

CONSTITUTION OF BRUNEI DARUSSALAM

(Order under section 83(3))

CURRENCY AND MONETARY ORDER, 2004

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CONSTITUTION OF BRUNEI DARUSSALAM

(Order under section 83(3))

CURRENCY AND MONETARY ORDER, 2004

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Order –

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Currency Order, 2004 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*. *[S 104/2010]*

(2) The long title of this Order is “An Order to establish a Brunei currency and for purposes connected therewith or incidental thereto”. *[S 104/2010]*

Interpretation.

2. In this Order, unless the context otherwise requires –

“Authority” means the Autoriti Monetari Brunei Darussalam established by section 3 of the Autoriti Monetari Brunei Darussalam Order, 2010; *[S 104/2010]*

“bank” means a bank licensed under sections 4 or 23 of the Banking Order, 2006 (S 45/06) and an Islamic bank licensed under sections 4 or 23 of the Islamic Banking Order, 2008 (S 96/08); *[S 104/2010]*

“currency” means currency notes and coins which are legal tender in Brunei Darussalam; *[S 104/2010]*

BLUV as at 16th December 2010

“demand liabilities” means the Authority’s currency notes and coins in circulation and its other demand liabilities; *[S 104/2010]*

“foreign exchange” means foreign currencies and claims in and to foreign currencies;

“Minister” means the Minister of Finance.

PART II
TRANSFER OF FUNCTIONS, PROPERTY, LIABILITIES AND EMPLOYEES
TO AUTHORITY *[S 104/2010]*

Authority to administer Order. *[S 104/2010]*

3. (1) The Authority shall be charged with the general administration of this Order and the exercise of the functions and duties imposed on the Authority by this Order.

(2) The Authority may authorise any person to assist it in the exercise of its functions and duties under this Order, either generally or in a particular case.

[S 104/2010]

Transfer to Authority of property, assets and liabilities. *[S 104/2010]*

4. (1) As from the appointed day, such movable and immovable property vested in the Board as may be determined by the Minister and all assets, interests, rights, privileges, liabilities and obligations of the Board shall be transferred to and shall vest in the Authority without further assurance, act or deed.

(2) If any question arises as to whether any particular property, asset, interest, right, privilege, liability or obligation has been transferred to or vested in the Authority under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation was or was not so transferred or vested.

(3) Any immovable property to be transferred to and vested in the Authority under subsection (1) shall be held by the Authority upon such tenure and subject to such conditions as the Minister may determine.

(4) Every proceedings by or against the Board which are pending on the appointed day may be continued, completed and enforced by or against the Authority.

(5) Every agreement relating to any of the transferred properties to which the Board was a party immediately before the appointed day, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that day as if –

(a) the Authority had been a party to such an agreement; and

(b) for any reference to the Board there were substituted in respect of anything to be done on or after the appointed day a reference to the Authority.

(6) It is hereby declared for the avoidance of doubt that –

(a) any reference in this Part to property vested in the Board is a reference to such property of the Board whether situated in Brunei Darussalam or elsewhere; and

(b) any such reference to rights and liabilities of the Board is a reference to such rights to which the Board is entitled or, as the case may be, such liabilities to which the Board is subject, whether under the laws of Brunei Darussalam or any country or territory outside Brunei Darussalam and includes rights and liabilities arising under loans raised by the Board.

[S 71/2004; S 104/2010]

Transfer of employees. *[S 104/2010]*

5. (1) As from the appointed day, all persons employed immediately before that day by the Board shall be transferred to the service of the Authority on terms no less favourable than those enjoyed by them immediately prior to their transfer.

(2) Until such time as conditions of service are drawn up by the Authority, the scheme and conditions of employment in the Board shall continue to apply to every person transferred to the service of the Authority under subsection (1) as if he were still in the employment of the Board. *[S 104/2010]*

Service rights etc. of transferred employees to be preserved. *[S 104/2010]*

6. (1) The conditions to be drawn up by the Authority shall take into account the salaries and conditions of service, including any accrued rights to leave, enjoyed by the persons transferred to the service of the Authority under section 5 while in the employment of the Board.

(2) Any condition relating to the length of service with the Authority shall provide for the recognition of employment under the Board by the persons transferred under section 5 to be service by them under the Authority. *[S 104/2010]*

Existing contracts. *[S 104/2010]*

7. All deeds, bonds, agreements, instruments and arrangements subsisting immediately before the appointed day to which the Board is a party shall continue in force on and after that day and shall be enforceable by or against the Authority as if the Authority had been named therein or had been a party thereto instead of the Board. *[S 104/2010]*

Continuation and completion of disciplinary proceedings. *[S 104/2010]*

8. (1) Where on the appointed day any disciplinary proceedings were pending against any employee of the Board transferred to the service of the Authority under section 5, the proceedings shall be carried on and completed by the Authority.

(2) Where on the appointed day any matter was in the course of being heard or investigated or had been heard or investigated by a committee acting under due authority but no order, ruling or direction had been made thereon, the committee shall –

(a) complete the hearing or investigation; and

(b) make such order, ruling or direction as it could have made under the authority vested in it before that day.

(3) Any order, ruling or direction made by a committee under this section shall be treated as an order, a ruling or a direction of the Authority and have the same force or effect as if it had been made by the Authority pursuant to the authority vested in the Authority under this Order. *[S 104/2010]*

Misconduct or neglect of duty by employee before transfer. *[S 104/2010]*

9. The Authority may reprimand, reduce in rank, retire, dismiss or punish in some other manner a person who had, whilst he was in the employment of the Board, been guilty of any misconduct or neglect of duty which would have rendered him liable to be reprimanded, reduced in rank, retired, dismissed or punished in some other manner if he had continued to be in the employment of the Board and if this Order had not been made. *[S 104/2010]*

Interpretation of this Part. *[S 104/2010]*

10. In this Part –

“appointed day” means the date of commencement of the Currency and Monetary (Amendment) Order, 2010;

“Board” means the Brunei Currency and Monetary Board. *[S 104/2010]*

11. *(Repealed by S 104/2010).*

**PART III
CURRENCY**

Currency of Brunei Darussalam.

12. (1) The unit of currency of Brunei Darussalam shall be the Brunei dollar which shall be divided into 100 cents.

(2) The abbreviated form of the Brunei dollar shall be “B\$” or “BND”.

Authority's sole right to manage and issue currency. [S 104/2010]

13. (1) The Authority shall have the sole right to manage and to issue currency notes and coins in Brunei Darussalam and only currency notes and coins issued by the Authority shall be legal tender in Brunei Darussalam. [S 104/2010]

(2) Subject to the provisions of this Order, no person shall issue any currency notes or coins, or any document or token, which resembles or is likely to pass as legal tender.

(3) Any person who contravenes subsection (2) is guilty of an offence and liable on conviction to a fine, imprisonment for a term not exceeding 15 years or both.

(4) In any criminal proceedings in which the genuineness of any currency note or coin shall be in question, a certificate signed by an officer of the Authority authorised by the Authority in writing in that behalf that he is satisfied by personal examination that such note or coin is or is not forged, shall be held to be conclusive evidence of the same, and no officer of the Authority shall be cross-examined with regard to the contents of such certificate unless the court otherwise orders. [S 104/2010]

(5) Nothing in this section shall be construed as limiting or affecting the provisions of the Penal Code (Chapter 22).

Power to buy and sell currency notes and coins. [S 104/2010]

13A. (1) The Authority may, in its discretion, buy and sell currency notes and coins against gold, silver or foreign currencies eligible for inclusion in the reserve of the external assets specified under section 24.

(2) The Authority shall be entitled to charge a commission at such rate or rates as maybe determined for any currency notes or coins bought or sold by the Authority under this section.

Mutilating, destroying or defacing currency notes and coins.

14. (1) Any person who –

- (a) mutilates or destroys any currency note or coin;
- (b) causes any change in a coin so as to destroy or diminish its value or utility;
- (c) prints or stamps, or by any like means, writes or impresses, on any currency note any mark, word, letter or figure; or
- (d) defaces any coin by stamping thereon any name or word, whether the coin is or is not thereby diminished or lightened,

is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

(2) Nothing in this section shall be construed as limiting or affecting the provisions of the Penal Code (Chapter 22).

Printing of notes and minting of coins.

15. (1) The Authority shall –

- (a) arrange for the printing of currency notes and the minting of coins and for all matters relating thereto and for the security of such notes and coins; and
- (b) issue, receive and, in its discretion, exchange currency notes and coins in Brunei Darussalam and at such agencies elsewhere as it may establish or appoint for such purposes. *[S 104/2010]*

(2) The minting facility shall be managed as a separate entity and shall be independent from the management of the Authority. *[S 104/2010]*

Reissue and exchange of currency notes and coins.

16. (1) The Authority shall arrange for the reissue and exchange of currency notes and coins subject to such conditions as it may determine. *[S 104/2010]*

(2) The Authority shall be entitled to –

- (a) charge any person or class of persons such fee as may be prescribed for the reissue and exchange of currency notes and coins with the Authority;
- (b) determine the minimum amount of currency which it will issue or redeem in respect of any one transaction; and

(c) determine the hours during which it will issue and redeem currency.

[S 104/2010]

Denominations, weights and designs.

17. (1) The Authority shall, with the approval of His Majesty the Sultan and Yang Di-Pertuan, determine the denominations, forms and designs of currency notes and coins, and the standard weights and composition of coins together with the amount of remedy and variation allowed.

[S 104/2010]

(2) The dies, plate and other instruments or materials used for the printing of currency notes and the currency notes printed shall be prepared and kept, or issued and destroyed, as the case may be, in accordance with any direction of the Authority.

[S 104/2010]

(3) The dies and other instruments or materials used for the minting of coins and the coins minted shall be prepared and kept, or issued and destroyed, as the case may be, in accordance with any direction of the Authority.

[S 104/2010]

(4) The Authority shall publish in the *Gazette* the denomination and other characteristics of currency notes and coins issued by it.

[S 104/2010]

Legal tender.

18. (1) Currency notes issued by the Authority, if the notes have not been illegally dealt with, shall be legal tender up to their face value for the payment of any amount.

[S 104/2010]

(2) Coins issued by the Authority, if the coins have not been illegally dealt with, shall be legal tender up to their face value in Brunei Darussalam as follows –

[S 104/2010]

(a) in the case of coins of a denomination exceeding \$1 - for the payment of any amount;

(b) in the case of coins of a denomination of 50 cents and \$1 - for the payment of any amount not exceeding \$10; and

(c) in the case of coins of a denomination lower than 50 cents - for the payment of any amount not exceeding \$2.

- (3) For the purposes of this Order –
- (a) a currency note shall be deemed to have been illegally dealt with where it has been impaired, diminished or affected otherwise than by fair wear and tear, or has been defaced by writing or impressing on it any mark, word, letter or figure or by perforation, cutting, splitting or in any other manner, whether the note has or has not been thereby impaired or diminished; and
- (b) a coin shall be deemed to have been illegally dealt with where it has been impaired, diminished, or lightened otherwise than by fair wear and tear, or has been defaced by having any mark stamped or engraved thereon, whether the coin has or has not been thereby diminished or lightened.

Lost and damaged currency.

19. (1) No person shall be entitled to recover from the Authority the value of any lost, stolen, mutilated or imperfect currency note or coin. *[S 104/2010]*

(2) The circumstances and conditions under which such value may be refunded as of grace shall be within the absolute discretion of the Authority. *[S 104/2010]*

(3) Mutilated currency notes or coins, or currency notes or coins that have been illegally dealt with, shall be repossessed by any officer of the Authority or other person, authorised by the Authority, in writing in that behalf when tendered to the Authority or to such other person, as the case may be. *[S 104/2010]*

Demonetisation of currency notes and coins.

20. (1) Notwithstanding the provisions of section 18, the Authority shall have power, on giving not less than 3 months notice, to withdraw in any currency notes and coins on payment of the face value thereof and any such notes or coins shall, on the expiration of such notice, cease to be legal tender. *[S 104/2010]*

(2) Any such notice shall give holders of the currency notes and coins to be withdrawn, a reasonable period being not less than 6 months, within which such notes or coins shall be exchanged at their face value for other legal tender issued by the Authority.

[S 104/2010]

Restriction on use of photographs etc. of currency notes and coins in advertisements etc.

21. (1) No person shall, except with the permission of the Authority – *[S 104/2010]*

(a) use any photograph of, or any drawing or design resembling, in any size, scale or colour, any currency note or coin or part thereof, in any advertisement; or

(b) import, manufacture, sell, circulate or otherwise distribute any merchandise or product containing such photograph, drawing or design, in any size, scale or colour.

(2) No person shall, except with the permission of the Authority, import, manufacture, sell, circulate or otherwise distribute any merchandise or produce containing any design or part thereof, used in or on, any currency note or coin. *[S 104/2010]*

(3) The Authority may, in granting permission under subsection (1) or (2), impose such conditions it considers necessary. *[S 104/2010]*

(4) No person shall make or issue a piece of gold, silver, copper, nickel, bronze or any other material whether metal or otherwise, of any value, resembling or similar to any coin issued under this Order or any other written law relating to the issue of currency.

(5) Any person who contravenes this section is guilty of an offence and liable on conviction to a fine, imprisonment for a term not exceeding 15 years or both.

(6) Nothing in this section shall be construed as limiting or affecting the provisions of the Penal Code (Chapter 22).

Monetary obligations etc. deemed in Brunei dollars.

22. All monetary obligations or transactions in Brunei Darussalam shall be deemed to expressed and recorded, and shall be settled in the Brunei dollar unless otherwise provided for by law or validly agreed upon between the parties.

**PART IV
ASSETS, RESERVES AND POWERS**

Currency Fund. *[S 104/2010]*

23. (1) The Authority shall establish a Currency Fund which shall be maintained and managed by the Authority in the manner prescribed in this Order.

(2) There shall be paid into the Currency Fund –

(a) all gold, silver and foreign currencies bought by the Authority under section 13A of this Order; and

(b) the proceeds of any transactions under subsection (6)(b), less all expenses incurred in connection therewith.

(3) The Authority may charge on the Currency Fund any expense properly incurred by or on behalf of the Authority in connection with the execution of its functions under this Order, including expenses relating to –

(a) the investment of the Currency Fund;

(b) the issue and demonetisation of currency notes and coins and the transaction of any business relating to such currency; and

(c) the protection of currency notes and coins against forgery or counterfeiting.

(4) Subject to this Order, the Currency Fund shall not be applied for any other purpose.

(5) The Authority shall maintain adequate liquidity in the Currency Fund to meet all demands under normal market conditions.

(6) Notwithstanding anything in subsections (1) to (4), the Authority may –

(a) use any coin held for the account of the Currency Fund for the purpose of having it reminted into current coin; and

(b) sell any coin held for the account of the Currency Fund.

(7) The value of the Currency Fund and its assets for any purpose of this Order shall be determined by such method as the Authority may adopt.

(8) If at any time the value of the Currency Fund determined by the Authority under subsection (7) exceeds 100 *per cent* of the face value of the Authority's currency notes and coins then in circulation, the Authority may direct that the whole or part of such excess be transferred from the Currency Fund to the other funds of the Authority.

(9) If at any time the face value of the Authority's currency notes and coins in circulation exceeds the value of the Currency Fund, the deficiency shall be made up from the other funds of the Authority and, if such funds are insufficient, the balance of the deficiency shall be charged on and paid out of the Consolidated Fund.

(10) In preparing the financial statements relating to the Currency Fund, the Authority may comply with accounting standards to the extent that it is, in the opinion of the Authority, appropriate to do so, having regard to the objects and functions of the Authority under this Order or the Autoriti Monetari Brunei Darussalam Order, 2010. [S 104/2010]

External assets.

24. (1) The external assets of the Currency Fund shall consist of all or any of the following and shall at all times be not less than 100 *per cent* of the face value of the currency issued by the Authority – [S 104/2010]

(a) and silver in any form; [S 104/2010]

- (b) foreign exchange in the form of –
 - (i) demand or time deposits;
 - (ii) bank balances and money at call;
 - (iii) Treasury Bills and short-term Government securities;
 - (iv) notes and coins;
- (c) securities, of or guaranteed by, foreign Governments or international financial institutions; and
- (d) any other external investment instruments which the Authority unanimously considers suitable for inclusion. [S 104/2010]

(2) The external assets of the Authority net of any external liabilities shall at all times be not less than 100 *per cent* of the face value of the currency issued by the Authority: [S 104/2010]

Provided that the percentage may be varied on an unanimous resolution of the Authority, with the approval of His Majesty the Sultan and Yang Di-Pertuan, to that effect. [S 104/2010]

(3) The Authority shall not incur external liabilities apart from those to international monetary institutions. [S 104/2010]

- (4) Liquid assets shall –
- (a) consist of gold, notes and coins, bank balances, money at call with banks and Treasury Bills and short-term Government securities; and
 - (b) amount to not less than 30 per cent of the face value of the currency issued by the Authority. [S 104/2010]

- (5) The securities and other external investment instruments shall –
- (a) be readily marketable; and
 - (b) for the purpose of subsection (1), be valued in accordance with the accounting standards adopted by the Authority. [S 104/2010]

25. *(Repealed by S 104/2010).*

26. *(Repealed by S 104/2010).*

27. *(Repealed by S 104/2010).*

28. *(Repealed by S 104/2010).*

PART V
MISCELLANEOUS

29. *(Repealed by S 104/2010).*

30. *(Repealed by S 104/2010).*

31. *(Repealed by S 104/2010).*

32. *(Repealed by S 104/2010).*

33. *[S 39/2007; Repealed by S 104/2010].*

34. *[S 39/2007; Repealed by S 104/2010].*

Regulations.

35. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations which are necessary or expedient for giving effect to and carrying out the provisions of this Order, including the prescription of fees and of any other thing required to be prescribed under this Order, and for the due administration thereof.

(2) Such regulations may include such incidental, consequential and supplementary provisions as the Minister considers necessary or expedient.

Repeal of Chapter 32.

36. (1) The Currency Act is repealed.

(1A) Notwithstanding the generality of subsection (1), on the commencement of this Order –

(a) all assets and liabilities of the Brunei Currency Authority established by subsection (1) of section 3 of the Currency Act (Chapter 32) (repealed by this Order) are hereby transferred to and shall vest without further assurance, in the Brunei Currency and Monetary Authority, and the Brunei Currency and Monetary Authority shall have all powers necessary to take possession of, recover and deal with such assets and discharge such liabilities;

(b) all currency notes and coin issued by the Brunei Currency Authority prior to the commencement of this Order shall for all purposes be deemed to have been issued by the Brunei Currency and Monetary Authority;

(c) all assets and monies in the Reserve Fund established by subsection (1) of section 21 of the Currency Act (Chapter 32) (repealed by this Order) are hereby transferred to and shall vest without further assurance in the Reserve Fund established by subsection (1) of section 28 of this Order;

(d) where there are any accounts of the Brunei Currency Authority which on the commencement of this Order had not been audited by the Auditor General under subsection (1) of section 26 of the Currency Act (Chapter 32) (repealed by this Order), the Auditor General shall forthwith cause such accounts to be audited and to be signed by the Chief Executive Officer and one other member of the Brunei Currency and Monetary Authority, and shall thereafter transmit copies of such signed accounts duly certified by him to His Majesty the Sultan and Yang Di-Pertuan and to the Minister and shall submit to His Majesty the Sultan and Yang Di-Pertuan and to the Minister reports on the operation of the Brunei Currency Authority for the years to which those accounts respectively relate as if subsection (2) of section 27 of the Currency Act (Chapter 32) (repealed by this Order) had not been so repealed;

(e) any permission, consent, approval, authorisation or other decision granted, given or made by the Brunei Currency Authority and every deed or other instrument to which the Brunei Currency Authority was a party or which affected the Brunei Currency Authority shall for all purposes, so far as it is not inconsistent with the provisions of this Order and except as otherwise may be expressly provided in this Order or in any other written law, continue and be deemed to have been granted, given or made by the Brunei Currency and Monetary Authority under the corresponding provisions of this Order;

(f) any proceedings pending on the commencement of this Order shall, so far as they are not inconsistent with the provisions of this Order or of any other written law, continue as if the Brunei Currency and Monetary Authority was a party thereto in lieu of the Brunei Currency Authority;

(g) where in any other written law reference is made to the Brunei Currency Authority, such reference shall *mutatis mutandis* be read as a reference to the Brunei Currency and Monetary Authority. [S 59/2005]

(2) All subsidiary legislation made and anything done under the Currency Act (Chapter 32) (repealed by this Order) and in force immediately prior to the coming into operation of this Order shall, so far as it is not inconsistent with the provisions of this Order, continue in force as if made under this Order.

Made this 10th. day of Zulhijjah, 1424 Hijriah corresponding to the 1st. day of February, 2004 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.**