head of religion of Islam
6. State Cabinet
7. Tenure of office of members of Cabinet
- 7A. Assistant Ministers
8. Oaths of members of Cabinet
9. Allocation of portfolios and provision regarding private business interests
10. Yang di-Pertua Negeri to act on advice

- 11. State Secretary and State Attorney General
- 11A. Official language

*Chapter 3 - Capacity as respects property,  
contracts and suits*

- 12. Capacity of State as respects property, contracts and suits

PART II

THE LEGISLATURE

- 13. Constitution of Legislature
- 14. Composition of Legislative Assembly
- 15. The Speaker
- 15A. Deputy Speakers
- 16. Qualifications of members
- 17. Disqualification for membership of Legislative Assembly
- 17A. Change of a member's political party, etc.
- 18. Tenure of seats of members
- 19. Decision as to disqualification
- 20. Penalty for unqualified person sitting or voting in the Legislative Assembly
- 21. Summoning, prorogation and dissolution of Legislative Assembly
- 22. Oath of Speaker, Deputy Speakers and members
- 23. Address by Yang di-Pertua Negeri
- 24. Procedure of Legislative Assembly
- 25. Privileges of the Legislative Assembly and members
- 26. Exercise of legislative power
- 27. Supremacy of Constitution

PART III

FINANCIAL PROVISIONS

- 28. No taxation unless authorized by law
- 29. Consolidated Fund
- 30. Annual financial statement

31. Supply Bills
32. Supplementary and excess expenditure
33. Withdrawals from Consolidated Fund
34. Public Accounts Committee
35. Financial year

PART IV

THE PUBLIC SERVICE

36. The Public Service Commission
37. Functions of Commission
38. Procedure of Commission
39. Impartial treatment of State employees
40. Regulations regarding the public service

PART V

GENERAL PROVISIONS

41. Safeguarding position of Natives
42. The Public Seal
- 42A. State Flag and State Crest
43. Amendment of Constitution
44. Authorized reprints of Constitution
45. Reappointment and re-election
46. Interpretation
47. Commencement

PART VI

TRANSITIONAL PROVISIONS

48. Existing laws
49. Succession to property
50. Rights, liabilities and obligations
51. First Yang di-Pertua Negara

52. Transitional provisions relating to the Legislature
53. Transitional financial provisions
54. Transitional provisions relating to Public Service Commission
55. Existing Officers
56. Secondment of members of the public service to federal service
57. Compulsory retirement to facilitate appointment of local candidates
58. (*Deleted*)
59. Modification of form of oath in certain cases

*SCHEDULES*

**First Schedule** - Forms of Oaths and Affirmations

**Second Schedule** - State Flag and State Crest

PART I

THE STATE GOVERNMENT

*Chapter 1 - The Head of State*

**Yang di-Pertua Negeri**

1. (1) There shall be a Head of State for Sabah, to be called the Yang di-Pertua Negeri, who shall be appointed by the Yang di-Pertuan Agong acting in his discretion but after consultation with the Chief Minister.

(2) The Yang di-Pertua Negeri shall be appointed for a term of four years but may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong, and may be removed from office by the Yang di-Pertuan Agong in pursuance of an address by the Legislative Assembly supported by the votes of not less than two-thirds of the total number of the members thereof.

(3) The Yang di-Pertuan Agong, acting in his discretion but after consultation with the Chief Minister, may appoint a person to exercise the functions of the Yang di-Pertua Negeri during any period during which the Yang di-Pertua Negeri is unable to do so himself owing to illness, absence or any other cause; but no person shall be so appointed unless he would be qualified to be appointed as Yang di-Pertua Negeri.

(4) A person appointed under Clause (3) may take the place of the Yang di-Pertua Negeri as a member of the Conference of Rulers during any period during which, under that Clause, he may exercise the functions of the Yang di-Pertua Negeri.

**Qualifications and disabilities of Yang di-Pertua Negeri**

2. (1) A person who is not a citizen or is a citizen by naturalization shall not be appointed as Yang di-Pertua Negeri.

(2) The Yang di-Pertua Negeri shall not hold any office of profit and shall not actively engage in any commercial enterprise.

(3) *[Deleted by En.11/2018]*

### **Civil List of Yang di-Pertua Negeri**

3. The Legislature shall by law provide a Civil List of the Yang di-Pertua Negeri, which shall be a charge on and paid out of the Consolidated Fund and shall not be diminished during his continuance in office.

### **Oath of office of Yang di-Pertua Negeri**

4. The Yang di-Pertua Negeri, and any person appointed under Clause (3) of Article 1, shall before exercising his functions take and subscribe in the presence of the Chief Judge or of a Judge of the High Court an oath in the form set out in Part I of the First Schedule.

## *Chapter 2 - The Executive*

### **Executive authority**

5. The executive authority of the State shall be vested in the Yang di-Pertua Negeri but executive functions may by law be conferred on other persons.

### **Religion of the State**

5A. Islam is the religion of the State; but other religions may be practised in peace and harmony in any part of the State.

### **Head of religion of Islam**

5B. (1) The Yang di-Pertuan Agong shall be the Head of the religion of Islam in the State.

(2) The Legislative Assembly shall be responsible for making provisions for regulating the Islamic religious affairs and for constituting a Council to advise the Yang di-Pertuan Agong in matters relating to the religion of Islam.

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*NOTE - See Civil List Enactment 1963 [No, 28 of 1963].*

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### **State Cabinet**

6. (1) There shall be a State Cabinet to advise the Yang di-Pertua Negeri in the exercise of his functions.

(2) The Cabinet shall consist of a Chief Minister, and not more than ten nor less than four members, (to be styled "Ministers") appointed in accordance with Clause(3).

(3) The Yang di-Pertua Negeri shall appoint as Chief Minister a member of the Legislative Assembly who in his judgement is likely to command the confidence of a majority of the members of the Assembly and shall appoint the other members mentioned in Clause (2) in accordance with the advice of the Chief Minister from among the members of the Assembly.

Provided that if an appointment is made while the Legislative Assembly is dissolved a person who was a member of the last Assembly may be appointed but shall not continue to hold office after the first sitting of the next Legislative Assembly unless he is a member thereof.

(4) Notwithstanding anything in this Article, a person who is a citizen by naturalization shall not be appointed Chief Minister.

(5) The Chief Minister shall not hold any office of profit and shall not actively engage in any commercial enterprise.

(6) The Cabinet shall be collectively responsible to the Legislative Assembly.

(7) *(Deleted by En.4 of 2023)*

### **Tenure of office of members of Cabinet**

7. (1) If the Chief Minister ceases to command the confidence of a majority of the members of the Legislative Assembly, then, unless at his request the Yang di-Pertua Negeri dissolves the Assembly, the Chief Minister shall tender the resignation of the members of the Cabinet.

(2) A member of the Cabinet may at any time resign his office by writing under his hand addressed to the Yang di-Pertua Negeri, and a member of the Cabinet other than the Chief Minister shall also vacate his office if his appointment thereto is revoked by the Yang di-Pertua Negeri acting in accordance with the advice of the Chief Minister.

(3) Subject to Clauses (1) and (2), a member of the Cabinet other than the Chief Minister shall hold office at the pleasure of the Yang di-Pertua Negeri.

### **Assistant Ministers**

**7A.** (1) The Yang di-Pertua Negeri shall appoint not more than eighteen Assistant Ministers in accordance with the advice of the Chief Minister from among the members of the Assembly, but the Assistant Ministers so appointed shall not be members of the Cabinet.

Provided that if an appointment is made while the Legislative Assembly is dissolved a person who was a member of the last Assembly may be appointed but shall not continue to hold office after the first sitting of the next Legislative Assembly unless he is a member thereof.

(2) Assistant Ministers shall assist the Chief Minister and Ministers in the discharge of their duties and functions.

(3) The provisions of Clauses (2) and (3) of Article 7 and Article 8 shall apply to Assistant Ministers as they apply to Ministers.

### **Oaths of members of Cabinet**

**8.** Before a member of the Cabinet exercises the functions of his office he shall take and subscribe in the presence of the Yang di-Pertua Negeri the oath set out in Part II of the First Schedule.



**Allocation of portfolios and provision regarding private business interests**

9. (1) The Yang di-Pertua Negeri may, in accordance with the advice of the Chief Minister, assign to a member of the Cabinet responsibility for any business of the Government of the State, including the administration of any department of government.

(2) A member of the Cabinet shall not engage in any trade, business or profession connected with any subject or department of government for which he is responsible, and shall not, so long as he is engaged in any trade, business or profession, take part in any decision of the Cabinet relating to that trade, business or profession or in any decision likely to affect his pecuniary interests therein.

**Yang di-Pertua Negeri to act on advice**

10. (1) In the exercise of his functions under this Constitution or any other law, or as a member of the Conference of Rulers, the Yang di-Pertua Negeri shall act in accordance with the advice of the Cabinet or of a member thereof acting under the general authority of the Cabinet, except as otherwise provided by the Federal Constitution or this Constitution; but shall be entitled, at his request, to any information concerning the government of the State which is available to the Cabinet.

(1A) In the exercise of his functions under this Constitution or any other law or as a member of the Conference of Rulers where the Yang di-Pertua Negeri is to act in accordance with the advice or on advice, the Yang di-Pertua Negeri shall accept and act in accordance with such advice.

(2) The Yang di-Pertua Negeri may act in his discretion in the performance of the following functions –

- (a) the appointment of a Chief Minister;
- (b) the withholding of consent to a request for the dissolution of the Legislative Assembly.

(3) The Legislature may by law make provision for requiring the Yang di-Pertua Negeri to act after consultation with, or on the recommendation of, any person or body of persons other than the Cabinet in the exercise of any of his functions except –

- (a) functions, exercisable in his discretion; and
- (b) functions with respect to the exercise of which provision is made in the Federal Constitution or any other Article of this Constitution.

(4) For removing doubts, it is hereby declared that Clause (1) of this Article or otherwise Clause (3) of this Article shall have effect and force on the Yang di-Pertua Negeri in performing any of his functions under this Constitution or any other law; and the Yang di-Pertua Negeri may use his discretion only when performing his functions under Clause (2) of this Article and no other.

#### **State Secretary and State Attorney General**

11. (1) The offices of State Secretary and State Attorney General are hereby constituted, and appointments thereto shall be made by the Yang di-Pertua Negeri acting in accordance with the advice of the Chief Minister, who shall select for appointment a person whose name is included in a list submitted for the purpose by the Commission and shall, before tendering his advice, consult the Government of the Federation.

(2) *(Deleted by En. No. 17/1967).*

#### **Official language**

11A. Without prejudice to Clause (8) of Article 24, the official language of the State Cabinet and the Legislative Assembly shall be in Bahasa Malaysia:

Provided that –

- (a) notwithstanding the provisions of this Article, the English language may be used for such period and for such purposes as may for the time being be provided by or in accordance with Article 152 of the Federal Constitution; and
- (b) an official English version shall be provided of anything which is required to be printed or reduced into writing and may be published in the *Gazette*.

Chapter 3 – Capacity as respects property,  
contracts and suits

**Capacity of State as respects property, contracts and suits**

12. (1) The State shall have power to acquire, hold and dispose of property of any kind and to make contracts.
- (2) The State may sue and be sued.

PART II

THE LEGISLATURE

**Constitution of Legislature**

13. The Legislature of the State shall consist of the Yang di-Pertua Negeri and one House, to be known as the Legislative Assembly.

**Composition of Legislative Assembly**

14. (1) The Legislative Assembly shall consist of –
- (a) the Speaker;
  - <sup>\*</sup>(b) such number of elected members as the Legislature may by law <sup>\*\*</sup>prescribe, elected in such manner as may be provided by Federal or State law;
  - (c) such number of other members (hereinafter referred to as “nominated members”), not being more than six, as the Yang di-Pertua Negeri may appoint each of whom shall, subject to the

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\* NOTE – Former paragraph (b) – references to three *ex officio* members – was repealed by Enactment No. 12 of 1964.

\*\* NOTE – See Legislative Assembly (Elected Members) Enactment 1965 [No. 16 of 1965].

provisions of Article 18, hold his seat for such period as may be specified in the instrument by which he is appointed.

(2) Until the Legislature otherwise prescribes the number of elected members shall be seventy-three.

### **The Speaker**

15. (1) The Speaker shall be appointed by the Yang di-Pertua Negeri from among persons not subject to any of the disqualifications for appointment as nominated members of the Legislative Assembly set out in Article 17.

(2) The Speaker shall hold office for such period as may be specified in the instrument by which he is appointed, but shall vacate his office –

- (a) if he resigns it by writing under his hand addressed to the Yang di-Pertua Negeri; or
- (b) if he becomes subject to any of the disqualifications for appointment as a nominated member of the Legislative Assembly set out in Article 17; or
- (c) if after three months of his appointment to such office or at any time thereafter he is or becomes a member of any board of directors or board of management, or an officer or employee, or engages in the affairs or business, of any organization or body, whether corporate or otherwise, or of any commercial, industrial or other undertaking, whether or not he receives any remuneration, reward, profit or benefit from it:

Provided that such disqualification shall not apply where such organization or body carries out any welfare or voluntary work or objective beneficial to the community or any part thereof, or any other work or objective of a charitable or social nature, and the person does not receive any remuneration, reward, profit or benefit from it.

(3) Any question whether a person is qualified to be appointed as Speaker shall be determined by the Yang di-Pertua Negeri whose decision shall be final.

(4) During any absence of the Speaker from a sitting of the Legislative Assembly or any vacancy in the office of the Speaker, one of his Deputy Speakers or, if both the Deputy Speakers are also absent or their offices are also vacant, such member as may be determined by the rules of procedure of the Assembly shall act as Speaker.

(5) The Legislature shall by law provide for the remuneration of the Speaker, and the remuneration so provided shall be a charge on and paid out of the Consolidated Fund, and shall not be diminished as respects any holder of the office of Speaker after his appointment.

### **Deputy Speakers**

**15A.** (1) Two Deputy Speakers shall be appointed by the Yang di-Pertua Negeri from among persons who either are members or are qualified to be members of the Legislative Assembly.

(2) The provisions of Clauses (2), (3) and (5) of Article 15 shall apply to the Deputy Speakers as they apply to the Speaker and a reference to the Speaker in this Constitution shall be construed as including a reference to a Deputy Speaker, unless the context otherwise requires.

### **Qualifications of members**

16. Every citizen of or over the age of eighteen years who is resident in the State is qualified to be elected as an elected member or appointed as a nominated member of the Legislative Assembly, unless he is disqualified for being a member by the Federal Constitution or this Constitution or by any such law as is mentioned in Article 17.

### **Disqualification for membership of Legislative Assembly**

17. (1) Subject to the provisions of this Article, a person is disqualified for being elected as an elected member or appointed as a nominated member of the Legislative Assembly if –

*\* NOTE – See Members of the Administration and the Legislative Assembly (Remuneration) Enactment 1981 [No. 3 of 1981].*

- (a) he is and has been found or declared to be of unsound mind;
- (b) he is an undischarged bankrupt;
- (c) he holds an office of profit other than that of Native Chief and a Community Development Leader;
- (d) having been nominated for election to either House of Parliament or to the Legislative Assembly, or having acted as election agent to a person so nominated, he has failed to lodge any return of election expenses required by law within the time and in the manner so required;
- (e) he has been convicted of an offence by a court of law in any part of the Federation and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand ringgit and has not received a free pardon in respect thereof;
- (f) he is disqualified under any law relating to offences in connection with elections to either House of Parliament or to the Legislative Assembly by reason of having been convicted of such an offence, or having in proceedings relating to such an election been proved guilty of an act constituting such an offence; or
- (g) he has voluntarily acquired citizenship of, or exercised rights of citizenship in, a foreign country or has made a declaration of allegiance to a foreign country.

(2) Paragraph (c) of Clause (1) shall not apply to the appointment of a person as a nominated member.

(3) The disqualification of a person under paragraph (d) or paragraph (e) of Clause (1) may be removed by the Yang di-Pertua Negeri and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in paragraph (d) of that Clause was required to be lodged, or, as the case may be, the date on which the person convicted as mentioned in paragraph (e) of that Clause was released from

custody, or the date on which the fine mentioned in that paragraph was imposed; and a person shall not be disqualified under paragraph (g) of Clause (1) by reason only of anything done by him before he became a citizen.

(3A) Notwithstanding anything contained in the foregoing provisions of this Article, where a member of the Legislative Assembly becomes disqualified from continuing to be a member thereof pursuant to paragraph (e) of Clause (1), or under a law as is referred to in paragraph (f) of Clause (1) -

- (a) the disqualification shall take effect upon the expiry of fourteen days from the date on which he was -
  - (i) convicted and sentenced as specified in the aforesaid paragraph (e); or
  - (ii) convicted of an offence or proved guilty of an act under a law as is referred to in the aforesaid paragraph (f); or
- (b) if within the period of fourteen days specified in paragraph (a) an appeal or any other court proceeding is brought in respect of such conviction or sentence, or in respect of being so convicted or proved guilty, as the case may be, the disqualification shall take effect upon the expiry of fourteen days from the date on which such appeal or other court proceeding is disposed of by the court; or
- (c) if within the period specified in paragraph (a) or the period after the disposal of the appeal or other court proceeding specified in paragraph (b) there is filed a petition for a pardon, such disqualification shall take effect immediately upon the petition being disposed of.

(3B) Clause (3A) shall not apply for the purpose of election of any person to the Legislative Assembly, for which purpose the disqualification shall take effect immediately upon the occurrence of the event referred to in paragraph (e) or (f), as the case may be, of Clause (1).

(4) In paragraph (g) of Clause (1) "foreign country" has the same meaning as in the Federal Constitution.

(5) (Deleted by En. 4 of 2023)

**Change of a member's political party, etc.**

**17A.** (1) Subject to the provisions of this Article, a member of the Legislative Assembly shall cease to be a member of the Legislative Assembly and his seat shall become vacant immediately on a date a casual vacancy is established by the Speaker under Clause (3) if –

- (a) having been elected to the Legislative Assembly as a member of a political party-
  - (i) he resigns as a member of the political party; or
  - (ii) he ceases to be a member of the political party; or
- (b) having been elected to the Legislative Assembly otherwise than as a member of a political party, he joins a political party as a member.

(2) A member of the Legislative Assembly shall not cease to be a member of the Legislative Assembly pursuant to this Article only by reason of –

- (a) the dissolution or cancellation of the registration of his political party;
- (b) his resignation from the membership of his political party upon election as a speaker; or
- (c) the expulsion of his membership of his political party.

(3) Whenever the Speaker receives a written notice from any member of the Legislative Assembly on the occurrence of a casual vacancy among the members of the Legislative Assembly under this Article, the Speaker shall establish that there is such a casual vacancy and notify the Election Commission accordingly within twenty one days from the date he received the written notice.



(4) For the purposes of holding an election under Clause (5) of Article 21, such casual vacancy shall be filled within sixty days from the date the Election Commission receives the notification from the speaker.

**Tenure of seats of members**

18. (1) Every elected or nominated member of the Legislative Assembly shall vacate his seat in the Assembly on a dissolution of the Assembly.

(2) An elected or nominated member shall also vacate his seat in the Assembly if -

(a) he ceases to be qualified for election or appointment as such a member of the Assembly;

(b) he resigns his seat by writing under his hand addressed to the Speaker; or

(c) he is absent without the leave of the Speaker from every sitting of the Assembly for three consecutive meetings.

(d) *(Deleted by En. No. 11/1995).*

(e) *(Deleted by En. No. 11/1995).*

(3) For the purposes of paragraph (c) of Clause (2), "meeting" means any sitting or sittings of the Assembly commencing when the Assembly first meets after being summoned at any time and terminating when the Assembly is adjourned *sine die* or at the conclusion of a session.

**Decision as to disqualification**

19. (1) If any question arises whether the Speaker or a member of the Legislative Assembly has ceased to be qualified for appointment or election as such, the decision of the Assembly shall be taken and shall be final:

Provided that this Article shall not be taken to prevent the practice of the Assembly postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

(2) Where a member of the Legislative Assembly becomes disqualified under paragraph (e) of Clause (1) of Article 17, or under a law as is referred to in paragraph (f) of Clause (1) of Article 17, the foregoing Clause (1) shall not apply, and he shall cease to be a member of the Legislative Assembly, and his seat shall become vacant, immediately upon his disqualification taking effect in accordance with Clause (3A) of Article 17.

**Penalty for unqualified person sitting or voting in the Legislative Assembly**

20. Any person who sits or votes in the Legislative Assembly, knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty not exceeding two hundred ringgit for each day on which he so sits or votes, which penalty shall be recoverable as a civil debt in the High Court at the suit of the State Attorney General.

**Summoning, prorogation and dissolution of Legislative Assembly**

21. (1) The Yang di-Pertua Negeri may from time to time summon the Legislative Assembly, and shall not allow six months to elapse between the last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Yang di-Pertua Negeri may prorogue or dissolve the Legislative Assembly.

(3) The Legislative Assembly shall, unless sooner dissolved, continue for five years from the date of its first sitting and shall then stand dissolved.

(4) Whenever the Legislative Assembly is dissolved, a general election shall be held within sixty days from the date of the dissolution and the new Legislative Assembly will be summoned to meet on a date not later than one hundred and twenty days from that date.

(5) Whenever the seat of an elected member has become vacant for any reason other than a dissolution, the vacancy shall, within sixty days from the date on which it is established that there is a vacancy, be filled by election in accordance with the provisions of this Constitution.

Provided that if a casual vacancy is established on a date within two years of the date the Legislative Assembly shall, in accordance with Clause (3), stand dissolved, such vacancy shall not be filled unless the Speaker notifies the Election Commission in writing that the numerical strength of the party that constitutes a majority of all the members of the Legislative Assembly is being affected by such vacancy, in which event such vacancy shall be filled within sixty days from the date of the receipt of the notification.

#### **Oath of Speaker, Deputy Speakers and members**

22. (1) The Speaker and the Deputy Speakers shall before exercising the functions of their offices take and subscribe before the Yang di-Pertua Negeri the oath set out in Part III of the First Schedule and every member of the Legislative Assembly shall before taking his seat take and subscribe the said oath before the Speaker.

(2) If a member has not taken his seat within three months from the date on which the Legislative Assembly first sits after his election or appointment, or within such further period as the Assembly may allow, his seat shall become vacant.

#### **Address by Yang di-Pertua Negeri**

23. The Yang di-Pertua Negeri may address the Legislative Assembly and may send messages thereto.

### **Procedure of Legislative Assembly**

24. (1) Subject to the provisions of this Constitution, the Legislative Assembly shall regulate its own procedure and may make Standing Orders for that purpose.

(2) The Legislative Assembly may act notwithstanding any vacancy in its membership, and the presence or participation of any person not entitled to be present or to participate shall not invalidate any proceedings.

(3) Subject to Clauses (5) and (6) and to Clause (2) of Article 43, the Legislative Assembly shall, if not unanimous, take its decision by a simple majority of members voting; and if the Speaker is absent the member presiding shall cast his vote whenever necessary to avoid equality of votes but shall not vote in any other case, and if the Speaker is present and there is an equality of votes upon any question the motion shall be lost.

(4) Members absent from the Legislative Assembly shall not be allowed to vote.

(5) The Standing Orders of the Legislative Assembly may provide as respects any decision relating to its proceedings, that it shall not be made except by a specified majority or by a specified number of votes,

(6) No Bill making provision for controlling or restricting the propagation of any religious doctrine or belief among persons professing the religion of Islam shall be passed by the Legislative Assembly unless it has been supported on the second and third readings by the votes of not less than two-thirds of the total numbers of the members thereof.

(7) No Bill or amendment involving expenditure from the Consolidated Fund may be introduced or moved in the Legislative Assembly except by a member of the Cabinet.

(8) For a period of ten years after Malaysia Day, and thereafter until the Legislature by law otherwise provides, all proceedings in the Legislative Assembly may be in the English language.

(9) If objection is taken by any member present that there are present (besides the Speaker or member presiding) fewer than one quarter of the total number of members

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\* NOTE - See Standing Orders of the Legislative Assembly of the State of Sabah [G.N.S. 112 of 1964].

and after such interval as may be prescribed in the Standing Orders of the Legislative Assembly, the person presiding ascertains that the number of members present is still less than one quarter of the total number of members, he shall thereupon adjourn the Assembly.

### **Privileges of the Legislative Assembly and members**

25. Subject to Article 72 of the Federal Constitution, it shall be lawful for the Legislature by law\* to determine and regulate the privileges, immunities or powers of the Legislative Assembly; but no such privileges, immunities or powers shall exceed those of the Federal House of Representatives.

### **Exercise of legislative power**

26. (1) The power of the Legislature to make laws shall be exercised by Bills passed by the Legislative Assembly and assented to by the Yang di-Pertua Negeri.

(1A) The Yang di-Pertua Negeri shall within thirty days after a Bill is presented to him assent to the Bill.

(1B) If a Bill is not assented to by the Yang di-Pertua Negeri within the time specified in Clause (1A), it shall become law at the expiration of the time specified in that Clause in the like manner as if he had assented to it.

(2) All laws passed by the Legislature shall be styled Enactments and the words of enactment shall be "Enacted by the Legislature of the State of Sabah".

(3) A Bill shall become law on being assented to by the Yang di-Pertua Negeri, or as provided in Clause (1B) but no law shall come into force until it has been published in the *Gazette*, without prejudice, however, to the power of the Legislature to postpone the operation of any law or to make laws with retrospective effect.

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\* NOTE - See Legislative Assembly (Privileges, Immunities and Powers) Enactment 1963 [No. 36 of 1963].

### **Supremacy of Constitution**

27. Any Enactment passed on or after Malaysia Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void.

## PART III

### FINANCIAL PROVISIONS

#### **No taxation unless authorized by law**

28. No tax or rate shall be levied by or for the purposes of the State except by or under the authority of law.

#### **Consolidated Fund**

29. (1) All revenues and moneys howsoever raised or received by the State from whatsoever source shall, subject to this Constitution and any law, be paid into and form one fund to be known as "the Consolidated Fund".

(2) There shall be charged on and paid out of the Consolidated Fund, in addition to any grant, remuneration or other moneys so charged by any other provision of this Constitution or by State law -

(a) all debt charges for which the State is liable; and

(b) any moneys required to satisfy any judgement, decision or award against the State by any court or tribunal.

(3) For the purposes of this Article, "debt charges" include interest, sinking fund charges, repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

**Annual financial statement**

30. (1) The Yang di-Pertua Negeri shall, in respect of every financial year, cause to be laid before the Legislative Assembly a statement of the estimated receipts and expenditure of the State for that year, and, unless the Legislature in respect of any year otherwise provides, that statement shall be so laid before the commencement of that year.

(2) The estimates of expenditure shall show separately -

- (a) the total sums required to meet expenditure charged on the Consolidated Fund; and
- (b) subject to Clause (3), the sums respectively required to meet the heads of other expenditure proposed to be met from the Consolidated Fund.

(3) The sums referred to in paragraph (b) of Clause (2) do not include -

- (a) sums representing the proceeds of any loan raised by the State for specific purposes and appropriated for those purposes by the law authorizing the raising of the loan;
- (b) sums representing any money or interest on money received by the State subject to a trust and to be applied in accordance with the terms of the trust; and
- (c) sums representing any money held by the State which has been received or appropriated for the purpose of any trust fund established by or in accordance with State law.

(4) The statement of estimated receipts and expenditure shall also show, so far as is practicable, the assets and liabilities of the State at the end of the last completed financial year, the manner in which those assets are invested or held and the general heads in respect of which those liabilities are outstanding.

### **Supply Bills**

31. The heads of expenditure to be met from the Consolidated Fund in respect of any financial year but not charged thereon, other than expenditure to be met by such sums as are mentioned in Clause (3) of Article 30, shall be included in a Bill, to be known as a Supply Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet the expenditure and the appropriation of those sums for the purposes specified therein.

### **Supplementary and excess expenditure**

32. If in respect of any financial year it is found -

- (a) that the amount appropriated by the Supply Enactment for any purpose is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Supply Enactment; or
- (b) that any moneys have been expended for any purpose in excess of the amount, if any, appropriated for that purpose by the Supply Enactment,

a supplementary estimate showing the sums required or spent shall be laid before the Legislative Assembly, and the heads of any such expenditure shall be included in a Supply Bill.

### **Withdrawals from Consolidated Fund**

33. (1) Subject to the following provisions of this Article, no moneys shall be withdrawn from the Consolidated Fund unless they are -

- (a) charged on the Consolidated Fund; or
- (b) authorized to be issued by a Supply Enactment.

(2) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by Federal law.

(3) Clause (1) shall not apply to any such sums as are mentioned in Clause (3) of Article 30.



(4) The Legislature may, in respect of any financial year, by law authorize, before the passing of the Supply Enactment, expenditure for part of the year and the issue from the Consolidated Fund of any moneys required to meet that expenditure.

#### **Public Accounts Committee**

34. The Legislative Assembly shall appoint a committee of the Assembly, to be called the Public Accounts Committee, which shall examine the accounts in respect of each financial year showing the appropriation of the sums granted by the Legislature to meet the expenditure of the State and such other accounts as may be laid before the Assembly.

#### **Financial year**

35. For the purposes of this Part, "financial year" means the period of twelve months ending on the thirty-first day of December in any year or such other day as the Legislature may by law prescribe.

### **PART IV**

#### **THE PUBLIC SERVICE**

#### **The Public Service Commission**

36. (1) There shall be a Public Service Commission for the State which shall consist of a Chairman and not less than three nor more than eight other members, each of whom shall be appointed by the Yang di-Pertua Negeri after consultation with the Chief Minister.

(2) The Yang di-Pertua Negeri may after consultation with the Chief Minister, designate any member of the Commission, other than the Chairman, as a Deputy Chairman of the Commission:

Provided that the number of members of the Commission so designated shall not at any time exceed two.

(3) A person shall not be appointed to be a member of the Commission if he is, and shall cease to be such a member if he becomes -

- (a) a public officer:

Provided that a public officer may be appointed to be a member of the Commission if he is on leave prior to retirement;

- (b) a member of either House of Parliament or of the Legislative Assembly;
- (c) a member, officer or employee of any local authority;
- (d) a member of any trade union, or of any body or association affiliated to a trade union; or
- (e) the holder of any office in any political association.

(4) Subject to Clauses (3) and (5), every member of the Commission shall, unless he earlier resigns his office by writing under his hand addressed to the Yang di-Pertua Negeri, hold office for a period of five years from the date of his appointment or for such shorter period as may be specified in the instrument by which he is appointed.

(5) If the Chief Minister, or the Chairman of the Commission after consulting with the Chief Minister, represents to the Yang di-Pertua Negeri that a member of the Commission ought to be removed from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, the Yang di-Pertua Negeri shall appoint a tribunal in accordance with Clause (6) and shall refer the representation to it; and if the tribunal so recommends, the Yang di-Pertua Negeri shall remove that member from office by writing under his hand.

(6) A tribunal appointed under Clause (5) shall consist of not less than three persons who hold or have held office as Judge of the Federal Court or Court of Appeal or of any High Court in the Federation or, if it appears to the Yang di-Pertua Negeri expedient to make such appointment, persons who hold or have held equivalent office in any part of the Commonwealth.

(7) A tribunal appointed under Clause (5) shall regulate its own procedure and make rules for that purpose.

(8) Where a representation has been made to the Yang di-Pertua Negeri under Clause (5) he may on the recommendation of the Chief Minister suspend the member concerned from the exercise of his functions pending the report of the tribunal on that representation.

(9) Where, during any period, a member of the Commission has been granted leave of absence by the Yang di-Pertua Negeri or is unable, owing to his absence from the State, illness or any other cause, to discharge his functions as such a member, the Yang di-Pertua Negeri may appoint as a temporary member of the Commission to exercise his functions during that period, any person who would be qualified to be appointed in his place; and the appointment of any such temporary member shall be made in the same manner as that of any other member of the Commission.

(10) Before exercising the functions of his office every member of the Commission shall take and subscribe before the Chief Judge or some other Judge of the High Court the oath in the form set out in Part IV of the First Schedule.

(11) Members of the Commission shall be paid such remuneration as the Legislature may by law provide, and such remuneration shall be a charge on and paid out of the Consolidated Fund.

(12) Subject to the provisions of this Constitution, the terms of service of the members of the Commission -

(a) shall be such as the Legislature may by law prescribe; and

(b) in so far as they are not so prescribed, shall be determined by the Yang di-Pertua Negeri.

(13) The remuneration and other terms of service of any member of the Commission shall not be altered to his disadvantage after his appointment.

(14) For the purposes of Clause (13), in so far as the terms of service of a member of the Commission depend upon his option, any terms for which he opts shall be taken to be more advantageous to him than any others for which he might have opted.

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*NOTE* - See Public Service Commission (Remuneration) Enactment 1963 [No. 32 of 1963].

### Functions of Commission

37. (1) Subject to the provision of the Federal Constitution and of this Constitution, it shall be the duty of the Commission to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer and exercise disciplinary control over members of the public service.

(2) The Legislature may by law provide for the exercise of other functions by the Commission.

(3) In Clause (1), "member of public service" does not include any person whose remuneration is calculated at a daily rate, and "transfer" does not include transfer without a change of rank within a department of Government.

(4) The Yang di-Pertua Negeri may designate as special posts any posts in the public service held by the head or deputy head of a department or by an officer who in his opinion is of similar status, and an appointment to any post so designated shall not be made in accordance with Clause (1) but shall be made by the Yang di-Pertua Negeri on the recommendation of the Commission,

(5) Before acting, in accordance with Clause (4), on the recommendation of the Commission, the Yang di-Pertua Negeri shall consider the advice of the Chief Minister and may once refer the recommendation back to the Commission in order that it may be reconsidered.

(6) State law and, subject to the provisions of any such law, regulations made by the Yang di-Pertua Negeri may provide for the exercise by any public officer, or by any board of public officers, of any of the functions of the Commission under Clause (1):

Provided that -

- (a) no such law or regulations may provide for the exercise by any such officer or board of officers of any power of first appointment to the permanent or pensionable establishment or of any power of promotion (other than promotion to an acting appointment); and

(b) any person aggrieved by the exercise by any such officer or board of officers of any power of disciplinary control may appeal to the Commission within such time and in such manner as may be prescribed by any such law or regulations, and the Commission may make such order thereon as it may consider just.

(7) The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate to any public officer, or to any board of public officers appointed by it, any of its functions under Clause (1) in respect of any grade of members of the public service, and that officer or board shall exercise those functions under the direction and control of the Commission.

(8) In respect of members of the public service who are employed in posts ancillary to the police force, or in respect of any grade of members of the public service who are so employed, functions of the Commission may, under Clause (6) or (7), be made exercisable by an officer or board of officers of the police force as if he or they were a public officer or board of public officers.

(9) No person shall be appointed under this Article to or to act in any office on the personal staff of the Yang di-Pertua Negeri without the concurrence of the Yang di-Pertua Negeri acting in his discretion; and the offices which are to constitute the personal staff of the Yang di-Pertua Negeri for the purposes of this Clause shall be such offices in the public service as the Yang di-Pertua Negeri, after consultation with the Chief Minister, may by order prescribe.

(10) The Commission shall make an annual report on the discharge of its functions to the Yang di-Pertua Negeri, who shall cause copies of the report to be laid before the Legislative Assembly.

### **Procedure of Commission**

38. (1) At any meeting of the Commission three members, who shall include the Chairman or Deputy Chairman, shall form a quorum.

(2) Subject to Clause (1), the Commission may act notwithstanding any vacancy in its membership, and any proceeding of the Commission shall be valid notwithstanding that some person not entitled to do so took part therein.

(3) The Commission may, subject to the provisions of this Constitution, regulate its procedure and make rules for that purpose, and, with the consent of the Yang di-Pertua Negeri, may, in connection with the discharge of its functions, confer powers and impose duties on any public officer or any authority of the Government of the State.

#### **Impartial treatment of State employees**

39. All persons of whatever race in the same grade of the service of the State shall, subject to the terms and conditions of their employment, be treated impartially.

#### **Regulations regarding the public service**

40. Subject to the provisions of any State law, the Yang di-Pertua Negeri may make \*regulations for all or any of the following matters, that is to say-

- (a) the division of offices in the public service into Divisions and Services;
- (b) the prescribing of Schemes regulating the recruitment, service and promotion of public officers;
- (bb) the terms and conditions of service of public officers;
- (c) the conduct and discipline of the public service.

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\* NOTE - See Perintah Am Negeri Sabah 1982 [G.N.S. 42 of 1982].

PART V

GENERAL PROVISIONS

**Safeguarding position of Natives**

41. (1) It shall be the responsibility of the Yang di-Pertua Negeri to safeguard the special position of the Natives and the legitimate interests of other communities in accordance with the provisions of this Article.

(2) The Yang di-Pertua Negeri shall exercise his functions under this Constitution and under State law in such manner as may be necessary to safeguard the special position of the Natives, and to ensure such degree of participation by Natives as he may deem reasonable in the public service of the State, and in the receipt of scholarships, exhibitions and other similar educational or training privileges or special facilities given or accorded by or with the approval of the State Government and, when any permit or licence for the operation of any trade or business is required by State law, then, subject to the provisions of that law and this Article, in such trade or business.

(3) The Yang di-Pertua Negeri may, in order to ensure in accordance with Clause (2) the participation by Natives in the public service and in the receipt of scholarships, exhibitions and other educational or training privileges or special facilities, give such general directions as may be required for that purpose to the Commission, or to any authority charged with responsibility for the grant of such scholarships, exhibitions or other educational or training privileges or special facilities; and the Commission or authority shall duly comply with the directions.

(4) In exercising his functions under this Constitution and under State law in accordance with Clauses (1), (2) and (3), the Yang di-Pertua Negeri shall not deprive any person of any office in the public service held by him or of the continuance of any scholarship, exhibition or other educational or training privileges or special facilities enjoyed by him.

(5) This Article does not derogate from the provisions of Article 39.

(6) Where by any existing State law a permit or licence is required for the operation of any trade or business the Yang di-Pertua Negeri may exercise his functions

under that law in such manner, or give such general directions to any authority charged under the law with the grant of such permits or licences, as may be required to ensure such degree of participation in such trade or business by Natives as the Yang di-Pertua Negeri may deem reasonable; and the authority shall duly comply with the directions.

(7) Nothing in this Article shall operate to deprive or authorize the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him or to authorize a refusal to renew to any person any such permit or licence or a refusal to grant to the heirs, successors or assigns of a person any permit or licence when the renewal or grant thereof might reasonably be expected in the ordinary course of events.

(8) Where by any State law any permit or licence is required for the operation of any trade or business, that law may make provision to ensure participation by Natives in such trade or business; but no such law shall for the purpose of ensuring such participation -

- (a) deprive or authorize the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him; or
- (b) authorize a refusal to renew to any person any such permit or licence or a refusal to grant to the heirs, successors or assigns of any person any permit or licence when the renewal or grant might in accordance with the other provisions of the law reasonably be expected in the ordinary course of events, or prevent any person from transferring together with his business any transferable licence to operate that business; or
- (c) where no permit or licence was previously required for the operation of the trade or business, authorize a refusal to grant a permit or licence to any person for the operation of any trade or business which immediately before the coming into force of the law he had been *bona fide* carrying on, or authorize a refusal subsequently to renew to any such person any permit or licence, or a refusal to grant to the heirs, successors or assigns of any such person any such permit or licence when the renewal or grant might in accordance with the other provisions of that law reasonably be expected in the ordinary course of events.



(9) Nothing in this Article shall empower the Legislature to restrict any trade or business solely to Natives.

(10) In this Article, "Native" means a person who is a citizen, is a child or grandchild of a person indigenous to the State, and was born (whether on or after Malaysia Day or not) either in the State or to a father domiciled in the State at the time of the birth.

### **The Public Seal**

42. The Yang di-Pertua Negeri shall keep and use the Public Seal of the State for all things that shall pass that Seal; and, until a Seal shall be provided for the State, a stamp bearing the inscription "State of Sabah: Public Seal of the State" may be used as the Public Seal of the State.

### **State Flag and State Crest**

42A. (1) The State Flag shall be of the design as depicted and described in Part I of the Second Schedule.

(2) The State Crest shall be of the design as depicted and described in Part II of the Second Schedule.

### **Amendment of Constitution**

43. (1) Subject to the following provisions of this Article the provisions of this Constitution may be amended by an Enactment passed by the Legislature but may not be amended by any other means.

(2) Subject to Clause (3), a Bill for making an amendment to this Constitution shall not be passed by the Legislative Assembly unless it has been supported on the second and third readings by the votes of not less than two-thirds of the total number of members thereof.

(3) Clause (2) shall not apply to a Bill for making -

- (a) any amendment consequential on a law prescribing the number of elected members of the Legislative Assembly; or
  - (b) any amendment for the purpose of bringing this Constitution into accord with any of the provisions of the Eighth Schedule to the Federal Constitution as for the time being in force.
- (4) In this Article "amendment" includes addition and repeal.

#### **Authorized reprints of Constitution**

44. The Legislative Assembly may from time to time by resolution authorize the Government Printer, to print copies of this Constitution including all amendments in force at the date of such authorization; and any such copy so printed be deemed for all purposes to be a true and correct copy.

#### **Reappointment and re-election**

45. Where any person has vacated any office established by this Constitution he may, if qualified, again be appointed or elected to that office in accordance with the provisions of this Constitution.

#### **Interpretation**

46. (1) In this Constitution, unless the context otherwise requires –

"casual vacancy" means a vacancy arising in the Legislative Assembly otherwise than by a dissolution of the Legislative Assembly;

"citizen" means a citizen of the Federation;

"existing law" means any law having effect as part of the law of the colony of North Borneo or any part thereof immediately before the commencement of this Constitution;

"Federal Law" means -

- (a) any existing law continuing to have effect as part of the law of the State or any part thereof after the commencement of this

Constitution to the extent that it is by virtue of the provisions of the Federal Constitution treated as a Federal law; and

- (b) any Act of Parliament, or other law of the Federation relating to matters about which Parliament has power to make laws, which extends to the State;

“Malaysia Day” means the day referred to as Malaysia Day in the Malaysia Act;

“member” shall for the purpose of paragraph (b) of Clause (2) include a chairman and a deputy chairman;

“office of profit” has the same meaning as in the Federal Constitution;

“Parliament” means the Parliament of the Federation;

“political party” means –

- (a) any society which by any of its objects or rules, regardless whether such object or rule is its principal object or rule, or constitutes merely an object or rule which is ancillary to its principal object or objects or to its principal rule or rules, make provision for the society to participate, through its candidates, in elections to the Legislative Assembly; or
- (b) any society which, notwithstanding anything contained in its objects or rules, carries on any activity or pursues any objective which involves its participation, through its candidates, in elections to the Legislative Assembly,

and includes a coalition of such societies which has been registered under any federal laws;

“public officer” means a person holding or acting in any office of emolument in the public service;

“Community Development Leader” shall include such person by whatever title called, appointed to co-ordinate and control the activities of a Community Development Leader;

“session” means, in relation to the Legislative Assembly, the sittings of the Assembly commencing when it first meets after its prorogation or dissolution

and terminating when it is prorogued or is dissolved without having been prorogued;

“sitting” means, in relation to the Legislative Assembly, a period during which the Assembly is sitting continuously without adjournment, and includes any period during which the Assembly is in committee;

“State law” means –

- (a) any existing law continuing to have effect as part of the law of the State or any part thereof after the commencement of this Constitution to the extent that it is by virtue of the provisions of the Federal Constitution treated as a State law; and
- (b) any law made by the Legislature;

“the Cabinet” means the State Cabinet;

“the Commission” means the Public Service Commission of the State;

“the Conference of Rulers” means the Conference of Rulers constituted by the Federal Constitution;

“the Federal Constitution” means the Constitution of the Federation and includes the Malaysia Act of the Federation;

“the Federation” means the Federation that was first established under the Federation of Malaya Agreement 1957 and further pursuant to an Agreement concluded on the ninth day of July, nineteen hundred and sixty three between the United Kingdom of Great Britain and Northern Ireland, the Federation of Malaya, North Borneo, Sarawak and Singapore, the Federation is called Malaysia with the Colonies of North Borneo and Sarawak and the State of Singapore federated with existing States of the Federation of Malaya as the States of Sabah, Sarawak and Singapore in accordance with the constitutional instruments annexed thereto but under and by virtue of the Agreement relating to the separation of Singapore from Malaysia as an independent and sovereign State dated seventh day of August, nineteen hundred and sixty-five, Singapore has ceased to be a state of Malaysia ;

“the *Gazette*” means the official *Gazette* of the State;

“the High Court” means the High Court of Sabah and Sarawak constituted by the Federal Constitution;

“the Legislature” means the Legislature of the State;

“the public service” means, subject to the provisions of Clause (2), the public service of the State;

“the State” means the State of Sabah;

“the Yang di-Pertuan Agong” means the Yang di-Pertuan Agong of the Federation;

(2) In this Constitution references to an office in the public service shall not be construed as including references to the office of –

(a) Yang di-Pertua Negeri, Chief Minister or other Minister or Assistant Minister or member of the Executive Council, Speaker or member of the Legislative Assembly, a member of the Commission, a member of the Pardons Board constituted for the State under the Federal Constitution; or

(b) \* save in so far as the Legislature may by law prescribe, a member of any council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law.

(3) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the terms designating his office shall be construed as including a reference to any person for the time being acting in that office.

(4) Unless the context otherwise requires, any reference in this Constitution to a specified Part or Article or to the Schedule is a reference to that Part or Article of, or to the Schedule to, this Constitution and any reference to a Clause or paragraph is a reference to that Clause of the Article or paragraph of the Clause in which the reference occurs.

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(5) The Interpretation Ordinance, as in force at the commencement of this Constitution, shall apply for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to a written law within the meaning of that Ordinance.

## Commencement

47. Subject to the provisions of Part VI, this Constitution shall come into operation immediately before Malaysia Day.

\* NOTE – The Interpretation Ordinance has been repealed and substituted by the Interpretation and General Clauses Ordinance 1963 [No. 34 of 1963].

## PART VI

### TRANSITIONAL PROVISIONS

#### Existing laws

48. (1) Subject to the provisions of this Article and to any provision made on or after Malaysia Day by or under Federal law or State law, all existing laws shall on and after the commencement of this Constitution continue to have effect but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the provisions of this Constitution.

(2) Subject as aforesaid and without prejudice to the generality of Clause (1), references in any existing law to the colony of North Borneo or any officer holding office under the Government of the colony or to any authority or body constituted in or for the colony shall be construed on and after the commencement of this Constitution as references to the State or to the corresponding officer, authority or body respectively.

(3) (a) The Governor of the colony of North Borneo may by order made at any time before Malaysia Day make such modifications in any existing law as appear to him to be necessary or expedient in consequence of the promulgation of this Constitution or the passing of the Malaysia Act.

(b) This Clause shall come into operation on the publication of this Constitution in the *Gazette*.

(c) An order made under this Clause shall have effect from such date, not being later than the commencement of this Constitution, as may be specified therein.

(4) (a) The Yang di-Pertua Negara may by order at any time during the period of two years after the commencement of this Constitution make such modification in any existing law, to the extent that it is by virtue of the provisions of the Federal Constitution treated as a State law, as appear to him to be necessary or expedient in consequence of the promulgation of this Constitution or the passing of the Malaysia Act 1963.

(b) An order made under this Clause shall have effect from such date, not being earlier than the commencement of this Constitution, as may be specified therein.

(5) Any provision made by an order under this Article with respect to any law may be amended or repealed in like manner as that law.

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\* NOTE – 10 September 1963, see G.N.S. 129 of 1963.

(6) An order made under Clause (3) shall be laid before the Legislative Assembly as soon as may be on or after Malaysia Day and an order made under Clause (4) shall be so laid as soon as may be after it is made.

(7) In Clauses (3) and (4), “modification” includes amendment, adaptation and repeal.

### **Succession to property**

49. (1) Subject to the provisions of this Article, all property and assets which immediately before the commencement of this Constitution were vested in Her Majesty for the purposes of the colony of North Borneo shall on the commencement of this Constitution vest in the State.

(2) Any land in the State which immediately before the commencement of this Constitution was vested in Her Majesty shall on the commencement of this Constitution vest in the State.

(3) Any property which was immediately before the commencement of this Constitution liable to escheat to Her Majesty shall on the commencement of this Constitution be liable to escheat to the State.

### **Rights, liabilities and obligations**

50. (1) All rights, liabilities and obligations of Her Majesty in respect of the Government of the colony of North Borneo shall on the commencement of this Constitution become rights, liabilities and obligations of the State.

(2) In this Article, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights to which Article 49 applies.

### **First Yang di-Pertua Negara**

51. The first Yang di-Pertua Negara shall be a person nominated before Malaysia Day by Her Majesty and the Yang di-Pertuan Agong, and appointed by the Yang di-Pertuan Agong; and the appointment shall be for a term of two years beginning with Malaysia Day.



### **Transitional provisions relating to the Legislature**

52. (1) Subject to the provisions of this Article, the Legislative Council established by the North Borneo (Legislative Council) Orders in Council, 1950 to 1961 shall remain in being on and after Malaysia Day and shall, unless sooner dissolved by the Yang di-Pertua Negara stand dissolved on 1 June 1964.

(2) The Legislative Council continued in being by this Article shall be known as the Legislative Council of the State of Sabah, and until its dissolution the Legislative Assembly provided for by Article 14 shall not be established and, subject to the provisions of this Article, references in the other provisions of this Constitution to the Legislative Assembly shall, so far as the composition of the Legislative Council so admits, be construed as references to the Legislative Council.

(3) In place of the Governor as President of the Legislative Council there shall be a Speaker of the Legislative Council appointed in accordance with Article 15.

(4) A person who is a Temporary Member of the Legislative Council immediately before the commencement of this Constitution shall vacate his seat in the Council on its commencement.

(5) Where a vacancy occurs among the Official or Nominated Members of the Legislative Council the Yang di-Pertua Negara after consultation with the Chief Minister may appoint a person to fill the vacancy.

(6) A person who is an Official or Nominated Member of the Legislative Council immediately before the commencement of this Constitution shall remain a member of the Council irrespective of whether he is a citizen of Malaysia and consequently, while he is such a member by virtue of this Clause, the provision of Article 16 that only citizens of Malaysia shall be qualified for membership of the Legislature Assembly shall not apply in relation to such a member of the Legislative Council.

(7) Notwithstanding the provisions of Clause (3) of Article 17 (which, among other things, exempts from the operation of paragraph (g) of Clause (1) of that Article anything done before he becomes a citizen of Malaysia) if, while he is not a citizen of

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\* NOTE – See Volume VI page 86, 1960 A.V. page 341, 1962 A.V. page 5

Malaysia, an Official or Nominated Member of the Legislative Council does any of the things referred to in the said paragraph (g) he shall vacate his seat in the Council.

(8) A person is disqualified for being appointed as an Official Member of the Legislative Council if he does not hold an office in the public service and paragraph (c) of Clause (1) of Article 17 shall not apply to the appointment of a person as such a Member, but notwithstanding Clause (2) of that Article, the said paragraph (c) shall apply to the appointment of a person as a Nominated Member of the Legislative Council.

(9) Subject to Clause (8), the provisions of this Constitution shall apply in relation to Official Members of the Legislative Council as they apply in relation to Nominated Members of the Council,

(10) The Standing Orders of the Legislative Council as in force immediately before the commencement of this Constitution shall, until they are replaced by Standing Orders made on or after Malaysia Day by the Legislative Council or the Legislative Assembly be the Standing Orders of the Legislative Council and the Legislative Assembly respectively but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the provisions of this Constitution.

#### **Transitional financial provisions**

53. (1) Part III, except Article 28, shall not come into operation until 1 January 1964.

(2) Until the coming into operation of Part III, any sums which under this Constitution (including Part III) are a charge on the Consolidated Fund shall be a charge on the revenues and other funds of the State and payment thereof shall be made by virtue of this Clause without further authority of any law.

(3) Nothing in Clause (1) shall prevent the making of any provisions or doing of any other thing before 1 January 1964 for the purposes of Part III in respect of the financial year beginning on that date.

### **Transitional provisions relating to Public Service Commission**

54. (1) Any person who, immediately before the commencement of this Constitution, holds office as Chairman, Deputy Chairman or any other member of the Public Service Commission established by the North Borneo\* (Public Service Commission) Order in Council 1963 shall, as from the commencement of this Constitution, hold the like office as a member of the Commission established by this Commission as if he had been appointed thereto under Article 36 for a period of two years from the commencement of this Constitution.

(2) Any regulation made by the Governor under the North Borneo (Public Service Commission) Order in Council 1963 and in force immediately before the commencement of this Constitution shall –

(a) to the extent that they make provision in relation to the Commission established by the North Borneo (Public Service Commission) Order in Council 1963 or the public service of the colony of North Borneo for matters for which, in relation to the Commission established by the Constitution or the public service of the State, provision may be made under Clause (6) of Article 37, Article 38 or Article 40, have effect as from the commencement of this Constitution as if they were regulations or rules made under that Clause or Article 38 or Article 40, as the case may be; and

(b) subject to paragraph (a), be treated as an existing law for the purposes of Article 48.

### **Existing Officers**

55. (1) Subject to the provisions of the Federal Constitution and this Constitution, any person who immediately before the commencement of this Constitution is in the service of the Crown in respect of the Government of the colony of North Borneo shall –

(a) on the commencement of this Constitution cease to be in such service and become a person in the service of the State of Sabah;

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\* NOTE – See G.N.S. 43 of 1963.

- (b) so long as he continues in such service, be entitled to terms and conditions of service not less favourable than those applicable to him immediately before the commencement of this Constitution;
  - (c) be deemed to have been appointed on the commencement of this Constitution to hold or to act in any office in the service of the State corresponding to that which he holds or is acting in immediately before the commencement of this Constitution and to have taken any oath in connection therewith required by law.
- (2) For the purposes of Clause (1) –
- (a) any terms or conditions of service for which, on or after Malaysia Day, a person opts shall be deemed to be not less favourable than those applicable to him immediately before the commencement of this Constitution;
  - (b) the offices of State Secretary, State Attorney General and State Financial Secretary shall be regarded as corresponding respectively to the offices of Chief Secretary, Attorney General and Financial Secretary of the colony of North Borneo; and
  - (c) The Yang di-Pertua Negara may by order declare that any other office specified in such order shall be regarded as corresponding to another office so specified.
- (3) Clause (1) does not apply to the Governor of the colony of North Borneo.

**Secondment of members of the public service to federal service**

56. (1) All persons who on the commencement of this Constitution are members of the police force in the state (and are not on leave pending retirement) shall on Malaysia Day be seconded to the police force of the Federation.

(2) Where on Malaysia Day any post in the judicial and legal branch of the public service becomes a post in the judicial and legal service of the Federation any person serving

in that post on the commencement of this Constitution shall on Malaysia Day be seconded to the judicial and legal service of the Federation.

(3) Subject to Clause (4), where on Malaysia Day or any day thereafter any post in the public service becomes a post in the general public service of the Federation any person serving in that post immediately before that day shall on that day be seconded to the general public service of the Federation.

(4) Clause (3) shall not apply to persons in such grades of service as the Yang di-Pertua Negara may, with the consent of the Yang di-Pertuan Agong, direct.

(5) The power conferred on the Yang di-Pertua Negara by Clause (4) may be exercised by the Governor of the colony of North Borneo at any time after the publication of this Constitution in the *Gazette*.

#### **Compulsory retirement to facilitate appointment of local candidates**

57. (1) If the Chief Minister so requests, the Commission shall consider whether there are more local candidates suitably qualified for appointment to, or promotion in, any branch of the public service specified by the Chief Minister than there are vacancies in that branch that could appropriately be filled by such local candidates; the Commission, if satisfied that such is the case, shall, if so requested by the Chief Minister, select officers in that branch to whom this Article applies and whose retirement would in the opinion of the Commission cause vacancies that could appropriately be filled by such suitably qualified local candidates as are available and fit for appointment and inform the Chief Minister of the number of officers so selected; and if the Chief Minister specified a number of officers to be called upon to retire (not exceeding the number of officers so selected) the Commission shall nominate that number of officers from among the officers so selected and by notice in writing require them to retire from the public service; and any officer who is so required to retire shall retire accordingly.

(2) An officer who has been given notice by or on behalf of the Government of the State or of the colony of North Borneo that he will continue to be employed in the public

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\* NOTE - See G.N.S. 144 of 1963.

service for a minimum period specified in the notice shall not be required to retire under Clause (1) before the expiry of that period.

- (3) This Article applies to -
- (a) any entitled officer as defined in the Schedule to the North Borneo (Compensation and Retiring Benefits) Order in Council 1963; and
  - (b) any officer on probation who, if he had been confirmed in his appointment, would have been such an entitled officer.

58. (Deleted by En. No. 17/1976).

**Modification of form of oath in certain cases**

59. When a person who is not a citizen is required by this Constitution to take an oath on becoming the Speaker of the Legislative Assembly, an Official or Nominated Member of the Legislative Council or the Chairman of the Commission, the words "and allegiance" shall be omitted from the oath.

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\* NOTE - See G.N.S. 144 of 1963.

**FIRST SCHEDULE**

[Articles 4, 8, 22 and Clause 36 (10)]

**FORMS OF OATHS AND AFFIRMATIONS**

Part I

*Oath of Office of Yang di-Pertua Negeri*

I, ..... , having been appointed as (or to exercise the functions of) Yang di-Pertua Negeri of the State of Sabah, do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the State of Sabah and to the Federation, and that I will Preserve, protect and defend the Constitution of the Federation and the Constitution of the State of Sabah.

Part II

*Oath of Member of State Cabinet or Assistant Minister*

I, ..... , having been appointed to the office of..... do solemnly swear (or affirm) that I will faithfully discharge the duties of that office to the best of my ability, that I will bear true faith and allegiance to the State of Sabah and to the Federation, and that I will preserve, protect and defend the Constitution of the State of Sabah, and that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as ..... except as may be required for the due discharge of my duties as such or may be specially permitted by the Yang di- Pertua Negeri.

Part III

*Oath of Member of the Legislative Assembly*

I, ....., having been elected (or appointed) as a member of the Legislative Assembly of the State of Sabah, do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the State of Sabah and to the Federation, and that I will preserve, protect and defend the Constitution of the State of Sabah.

Part IV

*Oath of Member of Public Service Commission*

I, ....., having been appointed to the office of a member of the Public Service Commission of the State of Sabah, do solemnly swear (or affirm) that I will faithfully discharge the duties of that office to the best of my ability, and that I will bear true faith and allegiance to the State of Sabah and to the Federation, and that I will preserve, protect and defend the Constitution of the State of Sabah.

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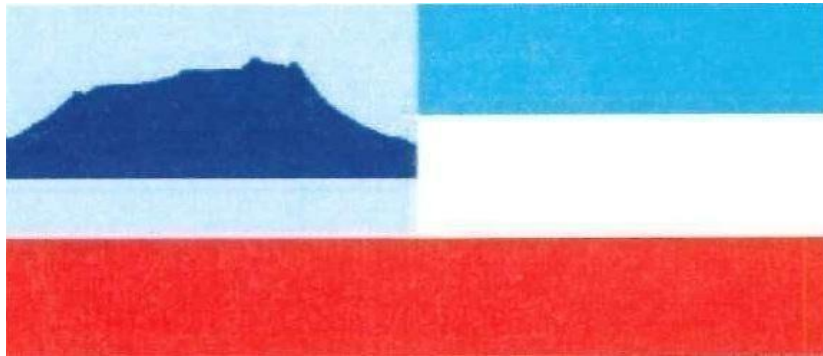


**SECOND SCHEDULE**

[Article 42A]

Part I

STATE FLAG



*Description*

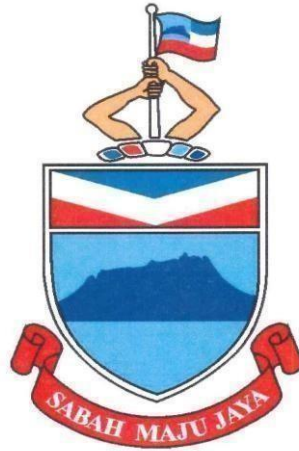
The State Flag is in a rectangular shape and is in the proportion of 1:2. The canton which extends at the head half way to the fly and 2/3 at the hoist to the foot is in Icicle Blue (C1T9) as the background to a graphic silhouette of Mount Kinabalu which is in Royal Blue (B10) positioned at  $\frac{1}{4}$  of the height of the canton from end to end. The fly of the flag is divided equally into three bands of colours the foot division of which extends right to the hoist. The top band is in Zircon Blue (C5T5) the second band is in white and the third band is in Chili Red (S6R4).

In this flag, Zircon Blue symbolizes peace and tranquility, White symbolizes purity and justice, Chilli Red symbolizes courage and conviction, Icicle Blue symbolizes unity and prosperity and Royal Blue symbolizes strength and co-operation.

The five colours of the flag represent the five Divisions in the State. The silhouette shape of Mount Kinabalu symbolizes the State of Sabah.

Part II

STATE CREST



Description

The State Crest consists of, at the top, two arms in yellow holding up the State Flag resting on a band of five State colours: Zircon Blue (C5T5), Chilli Red (S6R4), White, Icicle Blue (C1T9) and Royal Blue (B10), Immediately below it is the main crest in the form of a shield with its top segment carrying three of the State's main colours i.e. Zircon Blue, White and Chilli Red in V bands. At the low segment is the silhouette shape of Mount Kinabalu in Royal Blue against a plain Icicle Blue background. The shield is rested on a red scroll carrying the State motto "Sabah Maju Jaya" written in white.

In this crest, the two arms holding up the State Flag symbolize unity and co-operation among the State's multi-racial communities for the progress and success of the country.

The five colours as in the colour band represent the five Divisions in the State.

Zircon Blue symbolizes peace and tranquility, White symbolizes purity and justice, Chilli Red symbolizes courage and conviction, Icicle Blue symbolizes unity and prosperity and Royal Blue symbolizes strength and co-operation.

The silhouette shape of Mount Kinabalu symbolizes the State of Sabah.

LIST OF AMENDMENTS

Amending law	Short Title	In force from
En. No. 12/1964	Constitution (Amendment) Enactment 1964	18-07-1964
En. No. 3/1965	Constitution (Amendment) Enactment 1965	20-04-1965
En. No. 14/1966	Constitution (Amendment) Enactment 1966	01-10-1966
En. No. 18/1966	Constitution (Amendment) (No. 2) Enactment 1966	28-12-1966
En. No. 17/1967	Constitution (Amendment) Enactment 1967	30-12-1967
P.U. (A) 170/1969	Emergency (Essential Powers) Ordinance No. 3/1969	15-05-1969
En. No. 1/1971	Constitution (Amendment) Enactment 1971	18-11-1968
P.U. (A) 64/1971	Emergency (Essential Powers) Ordinance No. 79/1971	19-02-1971
En. No. 16/1971	Constitution (Amendment) (No. 2) Enactment 1971	15-10-1971
En. No. 8/1973	Constitution (Amendment) Enactment 1973	27-09-1973
Act 160	Malaysia Currency (Ringgit) Act 1975	29-08-1975
En. No. 7/1975	Constitution (Amendment) Enactment 1975	05-09-1975
En. No. 16/1976	Constitution (Amendment) Enactment 1976	12-05-1976

En. No. 17/1976	Constitution (Amendment) (No. 2) Enactment 1976	27-08-1976
En. No. 2/1979	Constitution (Amendment) Enactment 1979	03-05-1979
En. No. 11/1981	Constitution (Amendment) Enactment 1981	01-04-1981
Act A606	Court of Judicature (Amendment) (No. 2) Act 1984	01-01-1985
En. No. 8/1985	Constitution (Amendment) Enactment 1985	31-12-1985
En. No. 3/1986	Constitution (Amendment) Enactment 1986	20-05-1986
En. No. 1/1987	Constitution (Amendment) Enactment 1987	16-04-1987
En. No. 12/1988	Constitution (Amendment) Enactment 1988	16-09-1988
En. No. 5/1990	Constitution (Amendment) Enactment 1990	25-05-1990
En. No. 6/1991	Constitution (Amendment) Enactment 1991	25-07-1991
En. No. 18/1992	Constitution (Amendment) Enactment 1992	16-03-1993
En. No. 2/1993	Constitution (Amendment) Enactment 1993	06-04-1993
En. No. 11/1994	Constitution (Amendment) Enactment 1994	28-11-1994
En. No. 11/1995	Constitution (Amendment) Enactment 1995	09-11-1995

En. No. 3/2002	Constitution (Amendment) Enactment 2002	21-11-2002
En. No. 2/2008	Constitution (Amendment) Enactment 2008	20-05-2008
En. No. 5/2014	Constitution (Amendment) Enactment 2014	01-01-2015
En. No. 5/2016	Constitution (Amendment) Enactment 2016	18-08-2016
En. No. 11/2018	Constitution (Amendment) Enactment 2018	20-12-2018
En. No. 6/2019	Constitution of the State of Sabah (Amendment) Enactment 2019	19-12-2019
En. No. 4/2023	Constitution of the State of Sabah (Amendment) Enactment 2023	16-06-2023 (GN.305 of 2023)

LIST OF ARTICLES AMENDED

Article	Amending authority	In force from
2	En. No. 1/1987	16-04-1987
	En. No. 11/2018	20-12-2018
4	En. No. 12/1988	16-09-1988
	En. No. 11/1995	09-11-1995
5	En. No. 17/1976	27-08-1976
5A	En. No. 8/1973	27-09-1973
5B	En. No. 8/1985	31-12-1985
6	En. No. 12/1964	18-07-1964
	En. No. 5/1990	25-05-1990
	En. No. 11/1995	09-11-1995
7	En. No. 12/1964	18-07-1964
7A	En. No. 16/1971	15-10-1971
	En. No. 3/1986	20-05-1986
	En. No. 2/1993	06-04-1993
	En. No. 2/2008	20-05-2008
8	En. No. 12/1988	16-09-1988
9	En. No. 12/1964	18-07-1964
10	P.U. (A) 170/1969	15-05-1969
	P.U. (A) 64/1971	19-02-1971
	En. No. 7/1975	05-09-1975
	En. No. 17/1976	27-08-1976
	En. No. 11/1995	09-11-1995
11	En. No. 3/1965	20-04-1965
	En. No. 14/1966	01-10-1966
	En. No. 17/1967	30-12-1967
	En. No. 16/1976	12-05-1976
	En. No. 2/1979	03-05-1979

11A	En. No. 8/1973	27-09-1973
14	En. No. 12/1964	18-07-1964
	En. No. 17/1967	30-12-1967
	En. No. 5/1990	25-05-1990
	En. No. 2/2002	21-11-2002
	En. No. 5/2016	18-08-2016
15	En. No. 6/1991	25-07-1991
	En. No. 11/1994	28-11-1994
15A	En. No. 7/1975	05-09-1975
	En. No. 11/1994	28-11-1994
16	En. No. 6/2019	19-12-2019
17	Act 160	29-08-1975
	En. No. 11/1981	01-04-1981
	En. No. 6/1991	25-07-1991
	En. No. 11/1995	09-11-1995
	En. No. 5/2014	01-01-2015
18	En. No. 3/1986	20-05-1986
	En. No. 18/1992	16-03-1993
	En. No. 11/1995	09-11-1995
19	En. No. 17/1976	27-08-1976
	En. No. 11/1995	09-11-1995
20	Act 160	29-08-1975
	En. No. 2/1979	03-05-1979
21	En. No. 18/1966	28-12-1966
	En. No. 1/1971	18-11-1968
	P.U. (A) 170/1969	15-05-1969
	P.U. (A) 64/1971	19-07-1971
	En. No. 5/1990	25-05-1990
	En. No. 11/1995	09-11-1995
22	En. No. 12/1988	19-09-1988
	En. No. 11/1994	28-11-1994
24	En. No. 17/1976	27-08-1976

26	En. No. 11/1995	09-11-1995
36	En. No. 17/1976	27-08-1976
	Act A606	01-01-1985
	En. No. 12/1988	16-09-1988
	En. No. 11/1995	09-11-1995
40	En. No. 11/1995	09-11-1995
42A	En. No. 12/1998	16-09-1988
43	En. No. 7/1975	05-09-1975
	En. No. 17/1976	27-08-1976
46	En. No. 16/1971	15-10-1971
	En. No. 11/1981	01-04-1981
	En. No. 11/1995	09-11-1995
	En. No. 5/2014	01-01-2015
58	En. No. 17/1976	27-08-1976
59	En. No. 12/1964	18-07-1964
First Schedule	En. No. 12/1964	18-07-1964
	En. No. 16/1971	15-10-1971
	En. No. 17/1976	27-08-1976
	En. No. 12/1988	16-09-1988
Second Schedule	En. No. 12/1988	16-09-1988
Throughout the Constitution	En. No. 17/1976	27-08-1976
	En. No. 1/1987	16-04-1987