

BRUNEI. *Laws, statutes, etc. Session laws*



The Enactments ^{et}
of
BRUNEI
1952 — 1955

Published by Authority

with Tables

EXPLANATION

This volume containing Enactments of 1952, 1953, 1954 and 1955 is the Supplement to the Revised Edition of Brunei Laws. For convenience there have been included in this volume, 3 tables:—

Table I — Alphabetical Table of Short Titles of the Enactments passed between 1st January, 1952 and 31st December, 1955;

Table II — Chronological Table of the Enactments passed between 1st January, 1952, and 31st December, 1955;

Table III — Table showing effect of legislation from 1st January, 1952 to 31st December, 1955.

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ENACTMENT No. 20 OF 1955

An Enactment to consolidate the law relating to the Religious Council and State Custom, the Kathis Courts, the constitution and organisation of religious authorities and the regulation of religious affairs.

J. O. GILBERT,
BRITISH RESIDENT,
BRUNEI.

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PART I. PRELIMINARY

It is hereby enacted by His Highness the Sultan in Council as follows :—

1. (1) This Enactment may be cited as the Religious Short title and Council, State Custom and Kathis Courts Enactment, 1955, commencement. and shall, subject to the provisions of subsection (2), come into force on the 1st day of **February, 1956.**

(2) Sections 114 to 121 (both sections inclusive), section 192 and that part of section 193 which refers to *zakat* and *fitrah* shall not come into force until such day as His Highness the Sultan shall by notification signified in the *Gazette* appoint.

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

“Adat Istiadat Negeri” and “State Custom” mean respectively the *Adat Istiadat Melayu yang di pakai di negeri ini* and Malay Custom as practised in the State;

“*anak dara*” means a female who has never been married or had sexual intercourse;

“*anak mukim*” means the persons permanently or habitually resident in any *mukim masjid*;

“Chief Kathi” means the Chief Kathi of Brunei;

“Court” means a religious Court, that is the Court of a Kathi or of the Chief Kathi;

“*eddah*” means the period within which a divorced woman or a widow is forbidden by Muslim law to remarry;

“*fitrah*” means the amount of rice payable under Muslim law annually by every Muslim at the end of the month of Ramathan to be used for religious or charitable purposes recognized by Muslim law;

“General Endowment Fund” means the General Endowment Fund established under section 98;

“Government” means the Government of the State;

“*habuan*” means the proportion of any property or fund retainable under Muslim law by any person by way of commission or remuneration for services performed;

“*illicit intercourse*” means sexual intercourse not amounting to rape between any male and any female who is not his wife or whom he is forbidden by Muslim law to marry;

“Imam” means any Imam appointed under this Enactment;

“*janda*” means a widow or a female who is not either an *anak dara* or a married woman;

“Judicial Committee” means the Judicial Committee of the majlis appointed under this Enactment;

- “Kathi” means a Kathi appointed under this Enactment and includes the Chief Kathi;
- “ketua” means a ketua of a kampong who is in possession of a Tauliah issued by His Highness the Sultan for the purposes of this Enactment;
- “Legal Committee” means the Legal Committee of the Majlis appointed under this Enactment;
- “Majlis” means the Majlis Ugama Islam dan Adat Istitiadat Negeri constituted under section 5;
- “married woman” means a female who has been married and whose marriage is still in force;
- “*mas-kahwin*” means the obligatory marriage-payment due under Muslim law by the husband to the wife at the time the marriage is solemnised, whether paid in cash or in kind, or payable as a debt with or without security;
- “minor” means in the case of a person wholly or partly of Asian race a person who has not attained the age of eighteen years, and in any other case a person who has not attained the age of twenty-one years;
- “mosque” means a building erected or used for the purpose of holding the prayers, services and other ceremonies connected with the Islamic religion, and includes a *surau*;
- “Mufti” means the Mufti Kerajaan of Brunei, appointed under section 40;
- “*mukim*” and “*mukim masjid*” mean the area prescribed by the Majlis in accordance with this Enactment within which a mosque is situated;
- “*nazr*” means an expressed vow to do any act or to dedicate property for any purpose allowed by Muslim law;
- “*nazr'am*” means a *nazr* intended wholly or in part for the benefit of the Muslim community generally or part thereof, as opposed to an individual or individuals;
- “*pegawai masjid*” includes the Dato Imam, Si Raja Khatib, Tuan Iman, Udama Khatib, all Khatib, all mudium, all Imam, all Billal and all mosque officials appointed under section 130;
- “*pemberian*” means the optional marriage settlement made by the husband on the wife at the time of the marriage in cash or in kind;
- “penghulu” means a penghulu of a daerah who is in possession of a Tauliah issued by His Highness the Sultan for the purposes of this Enactment;
- “President” means the President of the Majlis appointed under Section 13;
- “property” includes all estates, interests, easements and rights, whether equitable or legal, in, to or out of property, and things in action;

“Registrar” means a Registrar of Muslim Marriages and Divorces appointed under section 135;

“rojok” means a declaration made to a Kathi by an ex husband expressing his intention to resume conjugal relations with his ex wife;

“Secretary” means the Secretary to the Majlis appointed under section 14;

“signified” means signified under the hand of the State Custom, Religious and Welfare Officer;

“State Custom, Religious and Welfare Officer” means the State Customs, Religious and Welfare Officer appointed under section 14;

“Sultan in Religious Council” means the Sultan acting after consultation with the Religious Council but not necessarily in accordance with the advice of such Council nor necessarily in such Council assembled;

“Vice-President” means the Vice-President of the Majlis appointed under section 13;

“*wakaf'am*” means a dedication in perpetuity of the capital and income of property for religious or charitable purposes recognized by Muslim law, and the property so dedicated;

“*wakaf khas*” means a dedication in perpetuity of the capital of property for religious or charitable purposes recognized by Muslim law, and the property so dedicated, the income of the property being paid to persons or for purposes prescribed in the *wakaf*;

“*zakat*” means the tithe of the crop payable annually under Muslim law in respect of padi land, subject to the exemptions prescribed by this Enactment;

3. Nothing in this Enactment contained shall derogate from or affect the prerogative rights and powers of His Highness the Sultan as the Head of the religion of the State. Saving of prerogative.

4. Nothing in this Enactment contained shall derogate from or affect the rights and powers of the Civil Courts. Saving of civil and religious liberties.

PART II. MAJLIS

Constitution

5. There shall be a Majlis Ugama Islam dan Adat Istiadat Negeri to be called in English “The Religious Council”. Constitution of Majlis.

6. The Majlis shall be a body corporate under the name of “Majlis Ugama Islam dan Adat Istiadat Negeri” having perpetual succession and a corporate seal, and the said seal may from time to time be broken, changed, altered and made anew as to the Majlis seems fit, and, until a seal is provided under this section, a stamp bearing the inscription “Majlis Ugama Islam dan Adat Istiadat Negeri” may be used as the corporate seal. Majlis to be a Corporation.

7. The Majlis may sue and be sued in its corporate name. Right to sue.

Contracts and Property.

8. The Majlis may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description, and subject to the provisions of any written law affecting the same may convey, assign, surrender and yield up, charge, mortgage, demise, re-assign, transfer or otherwise dispose of, or deal with, any movable or immovable property vested in the Majlis upon such terms as to the Majlis seems fit and in accordance with Muslim law.

Power to administer estates.

9. The Majlis shall have power to act as an executor of a will or as an administrator of the estate of a deceased person or as a trustee of any trust.

Further powers duties.

10. The Majlis shall have such further powers and carry out such duties as may by this or by any other written law be assigned to it.

Vesting of Property.

11. All property, movable and immovable, of whatever description, which, immediately before the commencement of this Enactment, was vested in the Brunei Town Mosque for its religious purposes shall, on the commencement of this Enactment and without any conveyance, assignment or transfer whatever, vest in the Majlis for the like title, estate or interest and on the like tenure as the same was vested or held immediately before the commencement of this Enactment.

Devolution of Powers.

12. All rights, powers, duties and liabilities which were, immediately before the commencement of this Enactment vested in or imposed on *Pehin Laksamana Haji Taha* shall, on the commencement of this Enactment, be vested in or imposed on the Majlis, save in so far as may be repugnant to the terms of this Enactment.

Membership

13. (1) The Members of the Majlis shall be a President, a Vice-President and not less than six other Members, all of whom shall be appointed by His Highness the Sultan for such period as he may deem fit.

(2) Unless the contrary appears in the instrument of appointment, every such appointment shall be deemed to have been made for a period of three years from the date thereof.

(3) No person shall be appointed a Member of the Majlis unless he is a male over the age of 21 years, professing the Islamic religion and able to read and write Malay.

Appointment of State Custom Religious and Welfare Officer and of Secretary.

14. His Highness the Sultan may appoint —

- (a) any Member of the Majlis to be the State Custom, Religious and Welfare Officer; and
- (b) any person whether a Member of the Majlis or not to be Secretary of the Majlis.

Determination of appointment.

15. The appointment of any Member of, or the Secretary to, the Majlis shall determine —

- (a) upon his death;
- (b) if he shall, by writing addressed to His Highness the Sultan through the Secretary resign such appointment; or

- (c) if he shall be absent from the State, without written permission from the President on behalf of His Highness the Sultan, or, in the case of the President, without written permission from His Highness the Sultan, for a period exceeding three months.

16. His Highness the Sultan may cancel the appointment of the State Custom, Religious and Welfare Officer of any Member of, or the Secretary to, the Majlis —

- (a) if his conduct, whether in connection with the duties of such appointment or otherwise, is in the opinion of His Highness the Sultan such to bring discredit upon the Majlis;
- (b) if for any reason he becomes unable properly to carry out the duties of his appointment; or
- (c) if he shall, without due cause to be approved by the President, absent himself from three successive meetings of the Majlis.

17. In the event of the temporary absence or incapacity of any Member of, or the Secretary to, the Majlis, His Highness the Sultan may appoint a person to act temporarily on his behalf. Such temporary appointment shall determine on the substantive holder giving notice to the President of resumption of the duties of his appointment.

18. Notice of all appointments under this Part shall be published in the *Gazette*.

Appointments to be notified.

Proceedings

19. The President may invite to any meeting of the Majlis any person who is not a Member of the Majlis if the business before the meeting renders the presence of such person desirable. Any person so invited shall be entitled to take part in the discussion, but not to vote.

20. The President shall preside at all the meetings of the Majlis or in his absence the Vice-President shall preside or, if he also is absent, His Highness the Sultan may appoint any other Member to act as Chairman.

21. No business, save that of adjournment, shall be transacted and no resolution or action of the Majlis shall be valid, unless at least one-third of the Members, including the President or the vice president, or a person appointed under section 20 to act as Chairman, shall be present.

22. (1) The corporate seal of the Majlis shall not be used except in pursuance of a resolution of the Majlis.

(2) Any instrument to be executed under the seal of the Majlis be sealed in the presence of the Secretary and two other Members of the Majlis who shall all sign as witnesses. Such signing shall be sufficient evidence that the said seal was duly and properly affixed and is the lawful seal of the Majlis.

(3) The following documents shall be executed under the corporate seal of the Majlis —

- (a) documents requiring registration in any Land Office;
- (b) letters of authority to the *pegawai masjid* of any mosque;
- (c) documents authorizing any person to act for any particular purpose or purposes on behalf of the Majlis; and
- (d) such other documents or classes of documents as His Highness the Sultan may from time to time direct.

Conduct of business.

23. (1) Save as by this Enactment expressly provided, all business of the Majlis shall be conducted in a meeting thereof regularly convened and by resolution of the majority of those present and entitled to vote.

(2) A resolution in writing signed by all Members of the Majlis shall, unless in any special case or class of cases His Highness the Sultan shall otherwise direct, have the same effect as a resolution duly passed under subsection (1).

Summoning meetings.

24. (1) All meetings of the Majlis shall be summoned by the Secretary.

(2) The President or the Vice-President may at any time direct the Secretary so to summon a meeting.

(3) Any four Members of the Majlis may at any time in writing require the Secretary to summon a meeting of the Majlis, but shall upon doing so inform the Secretary of the purpose for which they desire the meeting to be so summoned.

(4) At least three days notice in writing shall be given of any meeting :

Provided that in emergency the President may direct that notice be dispersed with.

(5) Any such notice may be served in such manner as the President may direct :

Provided that no notice of meetings shall be necessary in the case of any Member for the time being out of the State.

Powers of Officers.

25. (1) The President shall have general control of all deliberations and proceedings of the Majlis and shall be responsible therefor to His Highness the Sultan.

(2) The Vice-President shall in the absence of the President exercise all the powers of the President and shall at all other times carry out such duties as may be allotted to him by the President.

Duties and Powers of Secretary.

26. The Secretary shall, under the direction of the President, have charge of all correspondence and documents of the Majlis, including all books of account thereof and all title deeds and securities, and shall be generally responsible for the proper collection of, accounting for and disposal of all funds of the Majlis, and shall in all other respects carry out such duties as may be imposed upon him by this Enactment or allotted to him by direction of the President.

27. (1) The Secretary shall keep minutes of all meetings of the Majlis and at every meeting the minutes of the previous meeting shall be read and confirmed, subject to any amendment which may be required. ^{Minutes.}

(2) Such minutes shall be entered in the minute book of the Majlis and shall include a full verbatim record of every resolution of the Majlis.

(3) As soon as possible after every meeting of the Majlis a copy of the draft minutes shall be sent to His Highness the Sultan. If on confirmation such draft minutes are amended, His Highness the Sultan shall forthwith be informed of the amendments made.

28. (1) The Chairman shall determine the order of business at any meeting. ^{Order of business and voting.}

(2) The Chairman may decide in what order members may address the meeting and may at any time require any member to cease to address the meeting.

(3) The Chairman shall be entitled to vote and if upon any resolution there is equality of votes the Chairman shall have a casting vote.

29. A copy of any resolution certified by the Secretary to be a true copy of such resolution shall be sufficient evidence thereof and all Courts (including Courts other than Religious Courts) shall take notice of the signature of the Secretary. ^{Certified copies of resolutions.}

30. The Majlis may appear in any Court (including Courts other than Religious Courts) or office of Government by its President, Vice-President or Secretary or by any person appointed for the purpose either generally or in any particular case under the seal of the Majlis. ^{Appearances by Majlis.}

31. (1) The President, Vice-President or Secretary shall, if he expects to be absent on leave or for other reasons for more than fourteen days, apply for leave from His Highness the Sultan, who may give such directions as he deems fit. ^{Casual absences.}

(2) Any other Member of the Majlis shall similarly apply to the President, who may grant leave or submit the matter to His Highness the Sultan for his directions.

32. In any case of emergency the President or in his absence the Vice-President may do or direct to be done on behalf of the Majlis any act or thing which might lawfully be done by resolution of the Majlis : ^{Acting in emergency.}

Provided that in any such case a meeting of the Majlis shall be called within one week thereafter for the purpose of ratifying and confirming the action taken and, if the Majlis shall decline to ratify and confirm the same, His Highness the Sultan may give such directions thereon as he may deem fit.

33. (1) The Majlis may delegate to the President, Vice-President or Secretary or to any committee of the Majlis any part of its duties and powers, not being judicial or quasi-judicial powers, as it may deem fit. ^{Delegation of powers.}

For the purposes of this section the powers conferred on the Majlis by sections 42 and 43 shall be deemed to be quasi-judicial powers.

(2) It shall be the duty of every committee of the Majlis and of every other person or body to whom any powers of the Majlis may be delegated to inform the Majlis of all acts and things done by it or him as such committee or in pursuance of such delegation.

Secrecy.

34. The proceedings of the Majlis shall be secret and no Member or servant thereof shall disclose or divulge to any person other than His Highness the Sultan or the State Custom, Religious and Welfare Officer or any Member of the Majlis, any matter which has arisen at any meeting, unless he is expressly authorised to do so:

Provided that the provisions of this section shall not apply to proceedings and matters which have been submitted to and have received the approval of His Highness the Sultan.

Members are public servants.

35. The Members and Secretary of the Majlis shall be deemed to be public servants as defined by the Penal Code. **Cap. 22.**

Channels of Communication.

36. All communications from the Majlis to His Highness the Sultan shall be forwarded through the State Custom, Religious and Welfare Officer.

Majlis may prescribe own procedure.

37. The Majlis may, subject to the provisions of this Enactment, determine all questions relating to its own procedure and practice.

Authority in Religious Matters

Authority of Majlis.

38. The Majlis shall, on behalf of and under the authority of His Highness the Sultan as Head of the Religion of the State, aid and advise His Highness on all matters relating to the religion of the State and State custom, and shall in all such matters be the chief authority in the State, save in so far as may be otherwise provided by this Enactment.

Laws to be observed.

39. The Majlis shall take notice of and act upon all written laws in force in the State, the provisions of the *Hukum Shara'* and either the ancient custom of the State or Malay customary law as the Majlis shall think fit.

Mufti, Legal Committee and Judicial Committee

Appointment of Mufti.

40. (1) His Highness the Sultan may by notification signified in the *Gazette* appoint any suitable person to be the Mufti Kerajaan for the State and may at any time revoke any such appointment.

Provided that in case of any vacancy in the appointment of Mufti the powers and duties conferred on the Mufti by this Enactment shall be exercised by the State Custom, Religious and Welfare Officer.

(2) The Mufti shall be *ex officio* a Member of the Majlis and shall not be subject to the provisions of sub-section (2) of section 13 or section 15 or 16.

41. (1) There shall be a Legal Committee of the Majlis, Legal Committee. consisting of the Mufti, not less than two other Members of the Majlis, and not less than six other fit and proper persons who may be members of the Majlis or not.

(2) The members of the Legal Committee, other than the Mufti, shall be appointed by His Highness the Sultan for such period as he may deem fit. His Highness the Sultan may at any time revoke any such appointment. Notice of every such appointment shall be published in the *Gazette*.

(3) The Mufti shall be Chairman of the Legal Committee. In his absence, His Highness the Sultan may appoint a Chairman.

(4) The Chairman and four other members of the Legal Committee shall be a quorum.

(5) Subject to any written law, the Legal Committee shall have power to regulate its own procedure.

(6) The members of the Legal Committee shall be deemed to be public servants as defined by the Penal Code. Cap. 22.

42. (1) Any person may, by letter addressed to the Secretary, request the Majlis to issue a *fetua* or ruling on any point of Muslim law or doctrine or State customary law. On receiving any such request the Secretary shall forthwith submit the same to the Chairman of the Legal Committee. Rulings (Fetua).

(2) The Legal Committee shall consider every such request and shall, unless in its opinion the question referred is frivolous or for other good reason ought not to be answered, prepare a draft ruling thereon. If such draft ruling is unanimously approved by the Legal Committee or those members thereof present and entitled to vote, the Chairman shall on behalf and in the name of the Majlis forthwith issue a ruling in accordance therewith. If in any such case the Legal Committee is not unanimous, the question shall be referred to the Majlis, which shall in like manner issue its ruling in accordance with the opinion of the majority of its Members:

Provided that on special grounds any such question may be referred by the Majlis to His Highness the Sultan for his determination, and any such question shall be so referred to His Highness if the Mufti so requests and in any case where His Highness makes a determination the Majlis shall issue a ruling in accordance therewith.

(3) The Majlis may at any time of its own motion make and publish a ruling on any such question as aforesaid.

(4) All *fetuas* or rulings on any point of Muslim law or doctrine or State Customary Law issued by the Majlis shall be published in the *Gazette*.

43. (1) In making and issuing any ruling in manner hereinbefore provided the Majlis and the Legal Committee shall ordinarily follow the orthodox tenets of the Shafaiite sect: Authorities to be followed.

Provided that, if it is considered that the following of such orthodox tenets will be opposed to the public interest, the Majlis or the Legal Committee may, unless His Highness the Sultan shall otherwise direct, follow the less orthodox tenets of the Shafeite sect:

Provided further that, if it is considered that the following of either the orthodox or the less orthodox tenets of the Shafeite sect will be opposed to the public interest, the Majlis or the Legal Committee may, with the special sanction of His Highness the Sultan, follow the tenets of any of the three remaining sects as may be considered appropriate, but in any such ruling the provisions and principles to be followed shall be set out in full detail and with any necessary explanation.

(2) In making and issuing any ruling in accordance with the provisions of this section, the Majlis shall have due regard to the Adat Istiadat Negeri.

(3) Any ruling given by the Majlis, whether directly or through the Legal Committee, in accordance with the foregoing provisions shall, if the Majlis so determine or if His Highness the Sultan so directs, be published in the *Gazette* and shall thereupon be binding on all Muslims of the Shafeite sect resident in the State, other than Muslims, not being of Malay race, who are subject to a personal law other than that obtaining in Brunei.

Judicial
Committee.

44. (1) There shall be a Judicial Committee of the Majlis, consisting of the Mufti, two other regular members and any number of additional members.

(2) The members of the Judicial Committee, other than the Mufti, shall be appointed by His Highness the Sultan and such appointment shall specify whether they are regular or additional members. His Highness may at any time revoke any such appointment. Notice of every such appointment shall be published in the *Gazette*. No Kathi shall be a member of the Judicial Committee.

(3) The Mufti shall be Chairman of the Judicial Committee: In his absence, His Highness the Sultan may appoint a Chairman.

(4) The Judicial Committee shall in all cases act by its Chairman and two other members, who shall be the two regular members if they are available to act, or, in the absence of one or both of the regular members, such one or two, as the case may be, of the additional members as the Chairman may designate for the purpose.

(5) Subject to any written law, the Judicial Committee shall have power to regulate its own procedure and practice.

(6) The members of the Judicial Committee shall be deemed to be public servants as defined by the Penal Code. Cap. 22.

(7) If in any Court other than the Religious Court any question of Muslim law or doctrine or State customary law falls for decision, and such Court requests the opinion of the Majlis on such question, the question shall be referred to the Judicial Committee which shall, for and on behalf and in the

name of the Majlis, give its opinion thereon in accordance with the opinion of the majority of its members, and certify such opinion to the requesting Courts.

(8) The Judicial Committee shall perform such further duties and shall have such further rights and powers as may be imposed or conferred on it by any written law.

(9) The provisions of sub-sections (1) and (2) of section 43 shall apply, with such modifications as may be necessary, to all proceedings of the Judicial Committee:

Provided that no reference shall be made to His Highness the Sultan as to the principles of law to be applied, but the Judicial Committee shall determine any such question in its own discretion.

PART III. RELIGIOUS COURTS

Jurisdiction

45. (1) His Highness the Sultan may appoint any suitable person to be Chief Kathi for the State and may similarly appoint any suitable persons to be Kathis for such areas as he may prescribe, and may at any time revoke any such appointment. All such appointments shall be notified in the *Gazette*. Appointments.

(2) His Highness the Sultan may from time to time grant or revoke letters of appointment to any Chief Kathi or Kathi and may by the terms of any such letter restrict the exercise of any powers which would otherwise be conferred on such Chief Kathi or Kathi by this Enactment or by any other written law.

(3) Save as aforesaid, the jurisdiction, authority and powers of any Chief Kathi or Kathi shall be such as are conferred by this Enactment or by any other written law.

46. (1) His Highness the Sultan may by notification signified in the *Gazette* constitute a Court of the Chief Kathi for the State at Brunei Town. Constitution of Religious Courts.

(2) His Highness the Sultan may by notification signified in the *Gazette* constitute Courts of Kathis at such places as he may deem fit, and may prescribe the local limits of jurisdiction of such Courts.

47. (1) The Court of the Chief Kathi shall have jurisdiction throughout the State and shall be presided over by the Chief Kathi. Jurisdiction of Courts of Chief Kathi and Kathis

(2) A Court of a Kathi shall have jurisdiction in respect of any civil or criminal matter of the nature hereinafter specified arising within the local limits of jurisdiction prescribed, for it under section 46, or, if no local limits are so prescribed, within the State, and shall be presided over by the Kathi appointed thereto.

48. (1) The Court of the Chief Kathi shall — Extent of jurisdiction.

(a) in its criminal jurisdiction, try any offence committed by a Muslim and punishable under this Enactment, and may impose any punishment therefor provided; and

- (b) in its civil jurisdiction, hear and determine all actions and proceedings in which all the parties profess the Islamic religion and which relate to —
- (i) betrothal, marriage, divorce, nullity of marriage or judicial separation;
 - (ii) any disposition of, or claim to, property arising out of any of the matters set out in sub-paragraph (i);
 - (iii) maintenance of dependants, legitimacy, guardianship or custody of infants;
 - (iv) division of, or claims to, *sa'pencharian* property;
 - (v) determination of the persons entitled to share in the estate of a deceased person who professed the Islamic religion, or of the shares to which such persons are respectively entitled;
 - (vi) wills or death-bed gifts of a deceased person who professed the Islamic religion;
 - (vii) gifts *inter vivos* or settlements made without consideration in money or money's worth, by a person professing the Islamic religion;
 - (viii) *wakaf* or *nazr*; or
 - (ix) other matters in respect of which jurisdiction is conferred by any written law:

Provided that it shall not ordinarily try any offence or hear or determine any action or proceeding in respect of which any Court of a Kathi has jurisdiction.

(2) The Court of a Kathi shall —

- (a) in its criminal jurisdiction, try any offence committed by a Muslim and punishable under this Enactment for which the maximum punishment provided by law does not exceed imprisonment for one month or a fine of one hundred dollars or both, and may impose any punishment therefor provided; and
- (b) in its civil jurisdiction, hear and determine all such actions and proceedings as the Court of the Chief Kathi is authorised to hear and determine, in which the amount or value of the subject-matter does not exceed five hundred dollars, or is not capable of estimation in terms of money.

(3) No decision of the Court of the Chief Kathi or a Kathi shall affect any rights of property of any non-Muslim.

49. (1) An appeal shall lie to His Highness the Sultan in Religious Council from any decision of the Court of the Chief Kathi or a Court of a Kathi —

- (a) in its criminal jurisdiction, by a person convicted and sentenced to imprisonment or to a fine of not less than twenty-five dollars and such appeal may be against conviction or sentence or both;
- (b) in its civil jurisdiction —
 - (i) by any person aggrieved by the decision, if the amount in issue on the appeal is not less than one hundred dollars;
 - (ii) in all cases involving any decision as to personal status, by any person aggrieved by the decision; and
 - (iii) in all cases relating to maintenance of dependants, by any person aggrieved by the decision :

Provided that no such appeal lie against decision made by consent;

- (c) in any other case, if His Highness the Sultan in Religious Council shall give leave to appeal:

Provided that nothing in this section shall authorise any appeal against any opinion or advice contained in any written statement made under the provisions of section 50.

(2) His Highness the Sultan in Religious Council may direct generally or in any particular appeal or class of appeals that an appeal from the Court of the Chief Kathi or of a Kathi shall be heard by the Judicial Committee, and in any such case the Judicial Committee shall hear the appeal and shall advise His Highness in writing as to the manner in which the same should be determined. In case of disagreement, each member shall give his own opinion separately.

(3) His Highness the Sultan in Religious Council may, where an appeal has been heard in manner provided in subsection (2), determine such appeal in accordance with the advice given, without further hearing or consideration :

Provided that if such advice is not unanimous, or if His Highness the Sultan in Religious Council is disposed to determine the appeal otherwise than in accordance with such advice, the parties shall ordinarily be heard thereon if they so desire.

(4) On any appeal His Highness the Sultan in Religious Council may —

- (a) in a criminal matter, quash the conviction, quash or reduce the sentence or order a retrial; and
- (b) in a civil matter, confirm, reverse or vary the decision of the trial Court, exercise any such powers as the trial Court could have exercised, make such order as the trial Court ought to have made or order a retrial.

(5) Whenever under any provision of this Enactment any appeal shall lie, whether to His Highness the Sultan in Religious Council, the Majlis, the Legal Committee, the Judicial Committee or any other person or authority, such

appeal shall be brought by giving or lodging the appropriate notice or petition, or in such other manner as may be prescribed, but in any event within fourteen days after the occurrence of the act, omission, judgment, order or decision appealed from, or, in the event that the appellant was not at the time of such concurrence aware thereof and could not by the exercise of reasonable diligence have been so aware, within fourteen days after such act, omission, judgment, order or decision shall have come to the appellant's knowledge :

Provided that His Highness the Sultan in Religious Council or other person or authority to whom the appeal may be brought may on special grounds extend the time for appealing, notwithstanding that such time may have expired.

Probate and
Administration
matters.

50. (1) Where the Probate Officer has referred any matter to the Court of the Chief Kathi under the provisions of section 71 of the Probate and Administration Enactment, 1955, that Court shall, subject to the provisions of this section, consider such matter and make and transmit to the Probate Officer a written statement containing answers to the matters referred to it by such Officer.

Enactment
No. 18 of 1955.

(2) The Court of the Chief Kathi may before making such statement hear any person concerned on any point of law and may hear, or direct the Court of a Kathi to hear on its behalf, such evidence as it considers proper.

(3) The Court of the Chief Kathi may, and shall, in any case or class of cases where the Majlis so directs, or in any case where any interested party so requests, before making such written statement refer the matter to the Judicial Committee for consideration and shall make the written statement in accordance with the answers given by that Committee.

(4) A written statement certified by the Court of the Chief Kathi as having been made in accordance with the provisions of this section shall be deemed to contain the opinion or advice, as the case may be, of the Majlis.

Procedure (General).

Seal.

51. (1) The Court of the Chief Kathi and every Court of a Kathi shall have and use such seal or stamp as His Highness the Sultan shall approve.

(2) Process of every such Court shall issue under the seal of the Court and the signature of the presiding officer thereof.

Language.

52. (1) The language of the Court shall be Malay.

(2) All documents and written proceedings may be written or typewritten in either Jawi or Romanized Malay.

Records.

53. Every Court shall keep and maintain full and proper records of all proceedings therein and full and proper accounts of all financial transactions of the Court and shall account for all monies received in manner provided by General Orders or in such other manner as His Highness the Sultan may direct.

54. (1) Notwithstanding anything contained in any written law, no advocate or solicitor shall have the right to appear in any Religious Court on behalf of a party to any proceedings if such appearance would be contrary to the provisions of Muslim law. ^{Advocates and Solicitors.}

(2) Any advocate or solicitor so appearing may be required to plead in the language of the Court.

55. Every party to any proceeding shall appear in person in criminal proceedings and in person or by advocate or solicitor in civil proceedings, unless in any case His Highness the Sultan shall authorize in writing appearance by any other agent. ^{Representation by Agent.}

56. (1) Process of the Court shall be served by an officer of the Court or by any other person expressly authorized by the Court to serve the same, and may be served at any place within the State and at any time. ^{Service.}

(2) In criminal proceedings service shall be personal.

(3) In civil proceedings service shall be personal, unless for special reasons the Court shall order substituted service. Substituted service shall be effected in such manner as the Court may order and shall then be as effective as personal service.

(4) Personal service shall be effected by handing to the person to be served the original or a sealed and signed copy of the document to be served. If the person to be served refuses to accept a document it may be brought to his notice and left near him.

(5) A person who has served any documents or proceeding shall forthwith file in Court a memorandum showing the place, time and method of service.

(6) Service shall be proved where necessary by oral evidence.

57. (1) The Court shall observe all provisions of Muslim law relating to the number, status or quality of witnesses or evidence required to prove any fact. Save as aforesaid, the Court shall have regard to the law of evidence for the time being applicable to the Supreme and Magistrates' Courts of the State, and shall be guided by the principles thereof, but shall not be obliged to apply the same strictly. ^{Evidence.}

(2) The Court is authorized to administer oaths and affirmations. Such Evidence shall ordinarily be given on oath in a form binding upon Muslims, but the Court may on special grounds dispense with an oath and take evidence on affirmation. An affirmation shall be in the form: "I.....(name) solemnly affirm that my evidence shall be the truth, the whole truth and nothing but the truth." Whether on oath or on affirmation a witness shall be bound to state the truth.

(3) If in the opinion of the Court any witness has wilfully given false evidence in any proceedings, the Court shall report the matter to the Public Prosecutor.

summons to give
evidence or pro-
duce documents.

58. (1) Subject to the provisions of any written law, the Court may issue a summons to any person to give evidence or to produce any document in his possession or power. Every such summons shall be served personally and any person so served, whether a Muslim or not, shall be legally bound to comply therewith.

(2) The Court may, before issuing such summons, order the payment of the reasonable travelling and subsistence expenses of any witness who resides more than five miles from the Court-house.

Adjournment.

59. The Court may for sufficient reason adjourn any proceeding from time to time and, with the permission of His Highness the Sultan, from place to place. Save as aforesaid, proceedings in the Court of a Kathi shall be had in the Court-house of that Court, and proceedings in the Court of the Chief Kathi shall be had in the Court-house of that Court or in the Court-house of any Court of a Kathi.

Time.

60. The Court may fix and may at any time extend or abridge, the time for doing any act or thing, and in default of compliance with any order so made may proceed as if the party in default had not appeared.

Courts to
be open.

61. Every trial or hearing in Court shall unless the Chief Kathi otherwise directs be held in public.

Procedure in Criminal Proceedings

Sanction of
Majlis.

62. No prosecution for any offence against section 182, 183, 185, 186, 187 or 190 shall be instituted save in pursuance of a resolution of the Majlis sanctioning such prosecution, and a certified copy of such resolution shall be produced to the Court before any summons or warrant is issued. Such certified copy shall form part of the record at the trial.

Information.

63. (1) An information with a view to prosecution shall be made in writing or orally to the presiding officer of the Court. If made orally, it shall be reduced to writing by him. In either event he shall require the informant to swear or affirm to the truth of such information.

(2) The Court may refuse to take any action on such information if not satisfied that there is reason to believe that an offence has been committed.

Summons and
warrant.

64. (1) On receiving information of the commission of an offence within its jurisdiction to try, the Court may issue a summons to the accused person to appear before it at a stated time and place.

(2) The summons shall state the general nature of the offence charged and the section under which it is punishable.

(3) If the accused has failed to obey a summons duly served on him, or if the offence is one punishable by imprisonment and there is good ground to believe that a summons will be ineffective, either by reason that the accused cannot be found or that he is likely to disobey such summons, the Court may issue a warrant addressed to the Chief Police Officer and all other police officers and to every Imam and

Penghulu in the State requiring them to arrest the accused and produce him before the Court. The warrant shall contain the particulars set out in subsection (2). The accused shall be arrested and produced accordingly.

65. Any police officer and, if no police officer is known to be available, any Penghulu or any Imam may arrest without warrant —

- (a) any person who has committed or attempted to commit in his presence any offence against this Enactment involving a breach of the peace;
- (b) any person who has committed in his presence any offence against this Enactment and who refuses or fails to give on request his full and true name and address; or
- (c) any person against whom a warrant issued under this Enactment is extant, although such warrant is not in his possession,

and shall thereupon produce such person or cause him to be produced before the Court.

66. Nothing in the preceding sections contained shall restrict or affect the powers of arrest or search conferred on any person by the Criminal Procedure Code or any other written law for the time being in force relating to criminal procedure of the civil Courts. Saving of powers. Cap. 7.

67. (1) The Court may grant bail to any accused person and such bail may be taken in cash or by bond with or without sureties. Bail and remand.

(2) The Court may on issuing a warrant of arrest authorize the police to grant bail on such terms as the Court may prescribe.

(3) Unless bail shall be granted, any person lawfully arrested under this Enactment shall be detained in prison pending trial.

(4) The trial of any accused person detained in prison shall take place at the earliest possible time and in priority to all other work of the Court, even though specially fixed for hearing.

68. The prosecution shall be conducted —

Prosecutor.

- (a) by any person appointed in writing by His Highness the Sultan to prosecute;
- (b) by any person appointed by the Majlis to prosecute;
- (c) by the Public Prosecutor;
- (d) by a Police Officer;
- (e) by the Imam or Penghulu of the mukim within which the offence was committed;
- (f) by the Penghulu of the daerah within which the offence was committed; or
- (g) by the complainant :

Provided that none of such persons shall be entitled to prosecute if any person mentioned before him in the preceding list is available and willing to do so.

Charge.

69. (1) The charge shall be framed by the prosecutor or by the Court and shall contain sufficient particulars of the offence alleged.

(2) More offences than one may be charged in different counts and tried together if arising out of the same transaction.

(3) More persons than one may be charged and tried together for the same or different offences if committed in the course of the same transaction.

(4) The charge may be amended or altered at any time before verdict, but the accused shall be given full opportunity to cross-examine or give or call evidence to meet the new charge.

(5) A person charged with an offence may be convicted of an attempt to commit that offence.

Hearing.

70. (1) Any necessary sanction to prosecute shall be proved.

(2) The accused shall be charged and if he pleads guilty he may be sentenced on such plea.

(3) If the accused claims trial or refuses to plead, the prosecutor shall outline the facts to be proved and the relevant law and shall then call his witnesses.

(4) Each witness —

(a) shall be examined by the party calling him;

(b) be cross-examined thereafter by the party opposing him and such cross-examination may be directed to credibility;

(c) may thereafter be then re-examined on matters arising out of cross-examination by the party calling him;

(d) have put to him at any time any question by the Court; and

(e) may have any further questions put to him or be recalled at any time, by leave of the Court.

(5) After hearing the witnesses for the prosecution the Court shall either dismiss the case or call on the accused for his defence.

(6) If called on for his defence, the accused may address the Court and may then either give evidence or make a statement without being sworn or affirmed, in which case he shall not be liable to be cross-examined, or may stand silent:

Provided that if the accused gives evidence, he may be cross-examined, but not as to character or as to other offences not charged.

- (7) The accused may then call his witnesses.
- (8) The accused may sum up on the case.
- (9) The prosecutor may reply generally.
- (10) The Court shall then either convict or acquit the accused.

(11) If the accused is convicted, the Court may be informed of previous offences and shall have regard to any plea for leniency.

(12) The Court shall then pass sentence according to law.

(13) At any stage of the hearing before verdict the prosecutor may withdraw and the case shall then be dismissed:

Provided that, if the complainant be the prosecutor, and if he does not act in any of the special capacities set out in items (a) to (f) inclusive of section 68, he shall not so withdraw without the leave of the Court.

(14) The Court shall at all times satisfy itself that the accused understands the nature and effect of the proceedings and has a proper opportunity to defend himself.

(15) All evidence shall be given in the presence of the accused and shall, if in a language not understood by him, be interpreted to him.

(16) The Court shall record the evidence in writing in narrative form and shall also record its verdict and sentence, if any.

71. (1) A Court passing a sentence of imprisonment shall send the prisoner in the custody of a police officer or one of the Court's officers to the prison and deliver him to the officer in charge of the prison together with a warrant for his confinement and he shall be confined accordingly. ^{Sentence of imprisonment.}

(2) If the prisoner has been in prison pending trial, the period so spent shall be treated as part of the period to be served under the sentence.

(3) The Court may in its discretion grant bail pending an appeal, but, if such appeal be not prosecuted with due diligence, the Court may order re-arrest and the sentence shall be carried out.

(4) Unless otherwise expressly provided in any case, imprisonment under this Enactment may, in the case of a male, be of either description, but shall, in the case of a female, be simple imprisonment.

(5) A sentence of imprisonment may be imposed in default of payment of a fine imposed under this Enactment, but no such sentence of imprisonment shall exceed one half of the term of imprisonment, if any, provided for the offence, or seven days, if the offence is punishable only by fine.

72. (1) A Court passing a sentence of a fine may give ^{Sentences of fine.} time to pay, or allow payment by instalments.

(2) Fines may be recovered in like manner as in hereinafter provided for the execution of judgments in civil proceedings.

cautions and
binding over.

73. (1) In lieu of convicting any person the Court may caution and discharge him, and in lieu of sentencing any person convicted the Court may bind him over to be of good behaviour for a period not exceeding one year and may accept a bond in any sum with or without sureties or deposit of money.

(2) On a breach of the terms of any such bond being proved, the Court may order it to be enforced as if the amount due thereon were a fine or, if a deposit of money has been made, may order the money so deposited or any part thereof to be forfeited.

(3) An appeal shall lie from any order made under this section.

Clemency.

74. (1) His Highness the Sultan may commute, suspend or remit any sentence or part thereof.

(2) Nothing herein contained shall affect the right of His Highness the Sultan to exercise his prerogative of mercy.

Appeal.

75. (1) An appeal to His Highness the Sultan in Religious Council shall be brought by filing, in the Court which passed the judgment appealed from, a petition of appeal addressed to His Highness, setting forth particulars of the judgment complained of, whether the appeal is against conviction or sentence or both, and the grounds of appeal, and by paying the prescribed fee, if any. Such petition shall be filed not more than fourteen days after the judgment was given.

(2) On receiving such a petition, the Court shall prepare and forward in quadruplicate to the State Customs, Religious and Welfare Officer for transmission to His Highness the Sultan or, if so directed by him, to the Judicial Committee, a record containing a copy of the petition, a copy of the charge and of the sanction to prosecute, if any, a copy of the Court's note of the Proceedings, copies of any relevant exhibits and a copy of the Court's judgment or order and grounds of judgment. Each copy of the record shall be certified as correct by the presiding officer of the Court and sealed. The appellant shall be entitled to receive a copy of the record on payment of the prescribed fee, if any, and the Court shall, without payment, send a copy thereof to the prosecutor, who shall appear as respondent to the appeal.

Disposal of
property.

76. The Court may make orders for the disposal of property brought before it in the course of criminal proceedings regarding which an offence has been committed.

Irregularities.

77. Irregularities of procedure shall not render the proceedings unlawful or void, unless shown to have resulted in substantial injustice or hardship to the accused.

Matters not
provided for.

78. In matters of practice and procedure in criminal proceedings, not expressly provided for in this Enactment or any rules made thereunder, the Court shall have regard to the avoidance of injustice and the convenient dispatch of business and may in criminal proceedings have regard to the practice and procedure obtaining in the civil Courts.

79. Proceedings under this Enactment relating to the Maintenance. maintenance of dependants shall be deemed to be civil proceedings.

Procedure in Civil Proceedings.

80. (1) All civil proceedings in the Court of the Chief Plaintiff. Kathi or of a Kathi shall be brought by filing a plaint, or by making oral complaint to the presiding officer of the Court, and in either case paying the prescribed fee for a plaint. In case of oral complaint the Court shall draft a plaint for the plaintiff, which shall be signed and filed by him.

(2) The plaint shall contain the names, addresses and descriptions of the parties, a concise statement of the cause of action, without argument or unnecessary detail, and a statement of the relief claimed or judgment prayed.

81. (1) More persons than one may be joined as plaintiffs or defendants, and more causes of action than one may be raised in the same proceedings, but the Court may order separate trials in its discretion. Joinder and consolidation.

(2) The Court may in its discretion try two or more proceedings together if they relate to the same issues of fact or law.

82. (1) In addition to the original plaint, the plaintiff shall hand to the Court a copy thereof for each defendant. Summons and service.

(2) The Court shall issue a summons to each defendant and shall cause the same to be served on him with a copy of the plaint. The summons shall direct the defendant to appear to answer the claim at a stated place, date and time, and shall warn him that, in case of his non-appearance, the Court may proceed to allow the claim in his absence.

83. (1) No person except a lawfully appointed administrator or an executor who has proved the will shall represent or act on behalf of the estate of a deceased person: Persons deceased or under disability.

Provided that a beneficiary may claim his share of the estate of a deceased person against any person unlawfully in possession of any assets of the deceased.

(2) If any party to any proceedings is a minor, or a person of unsound mind, the Court may appoint any fit and proper person, having no interest adverse to him, to represent him in such proceedings. The lawful or natural guardian of a minor, or the committee of a person of unsound mind, if any, shall ordinarily be so appointed, if willing to act.

84. (1) Any defendant may file a written defence, and shall in such event hand to the Court a copy thereof for each plaintiff, which the Court shall cause to be served. Defence.

(2) If a defendant has not, at the time of his first appearance, filed a defence and does not desire to do so, but intends to defend the action, the Court shall ascertain orally the grounds of his defence, and he shall not thereafter raise other grounds of defence without leave of the Court.

(3) If the defendant desires to file a defence, the Court shall fix a time within which he shall do so, which shall ordinarily be not less than seven days prior to the trial or hearing.

(4) If the defendant wishes to raise matters by way of counterclaim, the Court may either permit him to do so, or direct him to file separate proceedings.

Interlocutory proceedings.

85. The Court may on application of any party make *interim* orders for the purpose of preserving any property in issue, or safeguarding the rights of any party, pending trial, or facilitating the trial or hearing of the proceedings, and may permit amendment of any proceedings or correction of any error, on such terms as may be just. Any such application may be made orally, but any party affected thereby shall be given the opportunity to be heard thereon.

Withdrawal and settlement.

86. (1) The plaintiff may withdraw any proceedings at any time before judgment, but shall be liable to pay the costs thereof, and shall not bring any other proceedings thereafter on the same cause of action without leave of the Court.

(2) The parties to any proceedings may compromise and settle the same at any time: the Court shall, if so requested by any party, record the terms of any such settlement:

Provided that no withdrawal or settlement shall be made by the personal representative of a deceased person's estate or by a representative appointed under sub-section (2) of section 83 without the leave of the Court, which shall have due regard to the interests of the beneficiaries or persons represented.

Trial or hearing.

87. (1) If, at the time appointed for the hearing, the plaintiff does not appear, the proceedings may be struck out: if the plaintiff appears, but the defendant does not appear, the plaintiff may prove his case and the Court may give judgment:

Provided that —

(a) in any such case the Court may in its discretion order an adjournment; and

(b) the Court may deal with a counterclaim although the claim is struck out.

(2) If the defendant appears and admits the plaintiff's claim the Court may give judgment without hearing evidence.

(3) If the defendant desires to defend, the party against whom judgment would be given on the pleadings and admissions made, if no evidence were taken, shall have the right to begin.

(4) Each party may address the Court and may then give evidence and call his witnesses, who shall be examined and may be cross-examined, re-examined, questioned by the Court and recalled in like manner as provided in section 70 for criminal proceedings. After the conclusion of the evidence each party may sum up his case, but so that the party who began shall have the last word.

(5) The Court may call any evidence which it considers necessary:

Provided that no party shall be obliged to give evidence against his will.

(6) Thereafter the Court shall give judgment in open Court, either at once or at a later time of which notice shall be given to the parties.

88. (1) Every judgment of the Court shall after delivery **Judgments.** be drawn up in writing, dated, signed by the presiding officer of the Court, and sealed, and shall be retained with the record.

(2) Any party shall be entitled on payment of the prescribed fee to obtain a certified copy of the judgment.

(3) A judgment may declare the rights of the parties between themselves, or may order a party to do any act or thing including the payment of money, or both.

89. The Court may in its discretion order any party to **Costs.** pay any costs of any proceedings, including travelling and subsistence expenses of parties and witnesses, and shall itself assess the amount of any costs so ordered to be paid.

90. (1) If any person bound by any judgment or order **Execution.** of a Court fails to comply with the same within such time as the Court considers reasonable, the Court may, on the application of any person entitled to benefit under such judgment or order, or of its own motion, send a certified copy of such judgment or order to any Magistrates' Court having jurisdiction in the place where the Court which gave or made the judgment or order is situate, together with a request addressed to the Magistrate that such judgment or order may be executed, and it shall thereupon be lawful for such Magistrates' Court to execute such judgment or order and to exercise in connection therewith all ancillary powers, including powers of arrest and commitment and issue of a judgment-debtor summons, in like manner as it could have done if the judgment or order had been given or made by itself:

Provided that, if the amount payable under the judgment or order or the value of the subject-matter thereof exceeds five hundred dollars, the foregoing provisions shall be read as if the words "High Court" and "Judge" were substituted for "Magistrates' Court" and "Magistrate" respectively.

(2) The Court of the Chief Kathi shall have in respect of the execution of its own judgments and orders all such powers and duties as are conferred and imposed on Magistrates in respect of the execution of judgments and orders of Magistrates' Courts by the Magistrates' Courts (Execution Proceedings) Rules 1954.

(3) The Court of a Kathi may, in lieu of proceeding under sub-section (1), in the like circumstances and in like manner request the Chief Kathi to execute the judgment or order of the Court of a Kathi and thereupon the Court of the Chief Kathi may execute the same and may exercise all such powers in respect thereof as are conferred by sub-section (1) on a Magistrates' Court.

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se.

91. The Court may, if it appears likely that any intended witness in any proceedings will not be able to give evidence at the trial or hearing, record the evidence of such witness in writing and such evidence may be used as evidence at the trial or hearing :

Provided that any opposite party shall have been given due opportunity to attend and cross-examine.

contempt of
court.

92. (1) If any person shall be guilty of any misconduct in Court of such a nature as to interfere with the proper conduct of the Court's business, the Court may cause him to be arrested by any police officer or officer of the Court and detained until the Court rises, when he shall be released without prejudice to any further proceedings.

(2) If any person shall be arrested under sub-section (1), or shall be guilty of any other contempt of the lawful authority of the Court, the Court shall report the matter to the Public Prosecutor or to the Chief Police Officer.

poor persons.

93. His Highness the Sultan, or any person to whom he may depute such powers, may in writing grant leave to any person to sue, defend or appeal in any proceedings as a poor person, and in such event the Court fees normally payable in respect of the proceedings in question shall not be payable by such person, but shall be waived.

Appeals.

94. (1) An appeal to His Highness the Sultan in Religious Council shall be brought by filing, in the Court which gave or made the judgment or order appealed from, a notice of appeal addressed to the Court, and by paying the prescribed fee. Such notice shall be filed not more than fourteen days after the judgment or order was given or made, and a copy thereof shall be served as soon as possible on each respondent.

(2) The presiding officer of the Court shall thereupon prepare and sign the grounds of his judgment, and shall supply to the appellant, on payment of the prescribed fees, a copy of such grounds, a copy of his note of the proceedings and copies of any other documents which the appellant has stated that he requires to enable him to prepare the record.

(3) When the documents referred to in subsection (2) are ready, the Court shall give notice thereof to the appellant, and within twenty-one days after receipt of such notice the appellant shall file in the Court sufficient copies of a record of appeal.

(4) Four copies of the said record shall be forwarded by the Court to the State Customs, Religious and Welfare Officer for transmission to His Highness or the Judicial Committee, and a copy shall be served on each respondent to the appeal.

(5) The record of appeal shall consist of a petition addressed to His Highness the Sultan stating the grounds of the appellant's objection to the judgment or order appealed from, a copy of the plaint, a copy of any written defence, copies of any interlocutory orders, a copy of the Court's note

of the proceedings, copies of all exhibits and documentary evidence, a copy of the judgment or order, a copy of the grounds of judgment, a copy of the notice of appeal and an index.

(6) If the record is irregular, or is filed out of time, or if any respondent has not been served, the Court shall inform the State Customs, Religious and Welfare Officer of such facts.

(7) A respondent to an appeal may give notice to the Court and the other parties thereto that he intends to contend that the judgment or order appealed from should be varied, and such notice shall operate as a cross-appeal.

(8) The Court may in its discretion grant a stay of execution of any judgment or order pending appeal.

95. No appeal shall be allowed, or retrial ordered on grounds of irregularity of procedure or wrongful reception or rejection of evidence unless a failure of justice has been occasioned thereby. ^{Irregularities.}

96. In matters of practice and procedure in civil proceedings, not expressly provided for in this Enactment or any rules made thereunder, the Court may adopt such procedure as may seem proper for the avoidance of injustice and the disposal of the matters in issue between the parties, and may in particular, but without prejudice to the generality of the foregoing, adopt the practice and procedure for the time being in force in the Magistrates' Courts in civil proceedings. ^{Matters not provided for.}

PART IV. FINANCIAL

Charitable Trusts

97. The fund known as the Muhammadan Religious Fund and all investments and assets thereof shall, on the coming into force of this Enactment, forthwith vest in the Majlis in the manner and for the purposes hereinafter set out. ^{Muhammadan Fund.}

98. All property, investments and funds, including the fund heretofore constituting the Muhammadan Religious Fund, which are vested from time to time in the Majlis for the purposes of this Enactment, other than property held, by virtue of the terms of this Enactment or of any trust, *wakaf* or *nazr* affecting the same, for a specific purpose or subject to specific express trusts, together with the income thereof, shall form the General Endowment Fund of the Majlis and shall be held by the Majlis in trust for such charitable purposes for the support and promotion of the Islamic religion, or for the benefit of Muslims in the State of Brunei in accordance with Muslim law, as to the Majlis may from time to time seem proper: ^{General Endowment Fund.}

Provided that His Highness the Sultan may give to the Majlis directions, not inconsistent with Muslim law or with the provisions of this Enactment, as to the expenditure of any part of the General Endowment Fund or the income thereof and may, in like manner, veto any proposed expenditure thereof.

scheat.

99. Where, after the commencement of this Enactment, any Muslim dies in such circumstances that, under the provisions of Muslim law, his property would prior to the commencement of this Enactment have vested in, or been payable to, the said fund known as the Muhammadan Religious Fund, the property of such person shall, in pursuance of such provisions of Muslim law, vest in and be payable to His Highness the Sultan and shall form part of the General Endowment Fund.

Wakaf and nazr.

100. Notwithstanding any provision to the contrary contained in any instrument or declaration creating, governing or affecting the same, the Majlis shall be the sole trustee of all *wakaf*, whether *wakaf 'am*, or *wakaf khas*, of all *nazr 'am*, and of all trusts of every description creating any charitable trust for the support and promotion of the Islamic religion or for the benefit of Muslims in accordance with Muslim law, to the extent of any property affected thereby and situate in the State of Brunei and, where the settler or other person creating the trust, *wakaf* or *nazr 'am* was domiciled in the State of Brunei, to the extent of all property affected thereby wherever situate.

Vesting.

101. All property subject to the provisions of section 100 shall, if situate in the State of Brunei, and, if the same shall consist of land, upon registration under the Land Code vest in the Majlis, without any conveyance, assignment or transfer whatever, for the purposes of the trust, *wakaf* or *nazr 'am* affecting the same. Cap. 40

(2) The Majlis shall take all necessary steps to vest in itself for the like purposes any such property situate elsewhere than in the State of Brunei.

Restrictions on creation of charitable trusts.

102. (1) Whether or not made by way of will or death-bed gift, no *wakaf* or *nazr* made after the commencement of this Enactment and involving more than one-third of the property of the person making the same shall be valid in respect of the excess beyond such one-third, unless expressly sanctioned and validated by His Highness the Sultan in writing.

(2) Every *wakaf khas* or *nazr* made after the commencement of this Enactment shall be null and void unless —

(a) His Highness the Sultan shall have expressly sanctioned and validated the same in writing; or

(b) it was made during a serious illness from which the maker subsequently died and was made in writing by an instrument executed by him and witnessed by one of the *pegawai masjid* of the *mukim masjid*, and by either the *penghulu* of the *daerah* or the *ketua* of the *kampong*, in which the maker resided.

(3) This section shall not operate to render valid any will, death-bed gift, *wakaf* or *nazr* which is invalid under the provisions of Muslim law.

103. (1) The income of a *wakaf khas*, if received by the ^{Income of} ~~Majlis~~, shall be applied by it in accordance with the lawful ^{wakaf and} ~~provisions of such *wakaf khas*.~~ ^{nazr.}

(2) The income of every other *wakaf* and of every *nazr 'am* shall be paid to and form part of the General Endowment Fund.

104. (1) The Majlis shall not, without the approval in ^{Change of} ~~writing of His Highness the Sultan~~, sell, transfer or dispose of, ^{investments and} ~~or charge, mortgage or encumber~~, any immovable property ^{borrowing powers} ~~vested in it for the purposes of this Enactment~~, whether or not forming part of the General Endowment Fund:

Provided that it shall be lawful for any such immovable property to be compulsorily acquired or reserved by Government for a public purpose in manner provided by any written law.

(2) Save as aforesaid, any investments, assets and funds vested in the Majlis may be sold, realized or disposed of, and they and the proceeds thereof may be invested from time to time in any investments authorized by any written law for the time being in force for the investment of trust funds, or in or upon title to any immovable property situate within the State of Brunei.

(3) The Majlis shall have power to lease any immovable property vested in it upon such terms as seem proper and are not inconsistent with any trusts affecting the same.

(4) The Majlis shall have power to borrow monies whether without security or upon the security of any of the assets of the General Endowment Fund in such manner and to such extent as His Highness the Sultan may in writing authorize. Any monies so borrowed shall form part of the General Endowment Fund.

105. (1) Subject to the provisions of sub-sections (2) ^{Capital of} ~~and (3)~~, the capital property and assets affected by any lawful ^{Wakaf and} ~~*wakaf* or *nazr 'am*~~ shall not form part of the General Endowment Fund, but shall be applied in pursuance of such ^{nazr 'am.} ~~*wakaf* or *nazr 'am*~~ and held as segregated funds.

(2) If from lapse of time or change of circumstances it is no longer possible beneficially to carry out the exact provisions of any *wakaf* or *nazr 'am*, the Majlis shall prepare a scheme for the application of the property and assets affected thereby in a manner as closely as may be analogous to that required by the terms of such *wakaf* or *nazr 'am* and shall apply the same accordingly:

Provided that the Majlis may, with the approval in writing of His Highness the Sultan, direct that such property and assets shall be added to and form part of the General Endowment Fund.

(3) If the terms of any *wakaf* or *nazr 'am* are such that no method of application of the capital property and assets affected thereby is specified, or it is uncertain in what manner the same should be applied, the Majlis may direct that such capital property and assets shall be added to and form part of the General Endowment Fund.

(4) All instruments creating, evidencing or affecting any *wakaf* or *nazr 'am*, together with any documents of title or other securities relating thereto, shall be held and retained by the Majlis.

Construction of instrument.

106. If in the opinion of the Majlis the meaning or effect of any instrument or declaration creating or affecting any *wakaf* or *nazr* is obscure or uncertain, the Majlis may refer the same to the Legal Committee for its opinion as to the meaning or effect thereof, and shall act on any opinion so given by the Committee or a majority thereof, unless His Highness the Sultan shall otherwise direct.

Accounts

Annual Report.

107. The Majlis shall cause full and true accounts of the General Endowment Fund to be kept and shall as soon as possible after the 31st day of December of every year issue and publish in the *Gazette* a report on the activities of the Majlis during the preceding year, together with a balance sheet of the General Endowment Fund as at the 31st day of December, an income and expenditure account of the said Fund for the year and a list of the properties and investments of the said Fund showing their cost price, if bought, and estimated value as at the 31st day of December.

Audit.

108. The said annual balance sheet, income and expenditure account and list of investments shall prior to the issue thereof be audited and certified as correct by the State Auditor or one of his officers duly authorised in that behalf. A copy of the auditor's certificate shall be annexed to all copies of the report and accounts as issued.

Wakaf and nazr property.

109. Not less than once in every three years the Majlis shall prepare, issue and publish in the *Gazette* a list of all properties, investments and assets vested in the Majlis subject to any trust, *wakaf* or *nazr*, and not forming part of the General Endowment Fund. Such list shall be audited in manner set out in section 108.

Estimates.

110. (1) The Majlis shall prepare and submit to His Highness the Sultan not later than the 31st day of October in each year estimates of all income and expenditure of the Majlis, including therein estimates of all property receivable and disposable in kind, in respect of the ensuing year.

(2) His Highness the Sultan may approve such estimates or may direct that the same be amended and thereupon such approved or amended estimates, as the case may be, shall be published in the *Gazette*.

(3) The Majlis may at any time submit to His Highness supplementary estimates of expenditure in respect of the current year, or, at any time prior to the 31st March in any year, in respect of the preceding year, and the same may be approved or amended, and shall be published, in like manner.

(4) No monies shall be expended, or property disposed of in kind, save in accordance with such estimates as aforesaid and upon a voucher signed by the President or Vice-President.

111. All costs, charges and expenses of administering the property and assets vested in the Majlis, including the cost of maintenance and repair of any immovable property, the salaries and allowances of all servants of the Majlis, and the fees and allowances payable to any officer or Member of the Majlis in respect of his services as such, shall be paid out of the property and assets of the General Endowment Fund. Expenses of the Majlis.

112. (1) The Majlis shall appoint bankers and may operate such account or accounts as to it may seem proper. Bankers.

(2) Payments by the Majlis of amounts exceeding \$50/- shall be made by cheque.

(3) All monies received by or for the Majlis shall be paid into a bank account of the Majlis in the manner provided in State Financial Regulations.

(4) Cheques drawn on any bank account of the Majlis shall be signed by the President or Vice-President and by the Secretary.

113. (1) At least once in every month there shall be laid on the table a financial statement showing details of all receipts and expenditure from the time of the preceding financial statement up to a date not more than seven days prior to the meeting. Financial Statements.

(2) Every such financial statement shall be considered and approved at the meeting at which it is submitted and, if not unanimously approved, shall be submitted to His Highness the Sultan, together with any comments which any Member may wish to take thereon.

Zakat and Fitrah

114. The Majlis shall have the power, and shall be under the duty, to collect on behalf of His Highness the Sultan, and to dispose of as His Highness may, subject to the provisions of this Enactment, direct, all *zakat* and *fitrah* payable in the State in accordance with Muslim law, and shall do so to the extent and in the manner provided in this Enactment. Powers of Majlis.

115. (1) The Majlis shall prepare annually assessment lists in respect of each *mukim masjid* in the State, showing the names of all persons therein liable to pay *zakat* and *fitrah* respectively and the amounts which they are so liable to pay. Assessment Lists.

(2) The Majlis shall be directly responsible for the preparation of the assessment lists in respect of such areas as the Majlis may determine.

(3) In all other areas, the Imam shall, as agent for and on behalf of the Majlis, prepare the assessment lists in respect of each *mukim masjid* and shall submit copies thereof to the Majlis, which may alter or amend the same.

(4) Any person may make an objection to the Majlis against the inclusion of his name in any assessment list or against the amount or quantity in respect of which he is assessed and the Majlis shall consider every such objection and shall make such decision thereon as it considers just.

(5) An appeal from any such decision shall lie to His Highness the Sultan in Religious Council, if the subject-matter is of a value not less than one hundred dollars:

Provided that any such appeal may be referred by His Highness the Sultan to the Judicial Committee for its opinion and, if so referred, shall be determined as if it were a civil appeal from the Court of a Kathi.

liability for
akat.

116. *Zakat* shall be payable by every Muslim producer of padi whose production is not less than four hundred gantangs in any one year and shall be at the rate of five *per centum* of the amount produced, but in calculating such amount fractions of a hundred gantangs produced shall be ignored.

liability for
fitrah.

117. (1) *Fitrah* shall be payable by all Muslim householders in the State and shall be at the rate of one gantang of rice for every two members of the household:

Provided that, where a household consists of an odd number of members, payment shall be made as if it consisted of the next higher even number of members.

(2) Payment of *fitrah* may be excused on grounds of poverty and the Imam may with the approval of the other *pegawai masjid* omit from the assessment list prepared by him the name of any person considered too poor to pay *fitrah*, but in any such case he shall inform the Majlis of the facts and the Majlis may reverse such decision.

Payment of
akat.

118. (1) The Majlis or the Imam, as the case may be, shall complete the *zakat* assessment list by entering the amounts produced and the amounts payable as soon as the harvest is complete.

(2) Where any person produces padi in more than one *mukim masjid* his name shall be entered in every assessment list concerned and he shall be assessed on the total production.

Payment shall, in any such case, be made directly to the Majlis.

(3) On completion of the assessment lists, and notwithstanding any appeal pending, the producer shall forthwith pay the *zakat* to the Majlis or, in cases to which sub-section (2) does not apply to the Imam.

(4) *Zakat* shall be paid in padi but the person paying may be permitted to repurchase such padi at such price per gantang as the Majlis may, by notification signified in the *Gazette*, from time to time fix.

Payment of
fitrah.

119. (1) *Fitrah* assessment lists shall be completed not later than the 15th day of Sha'aban in each year and the *fitrah* shall be paid to the Majlis or to the Imam not later than the 1st day of Shawal next ensuing.

(2) *Fitrah* shall be paid in rice.

(3) The Majlis may from time to time by notification signified in the *Gazette* fix rates at which rice may be sold by any *pegawai masjid* to persons liable to pay *fitrah*. Such rates shall be not lower than the current minimum market price for the cheapest grade of rice.

120. (1) The Majlis or the Imam, as the case may be, shall issue a serially numbered receipt in Form "A" in the First Schedule for every payment of *zakat* or *fitrah*, whether in cash or in kind. Receipts and Accounts.

(2) Every Imam shall account to the Majlis for all *zakat* and *fitrah* received by him and shall hold, store, and dispose of the same or of any proceeds of sale thereof in such manner as the Majlis may direct.

(3) The Majlis shall cause assessment lists, receipts, accounts and other documents kept by any Imam and relating to *zakat* or *fitrah* to be examined and audited and may for such purpose appoint and remunerate Inspectors.

121. After complying with all directions of His Highness the Sultan as to disposal of any *zakat* and *fitrah*, the Majlis shall, if any portion thereof be undisposed of, sell and realize such part thereof as may not consist of money and it and the proceeds of any sale thereof shall be added to and form part of the General Endowment Fund. Disposal of balance.

Collection for Charities.

Enactment
No. 23 of 1953.

122. (1) Notwithstanding the provisions of the Sub-Charitable Enactment, 1953, the Majlis may collect, or may grant licences to any person or body of persons, authorizing him or them to collect, monies or funds for any charitable purpose for the support and promotion of the Islamic religion or for the benefit of Muslims in accordance with Muslim law, and may by any such licence impose such terms as it may think fit. collections.

(2) It shall be deemed to be a term of every such licence that the grantee thereof and every other person authorized thereby to collect monies or funds shall —

- (a) issue in respect of every sum so collected a serially numbered receipt in Form "B" in the First Schedule;
- (b) keep true and full accounts of all sums so collected and of the disposal thereof with all proper vouchers;
- (c) produce on demand the counterfoils of such receipts and all such accounts and vouchers for inspection and audit by the Majlis;
- (d) apply and dispose of all sums so collected in accordance with the terms of such licence, or, if no method of disposal thereof be thereby expressly authorized, pay and account for the same to the Majlis.

(3) Monies collected in pursuance of this section may be applied for a specific purpose if the Majlis shall so direct, but shall, in default of any such direction, be added to and form part of the General Endowment Fund.

(4) No person shall make or take part in any collection of money for any such purpose as aforesaid unless with the express authority of the Majlis or by virtue and in pursuance of such a licence as aforesaid.

PART V. MOSQUES

Majlis to be trustee.

123. Notwithstanding any provision to the contrary in any written instrument, the Majlis shall be the sole trustee of all mosques in the State and every mosque, together with any immovable property on which it stands or appurtenant thereto and used for the purposes thereof, other than State land or land reserved for a public purpose, shall upon registration under the Land Code, and without any conveyance, assignment or transfer whatever vest in the Majlis for the purposes of this Enactment. Cap. 40

Restriction of new mosques.

124. (1) No person shall erect any mosque or dedicate or otherwise apply any existing building, as or for the purposes of a mosque, without the permission in writing of the Majlis.

(2) Such permission shall in no case be given unless the site of the proposed new mosque has been, or will prior to the erection of dedication thereof be, made a *wakaf*.

Repairs.

125. (1) It shall be the duty of the Majlis to repair from time to time as may be necessary and keep in a proper state of repair all mosques in the State. The Majlis may raise and apply, or authorize the raising and application of, special funds for the purpose of such repairs, or may defray the necessary cost of the same from the General Endowment Fund.

(2) It shall be the duty of the Imam promptly to inform the Majlis of any want of repair, and to effect or supervise any repairs as agent for and on behalf of the Majlis.

(3) No material alteration to the structure of any mosque shall be made without the permission in writing of the Majlis.

Closure or demolition.

126. The Majlis may for sufficient reason close or demolish any mosque and may, where any mosque has been demolished and it is not intended to build another mosque on the same site and it is in the opinion of the Majlis no longer possible to use such site for other religious purposes, sell and dispose of such site, but the proceeds of any such sale shall be earmarked for the erection, maintenance or repair of mosques, and no other purposes.

Boundaries of mukim.

127. The Majlis shall have the power at any time to determine the boundaries of any *mukim masjid* and to amend or alter such boundaries. Any dispute as to the boundaries of a *mukim masjid* shall ordinarily be referred to the Judicial Committee for its opinion.

Register of pegawai masjid.

128. The Majlis shall maintain a register showing the *pegawai masjid* of every mosque in the State, and it shall be the duty of every *pegawai masjid* promptly to inform the Majlis of any vacancy or change in the particulars relating to his mosque.

129. (1) Each person named in the first column of the Second Schedule is, unless he has died or vacated his office before the commencement of this Enactment be appointed to the Imam of the mosque appearing opposite his name in the third column of that Schedule. ^{Appointment of Imams.}

(2) It shall be the duty of the Legal Committee upon learning of any vacancy or impending vacancy in the office of Imam of any mosque to make enquiry for possible candidates for such appointment and, after due examination of the qualifications of such possible candidates, to select two or more of them as candidates for election.

(3) An election shall be held in the *mukim*, for which all male Muslim over the age of 21 years ordinarily there resident shall be entitled to be registered as voters, and the persons so selected by the Legal Committee, but no other persons, shall be entitled to stand as candidates for election.

(4) The Majlis, on being satisfied that any candidate has been duly elected in manner aforesaid, shall submit his name to His Highness the Sultan with a recommendation that he be appointed to fill the vacancy in question.

(5) His Highness the Sultan may appoint any fit and proper person to be Imam of any mosque.

(6) Every person appointed to be an Imam shall receive a Tauliah under the seal of His Highness the Sultan.

130. (1) Each person named in the first column of the Third Schedule is, unless he has died or vacated his office before the commencement of this Enactment, appointed to the office appearing opposite his name in the second column of such Schedule in respect of the mosque appearing opposite his name in the third column of that Schedule. ^{Appointment of other pegawai masjid.}

(2) No vacancy in the office of Khatib of any mosque shall be filled unless in any case His Highness the Sultan shall so direct.

(3) In the event of any vacancy or impending vacancy in the office of Bilal of any mosque, it shall be the duty of the Imam of the mosque, after consultation with the *Pegawai Pejabat Ugama* to make recommendations to the Majlis whether the vacancy should be filled and, if so, who should be appointed to fill it.

(4) The Legal Committee shall examine the qualifications of any person so recommended and shall report to the Majlis thereon.

(5) The Majlis may on behalf of His Highness the Sultan appoint any fit and proper person to be a Bilal of any mosque, and shall issue a Tauliah under its seal to any person so appointed.

131. (1) Every *pegawai masjid* shall hold office during the pleasure of His Highness the Sultan and may be removed by His Highness for such reasons as may seem good. ^{Removal of pegawai masjid.}

(2) It shall be the duty of the Majlis to bring to the notice of His Highness any disgraceful conduct on the part of any *pegawai masjid*, whether in relation to his duties as such or otherwise, and to make recommendations.

owers and
ities.

132. The *pegawai masjid* of any mosque shall have such powers and duties as may be set out in their respective *Tau-liahs*, and in addition —

- (a) shall be responsible for the proper conduct and good order of the mosque;
- (b) shall be responsible for the good conduct of the *anak mukim* of the mosque in matters relating to the Islamic religion; and
- (c) shall give due and prompt information to the *Majlis* of all matters arising in their *mukim* and requiring the attention of the *Majlis*.

ttendance
mosque.

133. The *anak mukim* of any mukim shall ordinarily attend the mosque in that *mukim*, but the Imam of that mosque may for good reason grant permission to any person to attend another mosque and, if the Imam shall have refused such permission, the Judicial Committee may grant it in the name and on behalf of the *Majlis*.

PART VI. MARRIAGE AND DIVORCE

pplication.

134. The provisions of this Part shall apply only to marriages, both parties to which profess the Islamic religion, and which are solemnised in accordance with Muslim law.

ppointment of
Registrars.

135. (1) His Highness the Sultan may by notice signified in the *Gazette* appoint any fit and proper persons to be Registrars of Muslim Marriages and Divorces in any place.

(2) The Chief Kathi and every Kathi shall be *ex officio* Registrars of Muslim Marriages and Divorces for the whole of the areas in which they respectively have jurisdiction in criminal and civil matters.

(3) The Imam of every mosque shall be *ex officio* a Registrar of Muslim Marriages and Divorces for the mukim of his mosque.

(4) Registrars of Muslim Marriages and Divorces shall have such rights and powers and perform such duties as may be conferred or imposed upon them by this Enactment or any rules made thereunder.

(5) Registrars of Muslim Marriages and Divorces shall be deemed to be public servants within the meaning of the Penal Code.

Cap. 22.

Betrothal.

136. If any person shall, either orally or in writing, and either personally or through an intermediary, have entered into a contract of betrothal in accordance with Muslim law, and shall subsequently refuse without lawful reason to marry the other party to such contract, such other party being willing to perform the same, the party in default shall be liable, if a male, to pay as damages the amount of the *mas-kahwin* which would have been payable together with other monies expended in good faith in preparation for the marriage, or, if a female, to return the betrothal gifts, if any, or the value thereof and to pay as damages the amount of such other monies as aforesaid, and the same may be recovered by action in the Court.

137. (1) A marriage may be solemnized by any person holding a Tauliah from His Highness the Sultan to solemnize marriages.

(2) A marriage may be solemnized by any other person permitted under Muslim law to solemnize such marriage, if the marriage takes place in the presence and with the permission of a Registrar.

(3) No person shall solemnize any marriage save in pursuance of sub-section (1) or (2):

Provided that a marriage solemnized in breach of the provisions of this sub-section, but in accordance with the provisions of Muslim law, shall be valid and shall be registered under the provisions of this Enactment.

138. A marriage shall be void and shall not be registered under the provisions of this Enactment unless all conditions necessary for the validity thereof, in accordance with the tenets of the sect to which each of the parties to the marriage belongs, are satisfied.

139. A marriage shall be void and shall not be registered under the provisions of this Enactment unless both parties to the marriage have consented thereto, and either —

- (a) the *wali* of the bride has consented thereto in accordance with Muslim law; or
- (b) the Kathi having jurisdiction in the place where the bride resides or any person generally or specially authorized thereto by him has, after due enquiry in the presence of all parties concerned, granted his consent thereto as *wali raja*:

Provided that such consent may only be given wherever there is no *wali* available to act, or where the *wali* has refused his consent without sufficient reason.

140. Where the bride is a *janda* —

Marriage of
janda.

- (a) she shall not be married to any person, other than the husband from whom she was last divorced, at any time prior to the expiration of the period of *eddah*, which shall be calculated in accordance with Muslim law;
- (b) she shall not be married unless she shall previously have produced —
 - (i) a certificate of the death of her late husband;
 - (ii) a certificate of divorce lawfully issued under the law for the time being in force;
 - (iii) a certified copy of the entry relating to such divorce, in the appropriate register of divorces; or
 - (iv) a certificate, which may upon her application be granted after due enquiry by the Court of a Kathi having jurisdiction in the place where she resides, to the effect that she is a *janda*;

- (c) if the bride was divorced before the marriage had been consummated, she shall not be married to any person other than her previous husband during the period of *eddah* which would otherwise have been applicable, unless with the permission of the Kathi having jurisdiction in the place where she resides; and
- (d) if the divorce was by three *talak*, she shall not be remarried to her previous husband, unless prior to such marriage she shall have been lawfully married to some other person and such marriage shall have been consummated and later lawfully dissolved.

Place of
marriage.

141. (1) Every marriage shall be solemnized in a *mukim masjid* in which one or both of the parties to the marriage ordinarily resides:

Provided that a Kathi or a Registrar having jurisdiction in such *mukim* may give permission for any such marriage to be solemnized elsewhere.

(2) Every marriage shall be registered and the fees in respect thereof shall be payable in the place where the marriage was solemnized.

Mas-kahwin and
Pemberian.

142. (1) The *mas-kahwin* shall ordinarily be paid by the husband or his representative to the wife or her representative in the presence of the person solemnizing the marriage and at least two other witnesses.

(2) The Registrar shall in respect of every marriage to be registered by him ascertain and record —

- (a) the amount of the *mas-kahwin*;
- (b) the amount of any *pemberian*;
- (c) the amount of any part of the *mas-kahwin* or *pemberian* or both which was promised but not paid at the time of the solemnization of the marriage; and
- (d) particulars of any security given for the payment of any *mas-kahwin* or *pemberian*.

Registration of
marriages.

143. (1) Within seven days after the solemnization of any marriage it shall be the duty of the parties to the marriage and of the *wali* of the wife, if any, and of the person who solemnized the same to report to the Registrar of the *mukim* in which the marriage was solemnized the fact of such marriage and all necessary particulars concerning the same and to pay the fees specified in the Fourth Schedule, and the Registrar shall forthwith register such marriage.

(2) It shall be the duty of the Registrar before registering any marriage to make enquiry and to satisfy himself that all requirements of Muslim law and of this Enactment concerning the same have been satisfied and that the same was valid and registerable.

(3) A Registrar shall have power to administer oaths and affirmations and may examine any person on oath or affirmation concerning any matter submitted to him for registration.

(4) Upon registering any marriage and upon payment to him of the fees specified in the Fourth Schedule, the Registrar shall issue marriage certificates in the form specified in the Fourth Schedule to both parties to the marriage.

(5) The Registrar shall also, upon payment of the fees specified in the Fifth Schedule, prepare a *surat ta' alak* in the form specified in that schedule obtain the signature of the parties thereto, sign the same and deliver one copy to each of the parties to the marriage.

(6) It shall be the duty of the Registrar to report to the Kathi the circumstances of any case in which it may appear to him that any alleged marriage was void, or that any registrable marriage was solemnized in contravention of the provisions of this Enactment.

144. (1) A husband may divorce his wife in accordance with Muslim law with one, two or three *talak*. Divorce by talak.

(2) Within seven days after any divorce the husband shall report the fact of such divorce and all necessary particulars concerning the same and shall pay the fees specified in the Sixth Schedule to the Registrar of the mukim in which the divorce took place, and the Registrar shall forthwith register such divorce.

(3) The provisions of sub-sections (2), (3) and (4) of section 143 shall, with such modifications as may be necessary, apply to the registration of divorces and the issue of certificates of divorce.

145. (1) A married woman may apply to a Kathi for a divorce in accordance with Muslim law. Divorce at wife's request.

(2) In any such case the Kathi shall summon the husband before him and enquire whether he consents to be divorced, and if the husband so consents the Kathi shall on payment of the fees specified in the Fifth Schedule cause the husband to pronounce a divorce, register such divorce and issue certificates thereof to the parties to the marriage.

(3) If the husband does not agree to be divorced by consent, but the parties agree to a divorce by redemption, or *cherai tebus talak*, the Kathi may assess the amount of payment to be made by the wife in accordance with the status and means of the parties and shall thereupon on payment of the fees specified in the Fifth Schedule cause the husband to pronounce a divorce by redemption and register and issue certificates of the same in manner aforesaid.

(4) If the husband does not agree to divorce by redemption, the Kathi may appoint *Hakam* as provided in section 149.

146. (1) A married woman may, if entitled in accordance with Muslim law to a divorce in pursuance of the terms of a *surat ta' alak* made upon marriage, apply to a Kathi to declare that such divorce has taken place. Divorce under stipulation.

(2) The Kathi shall examine the instrument and make such inquiry as appears necessary into the validity of the divorce and shall, if satisfied that the same is valid in accordance with Muslim law, confirm the divorce, and upon payment of the fees specified in the Fifth Schedule, register and issue certificate of the same in the manner aforesaid.

Dissolution of marriage.

147. (1) A married woman may apply by suit in the Court of a Kathi for a decree of dissolution of marriage, or *fasakh*, in accordance with Muslim law.

(2) In any such case the Court shall if possible serve the husband, or, if satisfied by evidence on oath or affirmation that the husband is not in the State or cannot be found, shall serve notice of the proceedings on the nearest male relative of the husband resident in the State, or, if no such person be known, shall cause notice to be posted on the husband's last known place of residence in the State.

(3) No decree shall be pronounced save in accordance with the provisions of Muslim law and in pursuance of the evidence of the married woman and at least two witnesses given on oath or affirmation.

(4) Upon pronouncing a decree of dissolution of marriage the Kathi shall register the same as a divorce and shall issue a certificate thereof in the form specified in the Fifth Schedule to the wife.

Gift to divorced wife.

148. A woman who has been divorced by her husband may apply to a Kathi for a consolatory gift, or *matta'ah*, and the Kathi may after hearing the parties order payment of such sum as may be just and in accordance with Muslim law.

Arbitration.

149. (1) If satisfied that there are constant quarrels between the parties to a marriage, a Kathi may appoint in accordance with Muslim law two arbitrators, or *Hakam*, to act for the husband and the wife respectively, and in making such appointment the Kathi shall, where possible, give preference to close relatives of the parties having knowledge of the circumstances of the case.

(2) The Kathi may give directions to the *Hakam* as to the conduct of the arbitration and they shall conduct it in accordance with such directions and according to Muslim law.

(3) If the arbitrators are unable to agree, or if the Kathi is not satisfied with their conduct of the arbitration, he may remove them and appoint other *Hakam* in their place.

(4) The *Hakam* shall endeavour to obtain from their respective principals full authority, and may, if their authority extends so far, decree a divorce, and shall in such event report the same to the Kathi for registration.

(5) If the *Hakam* are of opinion that the parties should be divorced but are unable for any reason to decree a divorce, the Kathi shall appoint other *Hakam* and shall confer on them authority to effect a divorce and shall, if they do so, register and issue certificates of the same in manner aforesaid.

150. (1) In this section "revocable divorce" means a divorce by one or two *talak* not followed by such a lapse of time as to render it irrevocable, and "recohabit" means resume conjugal relations within the period before the divorce has become irrevocable. Resumption
of conjugal
relationship.

(2) If after a revocable divorce recohobitation takes place by mutual consent, the parties shall within seven days report the fact of such recohobitation and all relevant particulars to the Registrar of the *mukim* in which they reside.

(3) The Registrar shall on receiving such report make such enquiry as may be necessary and, if satisfied that recohobitation has taken place in accordance with Muslim law, shall, upon payment of the fees specified in the Sixth Schedule register such recohobitation by endorsement upon the counterfoil of the certificate of the divorce, if such divorce was registered by him, and shall require the parties to deliver to him the relevant certificates of divorce and shall issue to them certificates of recohobitation in the form specified in the Sixth Schedule. Any one who fails to report the fact of such recohobitation to such Registrar shall be guilty of an offence: Penalty a fine of one hundred dollars or imprisonment for one month.

(4) If the divorce was not registered by that Registrar, he shall record on the certificate of divorce the number and particulars of the certificates of recohobitation and shall forward the certificates of divorce to the Registrar by whom the same were issued, and such other Registrar shall thereupon register the recohobitation by endorsement in like manner.

(5) If a revocable divorce has taken place without the knowledge of the wife, the husband shall not require or request the wife to recohobit with him without disclosing to her the fact of such divorce.

(6) If after a revocable divorce the husband has pronounced a *rojok* —

- (a) if the wife has consented to the *rojok*, she may on the application of the husband be ordered by a Kathi to resume conjugal relations, unless she shall show good cause in accordance with Muslim law to the contrary, in which case the Kathi shall appoint *Hakam* as provided in section 149; and
- (b) if the wife has not consented to the *rojok*, she shall not be ordered by the Kathi to resume conjugal relations, but on her application the Kathi may require her husband to divorce her and on his refusal shall appoint *Hakam* as provided in section 149.

151. (1) If the husband of any married woman has died, or is believed to have died, or has not been heard of over a prolonged period, in such circumstances that he ought, for the purpose of enabling his wife to remarry, to be presumed in accordance with Muslim law to be dead, but a death certificate under the Births and Deaths Registration Enactment, Presumption
of death. Cap. 79.

cannot be obtained, a Kathi may, on the application of the wife and after such enquiry as may be proper, issue in accordance with Muslim law a certificate of presumption of death of the husband, and thereafter the wife shall be at liberty to remarry in accordance with the provisions of this Enactment, and such certificate shall be deemed to be a certificate of the death of the husband within the meaning of sub-paragraph (i) of paragraph (b) of section 140.

(2) In the circumstances aforesaid, a woman shall not be entitled to remarry in the absence of a certificate issued under sub-section (1), notwithstanding that the High Court may have given leave to presume the death of the husband.

(3) A certificate issued under sub-section (1) shall be registered as if it effected a divorce.

Method and
effect of
registration.

152. (1) Registration of any matter required to be registered under this part of this Enactment shall be deemed to be effected by the completion of the counterfoil of a certificate to be issued by the Registrar in respect of such matter.

(2) In addition to registration under sub-section (1), every Kathi shall maintain bound registers of marriages and divorces in the forms contained in the Seventh and Eighth Schedules respectively containing particulars of all matters registered as aforesaid by all Registrars within the area of his jurisdiction, including matters so registered by himself.

(3) Every Registrar other than a Kathi shall, at least once in every calendar month, and in addition at any time when the amount payable by him to Government in respect of fees received under this Part exceeds fifty dollars, deliver to the Kathi of his district all certificate books used by him as Registrar, and pay to the Kathi, or otherwise lawfully account for, all sums due to Government in respect of fees as aforesaid:

Provided that in case of difficulty of transport the Majlis may permit the Registrar to deliver such books and monies to the Penghulu of his daerah and the Penghulu shall in such event deliver the same to the Kathi.

(4) The Kathi, after recording all relevant particulars in his registers, shall return the current certificate books to the Registrar, but shall retain the counterfoils of completed books and preserve the same for five years after the last entry was made therein.

(5) Any certificate issued under this Part, and any entry in the register of a Kathi made thereunder, shall be sufficient evidence of the truth of the matters stated therein, unless proved to be erroneous.

(6) After the expiration of five years from the time it was made, an entry in the Register of a Kathi made under this part of this Enactment shall be conclusive proof of the matters stated therein, and no evidence to the contrary shall be received.

153. (1) All registers, counterfoils of certificates and other documents held by any Registrar in pursuance of this part of this Enactment shall be public documents for the purpose of any law applicable in the State relating to Evidence and shall be open to inspection by any person on payment of fee specified in the Ninth Schedule. ^{Inspection and copies.}

(2) The Registrar shall on payment of the fee specified in the Ninth Schedule furnish to any person a certified copy of any entry in a register, or counterfoil, certificate or other document as aforesaid and a receipt for such fee shall be mentioned on such certified copy.

(3) The certificate on any certified copy and the receipt for the fee in respect thereof shall be in the form in the Ninth Schedule.

154. (1) Any person aggrieved by any order, act, refusal or omission of a Registrar may within fourteen days from the date thereof appeal —

(a) if the Registrar be the Chief Kathi or a Kathi, to the Judicial Committee; or

(b) in other cases, to the Kathi of the district in which the Registrar acts as such.

(2) From any decision of a Kathi given on such an appeal a further appeal shall lie to the Judicial Committee.

(3) The appellate authority may order the authority appealed from to do or refrain from any act which ought in the circumstances to have been done or omitted and may make such order as justice may require, including an order for rectification of any register of marriages or divorces.

(4) The decision of the Judicial Committee shall be final, unless in any case His Highness the Sultan shall for special reasons otherwise direct.

155. (1) If it shall appear that any entry in any register has been made, or any certificate issued, under this Part in error, and that such error ought to be corrected, a Registrar or any person affected by, but not responsible for, such error may apply to the Judicial Committee for rectification of such register or certificate. ^{Rectification of registers.}

(2) The Judicial Committee may, after such enquiry as seems proper, order rectification accordingly;

Provided that no such order shall be made more than five years after the entry was made, or certificate issued, as the case may be.

(3) Any person may be ordered to surrender any document to the Registrar for correction in consequence of any such order.

156. All fees collected under this Part shall be disposed of as His Highness the Sultan may by rule direct. ^{Fees.}

PART VII. MAINTENANCE OF DEPENDANTS

157. (1) Chapter XXXIII of the Criminal Procedure Code shall not apply in the State of Brunei in the case of any claim for maintenance made by a Muslim against a Muslim. ^{Application.}

(2) This Part shall apply only to claims made by a Muslim against a Muslim.

Wives.

158. (1) A married woman may by application in the Court of a Kathi obtain an order against her husband for the payment from time to time of any such sums in respect of her maintenance as she may be entitled to in accordance with Muslim law.

(2) A woman who has been divorced may by application in the Court of a Kathi obtain an order against her former husband for the payment in respect of the period of *eddah*, if the divorce was by one or two *talak*, or in any case in respect of the period of her pregnancy by the former husband, of any such sums in respect of her maintenance as she may be entitled to in accordance with Muslim law.

(3) A woman who has been divorced and who is not entitled to an Order for maintenance under sub-section (2) may apply to the Court of the Chief Kathi and that Court may, if it is satisfied that it is just and proper so to do in view of all the circumstances of the case, make an order against the former husband for the payment by him of such sums for such period as the Court considers fit :

Provided that no such order shall require the former husband to pay to his former wife any amount in excess of one hundred dollars per month.

Lawful minor children.

159 (1) A minor may by application in the Court of a Kathi, to be made either personally or through a representative as provided in section 83, obtain an order against his lawful father or any other person liable in accordance with Muslim law to support him for the payment from time to time of any such sums in respect of his maintenance as he may be entitled to in accordance with Muslim law.

(2) It shall be a sufficient defence to any such application that the applicant has sufficient means to support himself.

Infirm and diseased persons.

160. (1) Any person who is incapacitated by infirmity or disease from supporting himself may by application in the Court of a Kathi obtain an order against any person liable in accordance with Muslim law to support him for the payment from time to time of any such sums in respect of his maintenance as may be proper :

Provided that no person shall be entitled to any such order if he is in receipt of any pension or allowance granted under the provision of the State Pensions Enactment, 1954. Enactment No. 10/54.

(2) Lack of means in the respondent shall be a sufficient defence to any such application.

Illegitimate children.

161. (1) If any person neglects or refuses to maintain an illegitimate child of his which is unable to maintain itself, the Court of a Kathi, upon due proof thereof, may order such person to make such monthly allowance as to the Court seems reasonable :

Provided that if the claim be made against the putative father, it shall be brought in the Magistrates' Court, which may order him to make such monthly allowance not exceeding fifty dollars as to the Court seems reasonable.

(2) Such allowance shall be payable from the date of such neglect or default or from such later date as may be specified in the order.

162. Any order made under this Part may be rescinded or varied upon the application of any person interested there-
Rescission and variation of orders.
under and upon proof of change of material circumstances.

163. Without prejudice to the right of any person in-
Enforcement of orders.
terested under any order made under this Part to enforce the same by proceedings by way of execution in a Magistrates' Court or in the Court of the Chief Kathi in pursuance of section 90, the Court which made the order may, notwithstanding any provision in this Enactment limiting its criminal jurisdiction or powers of punishment, in case of wilful failure to comply therewith, sentence the person in default to a term of imprisonment which may extend, if the order provides for monthly payments, to one week for each month's allowance or part thereof remaining unpaid, but not exceeding in all one month.

PART VIII. CONVERTS

164. The Majlis shall maintain a register of the names
Register of converts.
of all persons converted to the Islamic religion within the State, together with such particulars in respect of their conversion as may be prescribed by rule.

165. No person shall be registered as a convert to the
Control of conversions.
Islamic religion otherwise than in accordance with the provisions of this Enactment or any rules made thereunder.

166. No person under the age of fourteen years and
No registration of conversion of children.
seven months shall be registered as a convert to the Islamic religion.

167. (1) If any person wishes to be admitted to the
Conversion.
Islamic religion, he shall repeat the Confession of Faith, or *Dua Kalimah Shahadah*, before any Muslim and shall thereafter appear before the Kathi of the district in which he ordinarily resides.

(2) The Kathi shall make enquiry as to the age of such person and as to his desire to be admitted to the Islamic religion and shall, if satisfied that he is more than fourteen years and seven months of age and desires to be so admitted, send him to the custody of the Majlis.

(3) Such person shall, notwithstanding any right to his custody vested in any other person or body, be and remain in the custody of the Majlis for the period of three months and the Majlis shall defray out of the General Endowment Fund the expenses of sending him to its custody and also the cost of his board, lodging, instruction and incidental expenses during the said period of three months.

(4) At the expiration of the said period of three months the convert shall cease to be in the custody of the Majlis, and the Majlis shall, if the convert so requests, defray the cost of his return to the custody of his lawful guardian.

(5) If the Kathi is of opinion that the applicant is under the age of fourteen years and seven months, he shall cause him to be returned to his lawful guardian and he shall be deemed not to have been converted to the Islamic religion.

(6) The Kathi shall report all action taken by him under the provisions of this section to the State Customs, Religious and Welfare Officer and, if the convert was previously a Christian, to the Resident.

(7) In every such report the Kathi shall state whether in his opinion the convert made the Confession of Faith willingly or against his will.

(8) Nothing in this section contained shall operate to permit any minor to be taken from the custody of his natural or lawful guardian without the consent of such natural or guardian.

Conversion to
be reported
the Majlis.

168. Any person effecting a conversion shall forthwith report the same to the Majlis with all necessary particulars.

PART IX. OFFENCES

Application.

169. (1) Save as otherwise in this Enactment expressly provided, this Part shall apply only to persons professing the Islamic religion.

(2) Save as otherwise in this Enactment expressly provided, no prosecution for any offence against this Enactment shall be had in any Court other than the Court of the Chief Kathi or a Court of a Kathi.

Attendance
at mosque.

170. Any male of the age of fifteen years or over who fails to attend prayers on Friday at a mosque in accordance with the provisions of section 133 shall, subject as hereinafter provided, be guilty of an offence: Penalty a fine of ten dollars or in the case of a second offence, a fine of twenty dollars, or in the case of a third or subsequent offences, a fine of fifty dollars.

Provided that no offence shall be committed by any such person if —

- (a) his attendance is prevented by rain;
- (b) his place of residence is more than three miles by the nearest route from a mosque; or
- (c) he has been excused attendance by any *pegawai masjid* of the *mukim* in which he ordinarily resides or then is, on grounds of sickness or absence from his ordinary place of residence.

171. Whoever shall in any shop or other public place purchase or sell or consume any intoxicating liquor or other drink prohibited by Muslim law shall be guilty of an offence: Penalty a fine of fifty dollars, or, in the case of a second a fine of seventy-five dollars or in the case of a third or subsequent offence a fine of one hundred dollars. Intoxicating liquor.

172. Whoever shall during the hours of daylight in the month of Ramathan consume in public or sell to a person professing the Islamic religion for consumption in public during such hours, any food, drink or tobacco shall be guilty of an offence: Penalty a fine of fifty dollars, or in the case of a second a fine of seventy-five dollars or in the case of a third or subsequent offence a fine of one hundred dollars. Food in Ramathan.

173. Where any person has in contravention of the provisions of section 171 or 172 sold any article in his capacity as employee of another person, his employer shall be presumed to have abetted such offence and to have caused its commission by such abetment unless he proves that such offence was committed without his authority, knowledge or consent and that he had taken all reasonable steps to prevent its commission. Presumption.

174. (1) Whoever, having ceased to cohabit with his wife in the manner required by Muslim law and having been ordered by the Court to resume cohabitation with her, wilfully fails or neglects to comply with such order shall be guilty of an offence: Penalty imprisonment for one month or a fine of one hundred dollars. Desertion of wife.

(2) Whoever ill-treats his wife shall be guilty of an offence: Penalty imprisonment for one month or a fine of one hundred dollars.

175. Any woman who shall wilfully disobey any order lawfully given by her husband in accordance with Muslim law shall be guilty of an offence: Penalty a fine of ten dollars or, in the case of a second or subsequent offence, simple imprisonment for seven days or a fine of fifty dollars: Disobedience of wife.

Provided that it shall be a sufficient defence to any prosecution under this section that the husband has been guilty on more than one occasion during the preceding year of abusing or ill-treating the accused.

176. (1) Any male Muslim who is found in retirement with and in suspicious proximity to any woman, whether or not professing the Islamic religion other than his wife, or a woman whom by reason of consanguinity, affinity or fosterage he is forbidden by Muslim law to marry, shall be guilty of *Kheluat*: Penalty imprisonment for a term of one month or a fine of one hundred dollars, or, in the case of a second or subsequent offence, imprisonment for two months or a fine of two hundred dollars. Kheluat.

(2) Any female Muslim who abets an offence punishable under sub-section (1) shall be guilty of an offence: Penalty simple imprisonment for fourteen days or a fine of fifty dollars, or, in the case of a second or subsequent offence by her of a like nature, simple imprisonment for one month or a fine of one hundred dollars.

(3) Any female Muslim who is found in retirement with and in suspicious proximity to any man who does not profess the Islamic religion shall be punishable in like manner as if for an offence against sub-section (2).

Illicit
intercourse.

177. (1) Any man who, having lawfully divorced his wife, resumes cohabitation with her without having pronounced a lawful *rojok* shall be guilty of an offence: Penalty imprisonment for one month or a fine of one hundred dollars, or, if his wife was not at the time of such resumption of cohabitation aware of the occurrence of the divorce, imprisonment for two months or a fine of two hundred dollars.

(2) Any woman who abets an offence punishable under sub-section (1) shall be guilty of an offence: Penalty simple imprisonment for seven days or a fine of twenty-five dollars.

(3) Any person who has sexual intercourse with any person whom he or she is, and who he or she knows or has reason to believe that he or she is, forbidden by Muslim law to marry, shall be guilty of an offence: Penalty, in the case of —

(a) a male person, imprisonment for five years; and

(b) a female person, imprisonment for one year.

(4) Save in the cases referred to in sub-sections (1), (2) and (3), whoever shall be guilty of illicit intercourse, whether or not the other party to such illicit intercourse professes the Islamic religion, shall be guilty of an offence: Penalty, imprisonment for six months or a fine of five hundred dollars.

Unlawful
solemnization
of marriage.

178. Whoever solemnizes or purports to solemnize in accordance with Muslim law any marriage between persons both professing the Islamic religion in contravention of the provisions of Part VI, or knowingly purports to solemnize any such marriage which is void under the provisions of such Part, shall be guilty of an offence: Penalty imprisonment for one month or a fine of one hundred dollars.

Failure to
report.

179. (1) Whoever, being under a duty to report to a Registrar any marriage or divorce, wilfully neglects or fails to do so shall be guilty of an offence: Penalty a fine of twenty-five dollars.

(2) Whoever, being under a duty to report, or having reported, to a Registrar any marriage or divorce, and having been required by such Registrar to furnish any information or to execute or sign any document lawfully necessary for the purpose of effecting registration thereof, wilfully neglects or fails to comply with such requirement shall be guilty of an offence: Penalty a fine of twenty-five dollars.

(3) Whoever makes to any Registrar orally or in writing any wilfully false statement or declaration relating to any matter required under the provisions of this Enactment to be recorded or registered by such Registrar shall be guilty of an offence: Penalty imprisonment for one month or a fine of one hundred dollars.

180. Whoever, in contravention of the provisions of Part VIII, converts or purports to convert to the Islamic religion any person, or, having lawfully converted any person to the Islamic religion, wilfully neglects or fails to report such conversion to the Majlis, shall be guilty of an offence: Penalty imprisonment for one month or fine of one hundred dollars. Unlawful conversions.

181. Whoever, being charged by this Enactment with the duty of registering any matter or proceeding, or of making, preparing, keeping or maintaining any assessment list, report, book of account, estimate, register, counterfoil book, minute book, or subscription list, or of issuing any certificate, receipt or certified copy, refuses or wilfully neglects or fails to perform such duty, or wilfully performs the same in an unlawful or improper manner, shall be guilty of an offence: Penalty imprisonment for three months or a fine of two hundred and fifty dollars. Wilful neglect statutory duty.

182. Whoever, in breach of the provisions of section 34, improperly discloses or divulges any matter, which it was his duty to keep secret, to any person not lawfully entitled to be informed thereof shall be guilty of an offence: Penalty imprisonment for three months or a fine of two hundred and fifty dollars. Breach of secrecy.

183. Whoever, in contravention of the provisions of section 124, erects any mosque, or dedicates or otherwise applies any existing building as or for the purposes of a mosque, without the permission in writing of the Majlis, shall be guilty of an offence: Penalty a fine of one thousand dollars, and the Court may, subject to any rights of any third party, order the person convicted to demolish the building. Unlawful mosques.

184. Whoever, save in his own residence and in the presence only of members of his own household, teaches or professes to teach any doctrine of the Islamic religion without the written permission in that behalf of the Majlis shall be guilty of an offence: Penalty imprisonment for one month or a fine of one hundred dollars. Religious teaching.

185. Whoever shall teach or publicly expound any doctrine or perform any ceremony or act relating to the Islamic religion in any manner contrary to Muslim law shall be guilty of an offence: Penalty imprisonment for three months or a fine of two hundred and fifty dollars. False doctrine.

186. If any person, other than the Mufti or a person acting under powers conferred by this Enactment, issues or purports to issue any *fetua* or ruling on any question of Islamic doctrine of Muslim law or State Custom he shall be guilty of an offence: Penalty imprisonment for three months or a fine of two hundred and fifty dollars. Fetua.

187. Whoever shall print, publish, sell or import into the State for sale any book or document giving or purporting to give instruction or rulings on any matter of Islamic doctrine or Muslim law or State Custom shall, if such book or document contains any matter contrary to Muslim law or doctrine or to Religious books.

any lawfully issued *fetua*, be guilty of an offence: Penalty imprisonment for six months or a fine of five hundred dollars and such book or document shall be forfeited.

Misuse of
the Koran.

188. Whoever in any theatrical performance or in any place of public entertainment or amusement uses any passage from the Koran or any words having a sacred implication to persons professing the Islamic religion or derides or copies in a derisive manner any act or ceremony relating to the Islamic religion shall be guilty of an offence: Penalty imprisonment for one month or a fine of one hundred dollars.

Contempts of
religious
authorities.

189. Whoever shall be guilty of any contempt of the lawful authority of His Highness the Sultan in his capacity as the Head of the religion of the State, or of the Majlis or any Committee or Member or officer thereof, or of any Court or the presiding officer thereof, or of any *pegawai masjid*, shall be guilty of an offence: Penalty imprisonment for one month or a fine of one hundred dollars.

Contempts of
religion.

190. Whoever by words spoken or written or by visible representations insults or brings into contempt or attempts to insult or bring into contempt the Islamic religion or the tenets of any sect thereof or the teaching of any lawfully authorized religious teacher or any *fetua* lawfully issued by the Mufti under the provisions of this Enactment shall be guilty of an offence: Penalty imprisonment for six months or a fine of five hundred dollars.

Non-payment of
zakat or fitrah.

191. (1) Whoever, having been lawfully assessed as liable to pay any *zakat* or *fitrah* and having failed to procure, by appeal or otherwise, the cancellation or modification of such assessment, shall refuse or wilfully fail to pay the same, shall be guilty of an offence: Penalty imprisonment for fourteen days or a fine of one hundred dollars.

(2) A conviction under this section shall not operate to extinguish the debt.

(3) Any *zakat* or *fitrah* due by any person or the value of the same may be recovered as if the rice or padi in question had been ordered to be delivered to the Majlis by a lawful order of a Court or as if the value thereof were recoverable as a fine imposed under the provisions of this Enactment.

(4) Subject to any appeal lawfully brought, the Court shall in no case enquire into the propriety of any assessment to *zakat* or *fitrah*.

Incitement to
neglect religious
duty.

192. Whoever incites or persuades any person professing the Islamic religion to refrain from attending any mosque or from attending Islamic Religious instruction or from paying any *zakat* or *fitrah* or from doing or paying whatever he is liable to do or pay under this Enactment shall be guilty of an offence: Penalty imprisonment for six months or a fine of five hundred dollars.

Attempts and
abatement.

193. Whoever attempts to commit, or abets the commission of, any offence against this Enactment shall be punishable with the same punishment as if he had committed such offence.

194. Whoever, not being of the Islamic religion, knowingly sells any article to a person professing the Islamic religion, and thereby abets an offence of purchasing or consuming the same in contravention of the provisions of section 171 or 172, shall be guilty of an offence cognizable by a Magistrates' Court: Penalty a fine of fifty dollars, or in the case of a second or subsequent offence, a fine of one hundred dollars.

Abetment,
sections
171 & 172.

195. Any person not professing the Islamic religion who abets any person who to his knowledge professes the Islamic religion in the commission of any offence against this Enactment, other than an offence against section 171, 172 or 177 thereof, shall be guilty of an offence cognizable by a Magistrates' Court and shall be punishable in accordance with the provisions of Chapter V of the Penal Code.

Abetment by
non-Muslim.

PART X. GENERAL

196. In the exercise of all powers and the performance of all duties, other than judicial powers and duties, conferred or imposed by this Enactment, the Chief Kathi shall be subject to the general directions and control of the Mufti and all Kathis shall in like manner be subject to the general directions and control of the Chief Kathi.

Supervision
of officers.

197 (1) It shall be the duty of the Chief Kathi at or about the beginning and end of each lunar month to make the enquiry as to the dates on which the respective new moons are likely to be seen, and also to make due enquiry as to the dates on which they shall be seen in fact and to certify every such event and date under his hand.

Appearance of
the moon

(2) Upon giving his certificate as aforesaid, the Chief Kathi shall forthwith report to the Mufti, who shall transmit the information in question to His Highness the Sultan.

(3) It shall be an irrebuttable presumption of law that the new moon in question was first seen on the date so certified by the Chief Kathi.

198. (1) The Majlis shall have power to institute and administer a provident fund for the benefit of any or all of the employees of the Majlis.

Provident
Fund.

(2) The Majlis shall itself be the sole trustee of any such provident fund, and shall hold all monies, investments and assets appertaining thereto as a segregated fund.

(3) The Majlis may appoint a Managing Committee to administer any such provident fund and such Managing Committee may include persons not members of the Majlis and persons who are beneficiaries of the fund.

(4) The Majlis may invest any monies or assets of any such provident fund in any of the investments by this Enactment authorized for the investment of monies and assets constituting the General Endowment Fund, and shall have the like powers in respect of change of investment, employment of bankers and similar matters as relate to the General Endowment Fund.

(5) The Majlis may contribute to any such provident fund out of monies and assets constituting the General Endowment Fund.

(6) The Majlis may, with the approval in writing of His Highness the Sultan, make rules to regulate —

- (a) the institution, organization, administration and management of the provident fund;
- (b) the proceedings of the Managing Committee;
- (c) the proceedings of meetings of contributors to the provident fund;
- (d) the eligibility of contributors to the provident fund;
- (e) the amount of contributions and the terms upon which they will be received, and paid out;
- (f) the absorption of other provident funds or similar institutions;
- (g) the alteration or amendment of the rules governing the provident fund; and
- (h) the winding-up of the provident fund.

(7) The Majlis may discontinue and wind up any such provident fund.

(8) The expenses of managing and administering any such provident fund shall be borne by the fund.

Protection of
Majlis, its
Members and
employees.

199. (1) No Member of the Majlis shall be liable for any loss arising from or contingent upon any investment made in accordance with the provisions of this Enactment, or any failure to collect or get in any monies or assets of the Majlis, unless such loss has been occasioned by his wilful negligence or fraud.

(2) Any Member of the Majlis, and any servant, agent or person acting under the authority of the Majlis shall be indemnified by the Majlis against any action or proceeding for or in respect of any act, matter or thing *bona fide* done or omitted to be done by him in the exercise or supposed exercise of any of the rights or powers of the Majlis or the Members thereof.

Validation of
judgments,
sentences and
orders.

200. Any sentence passed, judgment given, order made or act done before the coming into force of this Enactment by the Courts of Chief Kathi or of a Kathi, including any order made in reference to any such sentence, judgment, order or act by the appellate authority, shall be deemed to be and always to have been valid and within the jurisdiction of such Courts or appellate authority.

Pending matters.

201. The provisions of this Enactment shall apply, so far as may be, to all matters pending in the Courts of the Chief Kathi or of a Kathi when this Enactment comes into force.

Rules.

202. His Highness the Sultan in Religious Council may, by notification signified in the *Gazette*, make rules for carrying out the provisions of this Enactment, and in particular, but without prejudice to the generality of the foregoing, such rules may provide for —

- (a) the procedure of the Majlis, the form and method of execution of instruments by the Majlis, and the appointment of subordinate officers of the Majlis;
- (b) the fees to be paid in respect of any act or thing done under or in pursuance of this Enactment, and the method of collecting and disposing of the same;
- (c) the powers and duties of the Legal and Judicial Committees, and the practice and procedure in respect of all matters within their respective jurisdictions;
- (d) the appointment of Committees of the Majlis and their powers, duties and procedure;
- (e) the practice and procedure of the Courts of the Chief Kathi and of Kathis and in any such rule it shall be lawful for His Highness the Sultan to declare that any of the provisions of sections 51 to 96 inclusive shall cease to have effect;
- (f) the forms, registers, books of account, reports, accounts, estimates and other documents to be used in respect of any act or thing done under or in pursuance of this Enactment;
- (g) the collection, expenditure and disposal of any property, investments and funds due to or vested from time to time in the Majlis;
- (h) the employment of bankers, and the bank accounts to be opened and operated, by the Majlis;
- (i) the conduct of any charitable collection, and the disposal of the proceeds thereof;
- (j) the conduct of any mosque and all matters relating thereto;
- (k) the powers and duties of any *pegawai masjid*;
- (l) the conduct of elections for the selection of Imam;
- (m) the determination and publication of *mukim* boundaries;
- (n) the powers and duties of Registrars of Muslim Marriages and Divorces;

(o) the care and instruction of juvenile converts by the Majlis, and the method of registering converts; and

(p) the conduct of religious seminaries and schools.

Amendment of Schedules.

203. The Sultan in Religious Council may by Order signified in the *Gazette* amend any of the Schedules to this Enactment.

Sultan may make consequential instructions.

204. Where any matter is referred under this Enactment to His Highness the Sultan, whether in Religious Council or not, for his determination or directions, His Highness may, subject to the express provisions of this Enactment, issue such consequential instructions in writing under his hand as he may consider necessary for the proper carrying out of such determination or directions.

Repeals.

205. The Muhammadan Laws Enactment, the Muham- Cap. 31
madan Marriage and Divorce Enactment and Parts III and „ 77
VI of the Courts Enactment are hereby repealed. „ 6

THE FIRST SCHEDULE

FORM A

(Section 120 (1))

STATE OF BRUNEI

The Religious Council, State Custom and Kathi's Court Enactment 1955.

Receipt for Zakat/Fitrah
Penerima'an bagi Zakat/Fitrah

Received from
Di-terima daripada

lb. of padi/rice/dollars
lb. padi/beras/ringgit

Dated
Tarikh

Secretary to Majlis/Imam
Setia-Usaha Mejlis/Imam

THE FIRST SCHEDULE

FORM B

(Section 122 (2))

STATE OF BRUNEI

The Religious Council, State Custom and Kathi's Court Enactment 1955.

Receipt for charitable donations
Penerima'an bagi darma2

Received from
Di-Terima daripada

the sum of dollars
sa-banyak ringgit

for charitable donations
darma untuk

Dated
Tarikh

Authorized Collector
for Secretary of the Majlis
Pemunggot yang di-benarkan
pagi setia-usaha Mejlis

THE SECOND SCHEDULE

(Section 129 (1))

STATE OF BRUNEI

The Religious Council, State Custom and Kathi's Court Enactment 1955.

Appointment of Imam

Lantekan Imam

Name	Mosque
* Awang Abu Bakar bin Abdulrahman	} Brunei Town
* Haji Abu Hanifah bin Mohamed Salleh	
* Haji Mohd. sa'at bin Apong	
* Haji Matashim bin Matahir	
Awang Abdul Rahman bin Menuddin	Serasa
Pengiran Abu Bakar bin P. Zanial	Batu Marang
Pengiran Haji Ismail b. P. Hj. Kadar	Baru-baru
Haji Mohd. Tahir bin Haji Bakar	Sengkurong
Othman bin Abdul Karim	Kilanas
Awang Jamaluddin bin Habib	Lumapas
Awang Serbini bin Haji Yaacob	Kuala Belait
Haji Mahmud bin Awang Ismail	Seria
Umar Ali bin Abdulrahman	Kuala Balai
Awang Ahmad bin Matashim	Labi
Abu Bakar bin Matusof	Bukit Sawat
Abdul Khani b. Abd. Ghani	Tutung
Awang Mohd. Said bin Haji Ahmad	Tanjong Maya
Mohamed Tahir bin Bakar	Tampunan Talisai (Danau)
Sulaiman bin Kasim	Kiudang
Haji Panjang Abdul Rahim bin Akim	Bangar, Temburong
Haji Buntar bin Metahir	Labu
Awang Mohd. Yassin bin Haji Ismail	Batu Apoi

NOTE: *The four Imams for Brunei Town will act in rotation each Imam acting for one week at a time.

THE THIRD SCHEDULE

(Section 130 (1))

STATE OF BRUNEI

The Religious Council, State Custom and Kathi's Court Enactment 1955.

**Appointment of Pegawai Masjid other to Office of Imam
Lantekan Pegawai Masjid selain daripada jawatan Imam**

Name	Appointment	Mosque
Awang Abu Bakar b. Abdulrahman	Dato Imam	Brunei Town
Haji Abu Hanifah bin Mohamed Salleh	Siraja Khatib	-do-
Haji Mohd. Sa'at bin Apong	Tuan Imam	-do-
Haji Matashim bin Matahir	Udanan Khatib	-do-
* Haji Metali bin Matyassin	Khatib	-do-
* Haji Moxsin bin Othman	Khatib	-do-
* Haji Ali Hussin bin Mohamed	Khatib	-do-
* Haji Sulaiman bin Matyassin	Khatib	-do-
† Haji Abd. Mo'min bin Tarip	Mudim	-do-
† Haji Bakar bin Mat Salleh	Mudim	-do-
† Haji Ismail bin Mat Seruddin	Mudim	-do-
† Haji Adanan bin Haji Mokti	Mudim	-do-
Awang Hassan bin Mat Seruddin	Merbut	-do-
Dullah bin Labai Abd. Rahman	Bilal	Kuala Belait
Awang Tengah bin Mat Seruddin	Bilal	Seria
Mohamed bin Abd. Razak	Bilal	Tutong
Pengiran Damit bin Pengiran Ghani	Bilal	Batu Apoi

NOTE : *The 4 Khatibs for Brunei Town will act in rotation each Khatib acting for one week at a time.

4 Khatib bagi Bandar Brunei akan menjalan kan pekerjaan bergilir2 iaitu sa-orang Khatib pada saminggu.

†The 4 Mudims for Brunei Town will act in rotation each Mudim acting for one week at a time.

4 Mudim bagi Bandar Brunei akan menjalan kan perkerajaan bergilir2 iaitu sa-orang Mudim pada saminggu.

THE FOURTH SCHEDULE

(Section 143 (1) & (4))

STATE OF BRUNEI

**The Religious Council, State Custom and Kathi's Court Enactment 1955.
Certificate of Marriage and Particulars of Marriage Fees**

Surat keterangan Nikah dan hal bayaran Nikah

To be issued in duplicate

Di-Keluarkan dua salinan

Registry No.
Bilangan register

Husband's Name and Nationality
Nama suami dan Bangsa

Wife's Name and Nationality
Nama isteri dan Bangsa

Wali or Wakil
Wali atau Wakil

Witnesses
Saksi-saksi

Mahar
Barian

Where marriage solemnized
Tempat nikah

Fee \$1.00
Bayaran \$1.00

Kathi

THE FIFTH SCHEDULE

(Section 143(5), 144(2), 145(2) and (3), 146(2) and 147(4))

STATE OF BRUNEI

The Religious Council, State Custom and Kathi's Court Enactment 1955.

Certificate of Divorce and Particulars of Divorce fees
Surat keterangan Talak dan hal bayaran talak

To be issued in duplicate
Di-Keluarkan dua salinan

Registry No.
Bilangan register

Husband's Name and Nationality
Nama suami dan Bangsa

Wife's Name and Nationality
Nama isteri dan Bangsa

Nature of Divorce
Taraf Talak

Residence of Parties
Tempat kediaman suami dan isteri

Date of Divorce
Tarikh talak

Fee \$1.00
Bayaran \$1.00

Kathi

THE SIXTH SCHEDULE

(Section 150(3))

STATE OF BRUNEI

The Religious Council, State Custom and Kathi's Court Enactment 1955.

Rehabilitation Certificate

Surat keterangan rojok

To be issued in duplicate

Di-keluarkan dua salinan

Registry No.
Bilangan register

Original Marriage Certificate No.
Bilangan Surat Nikoh Mula2

Date
Tarikh

Original Divorce Certificate No.
Bilangan Surat Talak Mula2

Date
Tarikh

Husband's Name and Nationality
Nama Suami dan Bangsa

Wife's Name and Nationality
Nama Isteri dan Bangsa

Name of Witnesses
Saksi-saksi

Fee \$2.00
Bayaran \$2.00

Kathi

THE SEVENTH SCHEDULE

(Section 152 (2))

STATE OF BRUNEI

The Religious Council, State Custom and Kathi's Court Enactment 1955.

Register of Marriage
Daftar Nikah

Number	Husband's name and Nationality Nama Suami dan Bangsa	Wife's Name and Nationality Nama Isteri dan Bangsa	Name of Wali and Wakil Nama Wali atau Wakil	Name of Witnesses Nama Saksi-saksi	Mahar (Barian)	Amount still due if any Mahar di-bayar jelas atau bertanggoh	Where marriage solemnized Tempat nikah	Husband's age Umur suami	Wife's age Umur Isteri	Date Tarikh
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Kathi.

THE EIGHTH SCHEDULE

STATE OF BRUNEI

The Religious Council, State Custom and Kathi's Court Enactment 1955.

Register of Divorce

Daftar Cherai

Number	Husband's name and Nationality Nama Suami dan Bangsa	Wife's Name and Nationality Nama Isteri dan Bangsa	Nature of Divorce Taraf Talak	Name of Witnesses Nama Saksi-saksi	Husband's Age Umur suami	Wife's Age Umur Isteri	Residence of Parties Tempat kediaman suami dan isteri	Date Tarikh	Remarks.

Kathi.

THE NINTH SCHEDULE

(Section 153)

STATE OF BRUNEI

The Religious Council, State Custom and Kathi's Court Enactment 1955.

Fees for inspection of Documents
Bayaran kerana memeriksa surat2

I hereby certify that the above is a true copy of
Saya mengaku yang di-atas ini ia-lah salinan

..... and that the fee of \$1.00 has been
..... yang benar dan bayaran \$1.00 telah

paid in respect thereof.
di-bayar untuk ini.

Registrar
Pendaftar

Passed this 6th day of December, 1955.

(sd.) Mohamed Taib,
Clerk of Council.

EXPLANATORY NOTE

The object of this Enactment is to make provision for the establishment of a Religious Council and Malay Customary law as practised in the State and for Kathis Courts.

2. Provision is made for the establishment of a Religious Council to be known in Malay as the "Majlis Ugama Islam dan Adat Istiadat Negeri". In the Enactment the expressions "Adat Istiadat Negeri" and "State Custom" are defined as meaning "Adat Istiadat Melayu yang di-pakai di Negeri ini" meaning "Malay Custom as practised in the State" respectively.

3. The Majlis is a corporation sole with right to sue and be sued, to hold property and to make contracts etc. (sections 7-10).

4. The property previously registered in the name of the Brunei Town Mosque and managed by Pehin Laksamana Haji Taha is vested in the Majlis together with all rights and powers formerly vested in the said Pehin (sections 11 and 12).

5. The Majlis will consist of a President, Vice-President and not less than six other members (section 13).

6. The Sultan may appoint a member of the Majlis to be State Custom, Religious and Welfare Officer and may also appoint a Secretary to the Majlis (section 14).

7. Provisions for the cancellation of appointments and for temporary appointments are contained in sections 15 and 16 respectively.

8. Sections 19-37 provide the manner in which proceedings of the Majlis shall be conducted including the powers and duties of the Secretary (section 26) and provision for casual absence from the State of Members of the Majlis (section 31).

9. The Majlis will be the chief authority in the State to aid and advise the Sultan as Head of the Religion of the State on all matters relating to religion and State Custom (section 38), and in so doing the Majlis shall follow the written laws of the State, the Hukum Shara and either the ancient custom of the State or Malay customary law as the Majlis considers proper (section 39).

10. The Sultan may appoint a Mufti for the State and, in the case of any vacancy in that appointment, the powers and duties of the Mufti shall be carried out by the State Custom, Religious and Welfare Officer (section 40).

11. There shall be a Legal Committee of the Majlis consisting of the Mufti, not less than two other Members of the Majlis and not less than six other persons (section 41). Any person may request the Majlis to make a *fetua* or ruling on any point of Muslim law and the Legal Committee shall consider every such request and, unless there is good reason not to do so, shall issue a ruling thereon which shall be published in the *Gazette* (section 42).

All *fetuas* or rulings of the Majlis whether or not made on the request of any person shall, if published in the *Gazette*, be binding on all Muslims resident in the State other than Muslims not being of the Malay race who are subject to a personal law other than that obtaining in Brunei (section 43).

12. Section 44 provides for the establishment of a Judicial Committee. This Committee will hear appeals from Kathis' Courts and will also decide questions of Muslim law or doctrine or State Customary law referred to it by any non-Religious Court.

13. Part III of the Enactment provides for the establishment of Religious Courts which shall consist of the Court of the Chief Kathi and Courts of Kathis. The jurisdiction of these Courts is set out in sections 47 and 48. Section 49 makes provision for appeals from Religious Courts to the Sultan in Religious Council and makes further provision that the Sultan may refer any such appeal to the Judicial Committee.

14. Section 50 provides that, where the Probate Officer refers any matter to the Court of the Chief Kathi in connection with the will or estate of a deceased Muslim, the Chief Kathi shall, after hearing such evidence as he considers necessary and, if he thinks fit or the Majlis so directs or any interested party so requests, after reference to the Judicial Committee, make a written statement answering the points raised by the Probate Officer.

15. Sections 51 - 61 lay down the general procedure in Courts and provide among other things that Advocates and Solicitors may only appear when they are permitted to do so by Muslim law and may be required to plead in Malay (section 54). The ordinary rules of evidence as applied in non-Religious Courts shall, subject to the provisions of Muslim law, apply in the Religious Courts.

16. Sections 62 to 79 lay down the procedure to be adopted in criminal proceedings. The procedure in the main follows that in force in non-Religious Courts. Proceedings for offences relating to breaches of secrecy (section 182) unlawful mosques (section 183), teaching any false doctrine (section 185), issuing of any unauthorised *fatua* or ruling (section 186), printing, publishing, selling or importing religious books containing false doctrines (section 188), and contempts of the Muslim religion (section 190) can only be instituted with the prior sanction of the Majlis (section 62).

17. Sections 80 to 96 lay down the procedure to be adopted in civil proceedings. This procedure in substance follows that in force in the non-Religious Courts.

18. Part IV of the Enactment contains the financial provisions and deals with charitable trusts, accounts, audit, etc. *zakat* and *fitrah* and charitable collections.

19. Sections 97 to 106 which relate to charitable trusts provide among other things for the establishment and management, subject to the Sultan's directions, by the Majlis of a General Endowment Fund (section 98). This fund shall consist of all property vested from time to time in the Majlis and shall include the investments and assets of the former Mohammadan Fund and all property which prior to this Enactment would have vested in that Fund (sections 97 to 99).

20. Section 100 gives the Majlis power to control all charitable trusts created by Muslims domiciled in Brunei for religious purposes or for the benefit of Muslims in accordance with Muslim law, and all such property shall, if situate in Brunei, vest in the Majlis (section 101).

21. Section 102 invalidates any charitable trust of *wakaf khas* or *nazr* made after the commencement of the Enactment unless made with the prior approval of the Sultan or in the course of a fatal illness and duly witnessed by an approved person. The capital of such trusts shall, subject to certain exceptions, be held as segregated funds and not form part of the General Endowment Fund.

22. Sections 107 to 113 relate to accounts, annual reports, audits, estimates, expenses of the Majlis bankers and financial statements. Annual reports and balance sheets relating to the General Endowment Fund shall be published in the *Gazette* as soon as possible after the 31st of December in each year and all accounts shall be audited and certified by the State Auditor or one of his officers (sections 107 and 108). A list of all property subject to charitable trusts duly audited shall be published in the *Gazette* at least once in every three years (section 109).

23. Estimates shall be prepared and submitted to the Sultan before the 31st of October in each year in respect of the ensuing year. Additional estimates may however be submitted at other times. No moneys shall be expended or disposed of except in accordance with approved estimates and upon vouchers signed by the President or the Vice-President of the Majlis (section 110).

24. Section 111 provides that proper expenses of the Majlis may be paid out of the General Endowment Fund.

25. Provision for the appointment by the Majlis of bankers and the payment into and withdrawal of moneys from bank accounts is made in section 112.

26. Financial statements showing details of all current transactions are to be placed before the Majlis monthly and after consideration and approval are to be submitted to the Sultan (section 113).

27. Sections 114 to 121 relate to the payment of the taxes known as *zakat* and *fitrah*. These taxes are not at present paid in Brunei and the provisions will not be brought into force until the Sultan so directs. Provision is made for the preparation of assessment lists and of the making of objections thereto (section 115). *zakat* is only payable by persons who produce more than four hundred gantangs (one gantang = $1\frac{1}{4}$ lbs.) of padi in every year and such persons are required to pay 5% of that rice to the Majlis on behalf of the Sultan. *Fitrah* is a poll tax, and, subject to exemptions on the grounds of poverty, is payable at the rate of one gantang of rice for every two members in the household. *zakat* is payable in padi and *fitrah* in rice but persons liable to pay padi may repurchase the same from the Majlis or the Imam concerned and persons liable to pay rice may purchase the same from any *pegawai masjid* at approved prices (section 118 and 119). Provision is made in section 120 for the issuing of receipts and the keeping of assessment lists, accounts and other documents. All rice and money obtained as a result of *zakat* and *fitrah* is, subject to the directions of the Sultan, to be sold and realised and paid into the General Endowment Fund.

28. Provision is made in section 122 for collection by persons licensed in that behalf of moneys for charitable purposes for the benefit of the Islamic religion and of Muslims. All moneys so collected may be applied for any particular charitable purpose but shall, in default of being so applied, be paid into the General Endowment Fund.

29. Part V (sections 123 to 133) deals with mosques and the powers and duties of mosque officials or *pegawai masjid*. The Majlis shall be the sole trustee of all mosques in the State and nobody is allowed to build a mosque without permission of the Majlis (sections 123 and 124). The Majlis shall be responsible for keeping mosques in good repair and may collect or authorise the collection of funds for this purpose or pay for such repairs from the General Endowment Fund (section 125). Power of closure and demolition of mosques is given to the Majlis but any money realised as a result thereof must be kept for the erection, maintenance or repair of other mosques (section 126).

30. The Second and Third Schedules contains a list of Imams and other *pegawai masjid* who will take office when the Enactment comes into operation. Provision for the fresh appointment and removal of such officials is contained in sections 129 to 131.

31. The Majlis are empowered to fix the boundaries of mosque districts or *mukim masjid* and Muslims in any such district should normally attend their own mosque (sections 127 and 133).

32. Part VI (sections 134 to 155) lays down detailed provision based on Muslim law relating to the marriage, divorce, resumption of conjugal relationship and settling of family quarrels, etc., of Muslims. Provision is made for the registration of marriages and divorces etc. and for the issue of certificates and keeping of registers in connection therewith including the issue of certificates presuming death (sections 143, 144, 150 and 151). Normally the register will be kept by the appropriate Kathi and compiled from particulars inserted by the Registrars on the counterfoils of licences issued by them (section 152). Section 154 gives a right of appeal to the Judicial Committee where the Registrar is the Chief Kathi or a Kathi. In other cases an appeal lies under that section to the Kathi of the appropriate district.

33. Part VII (sections 156 to 163) deals with the Maintenance of dependants and takes the place of Chapter XXXIII of the Penal Code in the case of any claims for maintenance by one Muslim against another (section 157). Maintenance can be awarded in the case of wives, ex wives children, whether or not legitimate who cannot support themselves, and infirm and diseased persons who are not eligible for any pension or allowance under the State Pensions Enactment, 1954 (No. 10 of 1954). See sections 158 to 161.

34. Part VIII (sections 164 to 168) makes provision for the conversion of persons to the Islamic religion and lays down the procedure to be adopted. A convert must be over fourteen years and seven months of age (section 167) and no minor may be taken from the custody of his natural or lawful guardian without the consent of such guardian (section 167(7)).

35. Part IX (sections 169 to 195) lays down various offences and prescribes penalties therefor. The penalties mentioned are maximum penalties and there is nothing to prevent the Court concerned inflicting lesser ones. The offences relating to *zakat* and *fitrah* (sections 191 and 192) will not take effect until the Sultan so directs (section 1(2)). Section 173 contains a rebuttable presumption that an employer has abetted an employee who has sold liquor or food in contravention of section 171 or 172.

36. Part X (sections 196 to 204) contains general provisions including the supervision of officers (section 186), the establishment and administration of a provident fund (section 198), the protection of the Majlis, its Members and employees (section 199), the validation of certain judgments etc. (section 200), the making of rules and the amendment of the Schedules by Order of the Sultan in Religious Council (sections 202 and 203) and the repeal of various Enactments (section 204).

37. This Enactment is based on the corresponding Enactment of the State of Kelantan which has been modified to suit conditions in Brunei.