

Constitution of the State of Sabah

PART II

THE LEGISLATURE

13. Constitution of Legislature.

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

14. Composition of Legislative Assembly.

(1) The Legislative Assembly shall consist of –

(a) the Speaker;

^{*}-(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;

(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 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 sixty.⁻

15. The Speaker.

(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 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 organisation 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 organisation 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 the 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.

15A. Deputy Speakers.

- (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:

Provided that, notwithstanding that he is a nominated member, the provisions of clause (1) of Article 18 shall not apply to the Deputy Speaker but such member shall not continue to hold the office of the Deputy Speaker after the first sitting of the next Legislative Assembly unless he is reappointed as a nominated member thereof.

16. Qualifications of Members.

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 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.

17. Disqualification for Membership of Assembly.

- (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 –

- (a) he is and has 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 Rakyat 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 qualified 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 (s) 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 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 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 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) An elected member who resigns his membership of the Legislative Assembly of this State or any other State shall, for a period of five years beginning with the date on which his resignation takes effect, be disqualified from being elected as an elected member of the Legislative Assembly of this State.

18. Tenure of seats of members.

(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; or

(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) (Repealed).

(e) (Repealed).

(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.

19. Decision as to disqualification.

(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) When a member of the Legislative Assembly become 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.

20. Penalty for unqualified person sitting or voting in the Legislative Assembly.

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.

21. Summoning, prorogation, and dissolution of Legislative Assembly.

- (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 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.

22. Oath of Speaker, Deputy Speakers and members.

- (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.

23. Address by Yang di-Pertua Negeri.

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

24. Procedure of Legislative Assembly.

- (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 number 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 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.

25. Privileges of the Legislative Assembly and members.

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.

26. Exercise of Legislative power.

- (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 become 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.

27. Supremacy of Constitution.

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

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

± See Legislative Assembly (Elected Members) Enactment, 1965 (No. 16 of 1965).

∓ See Legislative Assembly (Elected Members) Enactment, 1965 (No. 16 of 1965) which prescribes forty-eight as the number of elected members.

∴ See Members of the Administration and Legislative Assembly (Remuneration) Enactment, 1981 (No. 3 Of 1981).

‡ See Standing Orders of the Legislative Assembly of the State of Sabah (G.N.S. 112 of 1964).

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± See Legislative Assembly (privileges, Immunities and Powers) Enactment, 1963 (No. 36 of 1963).