



THE CONSTITUTION
OF
THE STATE OF SARAWAK
(G.N.S. 163/63)

Incorporating all amendments made up to
23rd June, 1981

Compiled in the

STATE ATTORNEY-GENERAL'S CHAMBERS,
KUCHING.

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*THE CONSTITUTION OF THE STATE OF
SARAWAK

(G.N.S. 163/63)

PART I

THE STATE GOVERNMENT

Chapter 1—The Yang di-Pertua Negeri

†1.—(1) There shall be a Yang di-Pertua Negeri of the State, 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 Dewan Undangan Negeri 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.

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.

*Except for Part VI — Transitional Provisions, all references to "Governor", "Supreme Council" and "Council Negri" in the Constitution have now been amended to read "Yang di-Pertua Negeri", "Majlis Mesyuarat Kerajaan Negeri" and "Dewan Undangan Negeri" respectively by virtue of section 5 of the Ordinance No. 9 of 1976.

See also Emergency (Federal Constitution and Constitution of Sarawak) Act, 1966 — Fed. Act 68/66.

† See Table IV of the latest annual Index to Part II of the Sarawak Government Gazette.

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 Justice or of a Judge of the High Court an oath in the form set out in Part I of the Schedule.

Chapter 2—Religion of Islam

[Added
Ord. 9/76].

Religion
of Islam.

4A.—(1) The Yang di-Pertuan Agong shall be the Head of the Religion of Islam in the State.

(2) The Dewan Undangan Negeri shall by law make provision 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.

†*Chapter 3—The Executive*

[Am. Ord.
Ord. 9/76].

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.

The Majlis
Mesyuarat
Kerajaan
Negeri.

6.—(1) There shall be a Majlis Mesyuarat Kerajaan Negeri to advise the Yang di-Pertua Negeri in the exercise of his functions.

(2)

[Deleted
Ord. 1/76].

‡(3) The Majlis Mesyuarat Kerajaan Negeri shall be appointed as follows, that is to say—

[Sub.
Ord. 1/76].

(a) the Yang di-Pertua Negeri shall first appoint as Chief Minister a member of the Dewan Undangan Negeri who in his judgment is likely to command the confidence of a majority of the members of the Dewan Undangan Negeri; and

(b) he shall on the advice of the Chief Minister appoint not more than eight nor less than four other members from among the members of the Dewan Undangan Negeri:

*See Civil List Ordinance, 1963 (Ord. No. 18/63 — Reprinted 1972) and Pensions (Yang di-Pertua Negeri Sarawak) Ordinance, 1978 (Ord. No. 2/78).

† For Remuneration, Pensions and Gratuities of the Members of the Administration and Members of Dewan Undangan Negeri — see Ord. No. 9/80.

‡ See Table IV of the latest annual Index to Part II of the Sarawak Government Gazette.

Provided that if an appointment is made while the Dewan Undangan Negeri is dissolved a person who was a member of the last Dewan may be appointed but shall not continue to hold office after the first sitting of the next Dewan Undangan Negeri 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 Majlis Mesyuarat Kerajaan Negeri shall be collectively responsible to the Dewan Undangan Negeri.

7.—(1) If the Chief Minister ceases to command the confidence of a majority of the members of the Dewan Undangan Negeri, then, unless at his request the Yang di-Pertua Negeri dissolves the Dewan Undangan Negeri, the Chief Minister shall tender the resignation of the members of the Majlis Mesyuarat Kerajaan Negeri.

[Am. Ord. 8/65].

(2) A member of the Majlis Mesyuarat Kerajaan Negeri may at any time resign his office by writing under his hand addressed to the Yang di-Pertua Negeri, and a member of the Majlis Mesyuarat Kerajaan Negeri 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.

[Am. Ord. 8/65].

(3) Subject to clauses (1) and (2), a member of the Majlis Mesyuarat Kerajaan Negeri other than the Chief Minister shall hold office at the Yang di-Pertua Negeri's pleasure.

[Am. Ord. 8/65].

7A.—(1) The Yang di-Pertua Negeri shall on the advice of the Chief Minister appoint not more than nine Assistant Ministers from among the members of the Dewan Undangan Negeri but the Assistant Ministers so appointed shall not be members of the Majlis Mesyuarat Kerajaan Negeri:

[Added Ord. 1/76].

Provided that if an appointment is made while the Dewan Undangan Negeri is dissolved a person who was a member of the last Dewan may be appointed but shall not continue to hold office after the first sitting of the next Dewan Undangan Negeri 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 members of the Majlis Mesyuarat Kerajaan Negeri.

Oaths of member of Majlis Mesyuarat Kerajaan Negeri.

8. Before a member of the Majlis Mesyuarat Kerajaan Negeri 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 Schedule.

Allocation of portfolio 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 Majlis Mesyuarat Kerajaan Negeri responsibility for any business of the government of the State including the administration of any department of government, and any member of the Majlis Mesyuarat Kerajaan Negeri to whom such responsibility is assigned shall be styled "Minister".

[Am. Ord. 8/65].

(2) A member of the Majlis Mesyuarat Kerajaan Negeri 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 Majlis Mesyuarat Kerajaan Negeri 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 Majlis Mesyuarat Kerajaan Negeri or of a member thereof acting under the general authority of the Majlis, 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 Majlis Mesyuarat Kerajaan Negeri.

(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 Dewan Undangan Negeri.

* See Table IV of the latest annual Index to Part II of the Sarawak Government Gazette.

(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 Majlis Mesyuarat Kerajaan Negeri 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.

*11. The offices of State Secretary, State Attorney-General and State Financial Secretary 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.

Appointment of State Secretary, State Attorney-General and State Financial Secretary.

[Am. Ord. 9/76].

Chapter 4—Capacity 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.

Capacity of State as respects property, contracts and suits

(2) The State may sue and be sued.

PART II

†THE LEGISLATURE

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

Constitution of Legislature.

14.—(1) The Dewan Undangan Negeri shall consist of—

Composition of Undangan Dewan Negeri.

[Am. Ord. 9/68].

(a) the Speaker; and

[Deleted Ord. 9/68].

(b)

[Relettered Ord. 9/68].

(b) such number of elected members as the Legislature may by law prescribe, elected in such manner as may be provided by Federal or State law;

[Deleted Ord. 9/68].

(d)

(e)

* See Table IV of the latest annual Index to Part II of the Sarawak Government Gazette.

† For Remuneration, Pensions and Gratuities of Members of the Administration and Members of Dewan Undangan Negeri — see Ord. No. 9/80.

(2) Until the Legislature otherwise prescribes the number of elected members shall be forty-eight. ^{[Am. Ord. 9/68].}

The Speaker.

*15.—(1) The Speaker shall be appointed by the Yang di-Pertua Negeri acting in his discretion after consultation with the Chief Minister from among persons who either are members, or qualified to be elected as elected members, of the Dewan Undangan Negeri under Article 16. ^{[Sub. Ord. 9/68].}

(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 disqualified for election as an elected member of the Dewan Undangan Negeri. ^{[Am. Ord. 9/68].}

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

(4) During any absence of the Speaker, or any period during which the Speaker is unable for any reason to exercise his functions, or any vacancy in the office of Speaker such member of the Dewan as may be determined by the Standing Orders of the Dewan shall act as Speaker. ^{[Am. Ord. 9/64].}

‡(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.

Qualifications of members.

16. Every citizen of or over the age of twenty-one years who is resident in the State is qualified to be elected as an elected member of the Dewan Undangan Negeri, unless he is disqualified for being such a member by the Federal Constitution or this Constitution or by any such law as is mentioned in Article 17. ^{[Am. Ord. 9/68].}

* See Table IV of the latest annual Index to Part II of the Sarawak Government Gazette.

† See subsections (4) and (5) of section 10 of the Eighth Schedule to the Federal Constitution as amended by F. Act A514.

‡ For Remuneration, Pension and Gratuity of the Speaker — see Ord. No. 9/80.

17.—(1) Subject to the provisions of this Article, a person is disqualified for being elected as an elected member of the Dewan Undangan Negeri if—

Disqualifications for membership,

[Am. Ord. 9/68].

(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 a Native Chief;

(d) having been nominated for election to either House of Parliament or to the Dewan Undangan Negeri, 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 dollars 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 Dewan Undangan Negeri 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, any country outside the Federation or has made a declaration of allegiance to any country outside the Federation.

[Am. Ord. 9/76].

[Deleted Ord. 9/68].

(2)

(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.

[Deleted Ord. 9/76].

(4)

Tenure of seats of members.

18.—(1) Every elected member of the Dewan Undangan Negeri shall vacate his seat in the Dewan on a dissolution of the Dewan. ^{[Am. Ord. 9/68].}

(2) An elected member shall also vacate his seat in the Dewan if— ^{[Am. Ord. 9/68].}

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

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

(c) he is absent without the leave of the Speaker from every sitting of the Dewan for three consecutive meetings; or

(d) ^{[Deleted Ord. 1/76].}

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

(4) ^{[Deleted Ord. 9/68].}

Decision as to disqualification.

19. If any question arises whether the Speaker or a member of the Dewan Undangan Negeri has ceased to be qualified for appointment or election as such, the decision of the Dewan shall be taken and shall be final:

Provided that this Article shall not be taken to prevent the practice of the Dewan 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).

Penalty for unqualified person sitting or voting in the Dewan Undangan Negeri.

20. Any person who sits or votes in the Dewan Undangan Negeri, 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 dollars 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.

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

Sum-
moning,
prorogation
and disso-
lution of
Dewan
Undangan
Negeri.

(2) The Yang di-Pertua Negeri may prorogue or dissolve the Dewan Undangan Negeri.

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

[Added
Ord. 8/68].

Act No. 27
of 1968.

(3A) Notwithstanding the provisions of clause (3) of Article 21 of the Constitution, the Dewan Undangan Negeri existing at the date of commencement of the Federal Constitution (Amendment) Act, 1968†, shall not be subject to the prescribed period of five years for it to stand dissolved but shall stand dissolved on the date on which the Federal Parliament is next dissolved or next stands dissolved after the date of commencement of that Act.

[Am. Ord.
9/68].

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

[Am. Ord.
9/68].

(5) Whenever the seat of an elected member has become vacant for any reason other than a dissolution, the vacancy shall, within ninety 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.

22. The Speaker shall before exercising the functions of his office take and subscribe before the Yang di-Pertua Negeri the oath set out in Part III of the Schedule and every member of the Dewan Undangan Negeri shall before taking his seat take and subscribe the said oath before the Speaker.

Oaths of
Speaker
and mem-
bers.

[Added
Ord. 1/76]

22A. In every case in which an oath is prescribed under this Constitution an affirmation may be made instead of an oath.

Affirmation
may be
made
instead
of oath.

* The Ninth Dewan Undangan Negeri was dissolved w.c.f. 11th August, 1979 — see Swk. L.N. 51/79.

The First Meeting of the First Session of Tenth Dewan Undangan Negeri was summoned on 4th December, 1979 — see Swk. L.N. 66/79.

† Date of commencement of Act No. 27 of 1968 — 9.9.1968.

Address
by Yang
di-Pertua
Negeri.

Procedure
of Dewan
Undangan
Negeri.

23. The Yang di-Pertua Negeri may address the Dewan Undangan Negeri and may send messages thereto.

*24.—(1) Subject to the provisions of this Constitution, the Dewan Undangan Negeri shall regulate its own procedure and may make Standing Orders for that purpose.

(2) The Dewan Undangan Negeri shall not be disqualified for the transaction of business by reason of 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 41, the Dewan Undangan Negeri shall, if not unanimous, take its decision by a simple majority of members voting; and the Speaker or member presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

(4) Members absent from the Dewan Undangan Negeri shall not be allowed to vote.

(5) The Standing Orders of the Dewan Undangan Negeri 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)

[Deleted
Ord. 9/76].

(7) No Bill or amendment involving expenditure from the Consolidated Fund may be introduced or moved in the Dewan Undangan Negeri except by a member of the Majlis Mesyuarat Kerajaan Negeri.

(8) For a period of ten years after Malaysia Day, and thereafter until the Legislature by law otherwise provides, all proceedings in the Dewan may be in the English language and, subject to the Standing Orders of the Dewan Undangan Negeri, members may use any Native language in addressing the Dewan.

(9) If objection is taken by any member present that there are present (besides the Speaker or member presiding) fewer than one-third of the total number of members and after such interval as may be prescribed in the Standing Orders of the Dewan, the person presiding ascertains that the number of members present is still less than one-third of the total number of members, he shall thereupon adjourn the Dewan.

* Standing Orders of the Dewan Undangan Negeri were made w.e.f. 24th February, 1964 pursuant to a resolution of the Dewan.