

No. S 103

**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

AUTORITI MONETARI BRUNEI DARUSSALAM ORDER, 2010

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CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))

AUTORITI MONETARI BRUNEI DARUSSALAM ORDER, 2010

In exercise of the power conferred by Article 83(3) 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 Autoriti Monetari Brunei Darussalam Order, 2010 and shall commence on the 1st. day of January, 2011.

(2) The long title of this Order is "An Order to establish and incorporate the Autoriti Monetari Brunei Darussalam to act as the central bank of Brunei Darussalam, to formulate and implement monetary policy, to advise the Government on monetary arrangements and to supervise financial institutions, and to provide for the transfer to it certain other functions and assets of the Government and for matters connected therewith or incidental thereto".

Interpretation.

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

"Authority" means the Autoriti Monetari Brunei Darussalam established by section 3(1);

"bank" means —

(a) in relation to Brunei Darussalam, a bank licensed under sections 4 or 23 of the Banking Order, 2006 (S 45/06), an international bank licensed under section 7 of the International Banking Order, 2000 (S 53/00) and an Islamic bank licensed under sections 4 or 23 of the Islamic Banking Order, 2008 (S 96/08);

(b) in relation to any country, territory or place outside Brunei Darussalam, a person lawfully carrying on therein business corresponding in whole, in part or in substance to "banking business" as defined in section 2(1) of the Banking Order, 2006 (S 45/06) or in section 2(1) of the International Banking Order, 2000 (S 53/00); and includes Islamic banking business as defined in section 2(1) of the Islamic Banking Order, 2008 (S 96/08);

"board" means the board of directors of the Authority established by section 11(1);

"director" means a director of the board appointed under section 12(1);

"financial institution" means —

(a) any insurer registered under the Insurance Order, 2006 (S 48/06) or the Takaful Order, 2008 (S 100/08) or any person licensed under the International Insurance and Takaful Order, 2002 (S 43/02);

(b) any finance company licensed under the Finance Companies Act (Chapter 89);

(c) any person licensed under the Registered Agents and Trustees Licensing Order, 2000 (S 54/00), the Mutual Funds Order, 2001 (S 18/01), the Securities Order, 2001 (S 31/01) or the International Insurance and Takaful Order, 2002 (S 43/02);

(d) any person licensed to carry on any money-changing business or remittance business under the Money-Changing and Remittance Businesses Act (Chapter 174);

(e) such other person licensed, approved or regulated by the Authority under any written law;

"managing director" means the director appointed to be the managing director under section 13(1);

"Minister" means the Minister of Finance;

"Reserve Fund" means the reserve fund to be established under section 7(a).

PART II

ESTABLISHMENT AND CAPITAL OF AUTHORITY

Establishment of Authority.

3. (1) There is hereby established an Authority known as the Autoriti Monetari Brunei Darussalam.

(2) The Authority shall be a body corporate with perpetual succession and a common seal with power, subject to the provisions of this Order, to acquire and dispose of property and to sue and be sued in its corporate name.

(3) All deeds, documents and other instruments requiring the seal of the Authority shall be —

(a) sealed with the common seal of the Authority, by the authority of the Authority in the presence of the managing director and such other person duly authorised by the Authority to act in that behalf; and

(b) signed by the managing director and by such duly authorised person, and such signing shall be sufficient evidence that the common seal of the Authority has been duly and properly affixed and that the seal is the common seal of the Authority.

(4) The Authority may by resolution or otherwise appoint an officer of the Authority or any other person either generally or in a particular case to execute or sign on behalf of the Authority any agreement or other instrument not under seal in relation to any matter coming within the powers of the Authority.

(5) In the pursuit of its objects and the performance of its functions, the Authority shall be autonomous and accountable as provided for in this Order.

Objects of Authority.

4. (1) The principal objects of the Authority shall be —

(a) to achieve and maintain domestic price stability;

(b) to ensure the stability of the financial system, in particular by formulating financial regulation and prudential standards;

(c) to assist in the establishment and functioning of efficient payment systems and to oversee them; and

(d) to foster and develop a sound and progressive financial services sector.

(2) Without prejudice to the above-mentioned principal objects, the Authority shall support the general economic policies of the Government to the extent that it considers to be appropriate.

Office etc. of Authority.

5. (1) The Authority shall have its head office in Brunei Darussalam.

(2) The Authority may open branches and appoint agents and correspondents within or outside Brunei Darussalam.

Capital of Authority.

6. (1) The authorised capital of the Authority shall be \$2,000,000,000.
- (2) The paid-up capital of the Authority shall be \$1,000,000,000.
- (3) The paid-up portion of the authorised capital may be increased by such amount as the Minister may approve and, subject to subsection (4), the Government shall subscribe and pay the amount of such increase to the Authority.
- (4) The payment of such increase in the authorised capital may be made by such other means as the Government, in consultation with the board, may approve.

Reserve Fund and reserve accounts.

7. The Authority shall establish the following reserve funds —
 - (a) a Reserve Fund which shall not be used except for the purpose of covering losses sustained by the Authority;
 - (b) a currency valuation reserve fund which shall be used to account for realised and unrealised gains and losses arising from its positions with foreign currencies;
 - (c) a market valuation reserve fund which shall be used to account for unrealised gains and losses arising from its positions with gold, financial instruments and other assets; and
 - (d) such other funds as the Authority may determine.

Profits, losses and distributable earnings.

8. (1) The net profits or losses determined by the Authority shall be in conformity with the accounting standards adopted by the Authority.
- (2) The earnings available for distribution under section 9 shall be determined —
 - (a) where profits include realised and unrealised foreign currency valuation gains, by deducting the amount of such gains from the net profits and adding the amount to the currency valuation reserve fund;
 - (b) where profits include realised and unrealised foreign currency valuation losses, by adding back such losses to the net profits and deducting the amount from the currency valuation reserve fund to the extent that there are credit funds available in the currency valuation reserve fund to cover such losses;

(c) where profits include market unrealised valuation gains, by deducting the amount of such gains from the net profits and adding the amount to the market valuation reserve fund;

(d) where profits include market unrealised valuation losses, by adding back such losses to the net profit and deducting such losses from the market valuation reserve fund to the extent that there are credit funds available in the market valuation reserve fund to cover such losses.

Allocation of distributable earnings.

9. (1) Within 3 months after the end of every financial year of the Authority, the Authority shall allocate the distributable earnings as follows —

(a) where the total balance of the paid-up capital and the Reserve Fund is less than 20 *per cent* of the total assets at the end of the financial year, 10 *per cent* of the distributable profit is to be transferred to the Reserve Fund until the 20 *per cent* level is met;

(b) where the total balance of the paid-up capital and the Reserve Fund is greater than 20 *per cent* of total assets, 30 *per cent* of the distributable profit is to be transferred to the Reserve Fund and the balance of 70 *per cent* is to be transferred to the Government.

(2) No distribution shall be made out of the current income of the Authority except as permitted by subsection (1).

(3) If in any financial year the Authority incurs negative distributable earnings, these earnings shall first be charged to the Reserve Fund and subsequently be covered by capital.

Coverage of shortfall in capital.

10. Where in the audited annual financial statements of the Authority, the value of its assets falls below the sum of its monetary liabilities and its unimpaired issued capital, then —

(a) the Authority, with the advice of the external auditor of the Authority, shall assess the situation and prepare a report on the causes and extent of the shortfall and assess the situation within a period of no more than 30 days;

(b) if the Authority approves such report, the Authority shall request the Government for a capital contribution to be made by the Government to restore the net capital position to the original amount of the issued capital; and

(c) upon receipt of the request referred in paragraph (b), the Government shall, within a period of not more than 30 days, transfer to the Authority the necessary amount in currency or in negotiable securities with a specified maturity issued at market rates prevailing in Brunei Darussalam as its capital contribution.

PART III

ADMINISTRATION OF AUTHORITY

Board of directors.

11. (1) There shall be a board of directors of the Authority which shall be responsible for the formulation of the policies of the Authority, the supervision of their implementation and the general administration of the affairs and business of the Authority.

(2) The board shall consist of —

(a) a chairman;

(b) a deputy chairman; and

(c) not less than 4 and not more than 7 other directors.

(3) The directors shall be appointed from amongst persons with extensive professional experience in the fields of economics, law, finance or banking.

(4) Without prejudice to the powers conferred on His Majesty the Sultan and Yang Di-Pertuan by the Constitution of Brunei Darussalam and except as otherwise specified in this Order —

(a) the autonomy of the Authority shall be respected at all times;

(b) the directors of the board shall not take instructions from any other person or entity including Government entities; and

(c) no person or entity shall seek to influence the directors of the board in the exercise of their powers or to interfere in the activities of the Authority.

Appointment of directors.

12. (1) His Majesty the Sultan and Yang Di-Pertuan shall appoint the directors of the board.

(2) The directors shall —

(a) not act as delegates on the board from any commercial, financial, agricultural, industrial or other interest with which they are connected;

(b) hold office for a term of 3 years and shall be eligible for re-appointment; and

(c) be paid by the Authority out of the funds of the Authority such benefits and allowances as may be determined by His Majesty the Sultan and Yang Di-Pertuan.

(3) On the commencement of this Order, the initial terms of office of the directors mentioned in section 11(2)(c), shall be —

(a) for the director who is appointed as managing director under section 13(1), 3 years;

(b) for all other directors, different terms not exceeding 3 years.

Appointment of managing director.

13. (1) His Majesty the Sultan and Yang Di-Pertuan shall appoint one of the directors to be the managing director.

(2) Without prejudice to section 36 and to any other powers conferred on the Authority by this Order, the managing director shall be the chief executive of the Authority and shall be responsible for the implementation of the policies of the Authority, its day-to-day administration and its representation.

(3) The managing director shall be an employee of the Authority on such conditions of service as His Majesty the Sultan and Yang Di-Pertuan may decide.

(4) In addition to the powers conferred on the managing director by subsection (2) and without prejudice to section 20, the Authority may delegate to the managing director, under the conditions that it may decide, all or any of the powers conferred on the Authority by this Order and by any other written law.

(5) The managing director shall be accountable to the Authority for his acts and decisions.

(6) The managing director may, subject to such conditions that the Authority may decide, appoint any officer or employee of the Authority, or form any committee comprising officers or employees of the Authority or both, to exercise any of the powers conferred upon him by subsections (2) and (4), and that officer, employee or committee shall exercise those powers or perform those functions or duties under the direction and control of the managing director.

(7) For the avoidance of doubt, the managing director —

(a) shall remain responsible for the exercise of any power or for the performance of his functions or duties by any officer or employee appointed or by any committee formed under subsection (6); and

(b) shall continue to exercise the powers or perform the functions or duties conferred or imposed upon him by virtue of subsections (2) and (4), notwithstanding the delegation of those powers by the managing director under subsection (4) or the termination by him of such delegation.

Deputy managing directors.

14. (1) The Authority shall, on the recommendation of the managing director, appoint deputy managing directors of the Authority and designate one of the deputy managing directors to be the deputy chief executive of the Authority for a term of 2 years.

(2) The deputy managing directors shall be employees of the Authority on such conditions of service as His Majesty the Sultan and Yang Di-Pertuan may decide.

(3) Subject to this Order, a deputy managing director shall perform such duties as may be determined by the managing director.

(4) In the case of absence or incapacity of the managing director, the deputy chief executive shall have all the powers of the managing director under sections 13(2) and (6) unless decided otherwise by the Authority in relation to a delegation under section 13(4).

Disqualification of directors.

15. (1) No person shall be appointed as or remain as a director of the Authority who is a director or salaried official of any bank or financial institution.

(2) His Majesty the Sultan and Yang Di-Pertuan may, after having received a report mentioned under subsection (4), terminate the appointment of any director if he —

(a) becomes of unsound mind or incapable of carrying out his duties;

(b) has been adjudged bankrupt or suspends payment to or compounds with his creditors;

(c) is convicted of an offence involving dishonesty, fraud or moral turpitude;

(d) is guilty of serious misconduct in relation to his duties;

(e) is absent, without leave, from 3 consecutive meetings of the board;
or

(f) fails to comply with his obligations under section 18(1).

(3) In cases under subsection (2), the Authority shall appoint a committee under section 20 to make an appropriate inquiry, including the opportunity for the director in question to contest the findings.

(4) The committee referred to in subsection (3) shall submit a report to the Authority which shall thereupon submit it to His Majesty the Sultan and Yang Di-Pertuan with its conclusions.

Vacancies in office of director.

16. If any director dies, resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, another person may be appointed by His Majesty the Sultan and Yang Di-Pertuan for the unexpired term of office of the director in whose place he is appointed.

Meetings and decisions of board.

17. (1) The chairman of the board shall call meetings as often as may be required but not less frequently than once in every 2 months.

(2) The chairman shall call a meeting as soon as practicable after receiving a request from at least 2 other directors.

(3) No meeting of the board shall be held unless the chairman or the deputy chairman is present.

(4) At every meeting of the board, a *quorum* shall consist of a simple majority of the directors.

(5) Decisions shall be adopted by a simple majority of the votes of the directors present and, in the event of an equality of votes, the chairman shall have a casting vote.

(6) Subject to this Order, the board may regulate its own procedure.

(7) The chairman may appoint any person, not being a director, to be the secretary to the board.

Director's interest in subject-matter of decision or contract to be made known.

18. (1) A director who is, directly or indirectly, interested in the subject-matter of a decision or contract made, or proposed to be made, by the Authority shall disclose the nature of his interest at the first meeting of the board at which he is present after the relevant facts have come to his knowledge.

{2} A disclosure under subsection (1) shall be recorded in the minutes of the board and, after the disclosure, the director —

{a} shall not take part in any deliberation or decision of the board with respect to that decision or contract; and

{b} shall be disregarded for the purpose of constituting a *quorum* of the board for any such decision.

{3} No act or proceeding of the board shall be questioned on the ground that a director has contravened this section.

Conflict of interest and fiduciary duty.

19. (1) Directors of the board and the staff of the Authority have a fiduciary duty to the Authority and to the customers of the Authority to place the interests of the Authority and of its customers before their own interests.

(2) Directors of the board and members of the staff shall avoid any situation likely to give rise to a conflict of interest.

(3) A conflict of interest arises where directors of the board or members of the staff have private or personal interests which may influence or appear to influence the impartial and objective performance of their duties.

(4) Private or personal interests of directors of the board or members of the staff mean any potential advantage for themselves, their families or any associate.

(5) The managing director and the deputy managing directors shall perform their duties on a full-time basis and shall not engage in any other occupation, whether gainful or not, except in those exceptional cases in which an exemption from this restriction shall have been granted by the board.

(6) No director of the board or member of the staff shall receive or accept from any source any benefit, reward, remuneration or gift in excess of a customary or negligible amount, whether financial or non-financial, which benefit, reward, remuneration or gift are connected in any way whatsoever to their activities within the Authority, except as mentioned in subsection (5).

(7) A breach of subsection (6) by a director of the board or of a member of the staff shall, independently of the value given or received, constitute serious misconduct.

(8) Where the misconduct referred to in subsection (7) concerns a member of the staff, such misconduct may, at the discretion of the managing director, constitute grounds for disciplinary measures, including dismissal without compensation.

(9) Directors of the board and members of the staff shall not use confidential information to which they have access for the purpose of carrying out private financial transactions, whether directly or indirectly through third parties, or whether conducted at their own risk and for their own account, or at the risk and for the account of a third party.

(10) Directors of the board shall before the last day of January in each year disclose in full to the Minister significant financial interests which they or any person with whom they have family, business or financial connections may directly or indirectly possess, and such disclosures shall comply with any internal rules adopted by the board regarding such matters.

(11) The Authority may establish internal rules to implement the requirements of this section.

(12) In subsection (4), "associate" has the same meaning as in paragraph 1(1) of the First Schedule to the Banking Order, 2006 (S 45/2006) and paragraph 1(1) of the First Schedule to the Islamic Banking Order, 2008 (S 96/08).

Appointment of committees and delegation of powers.

20. (1) Without prejudice to section 13(6), the Authority may appoint, from among its directors or from among other persons who are not directors or both, such number of committees as it may decide for the exercise of the powers of the Authority.

(2) The Authority may, under such conditions as it may decide, delegate to any such committee or any director any of the powers of the Authority under this Order or under any other written law, except the power of delegation conferred by this subsection or by section 13(4) or any other power of delegation provided in this Order and the power to make subsidiary legislation, unless expressly provided under any written law.

(3) Any power delegated under subsection (2) may be exercised or performed by such committee or director, as the case may be, in the name and on behalf of the Authority.

Audit Committee.

21. (1) The Authority shall establish an Audit Committee.

(2) The members of the Audit Committee shall consist of at least 2 external persons with extensive professional experience and of at least one of the directors not being the chairman, the deputy chairman or the managing director.

(3) At least one member of the Audit Committee shall be a person with extensive professional experience in the fields of accounting or auditing.

(4) The responsibility of the Audit Committee shall include —

(a) oversight of the internal audit function;

(b) recommendations on appointment of the external auditors, the scope of external audits and other services;

(c) providing the opportunity for the auditors to meet and discuss findings; and

(d) reviewing with the external auditors the end of year financial statements.

(5) The Authority shall determine the further responsibilities and conditions of the Audit Committee.

(6) The Audit Committee shall periodically report to the Authority.

(7) Subject to this Order and to any directions given by the Authority in that behalf, the Audit Committee may regulate its own procedure.

Head of Internal Audit.

22. (1) The Authority shall appoint a person with extensive professional experience in the fields of accounting or auditing to be the Head of Internal Audit.

(2) Subject to this Order, the Head of Internal Audit shall perform such duties as may be determined by the Authority.

(3) The conditions of employment, including remuneration, of the Head of Internal Audit shall be determined by the Authority.

(4) The Head of Internal Audit shall be appointed for a term of 5 years and may be re-appointed for a further term or terms each of up to 5 years.

(5) The Authority may remove the Head of Internal Audit only on the grounds specified in the conditions of employment referred to in subsection (3), which shall be limited to the grounds for its termination of the appointment of a director under section 15(2)(a) to (d).

Duties of Head of Internal Audit.

23. The duties of the Head of Internal Audit shall include —

(a) the review and recommendation to the Authority and the Audit Committee of procedures and practices for proper risk and management and thereafter and the supervision of their implementation on a continuing basis;

(b) the performance of periodic audits of the administration and operations of the Authority to ensure proper observance of laws applicable to the Authority and of decisions of the Authority;

(c) the review of the periodic financial statements referred to in section 62 and related documents of the Authority;

(d) the preparation and delivery to the Authority, whenever considered appropriate by the managing director, the Authority or the Audit Committee and at least once every quarter, of reports and recommendations regarding the financial statements and records, the budgetary and accounting procedures, the risk management and other controls within the Authority, the efficiency and its cost effectiveness at which the Authority operates, and any other matter within its competence and area of responsibility on which a report may be requested by the managing director, the Authority or the Audit Committee;

(e) any other assignments that may be given by the Authority or the Audit Committee, provided that any such assignment does not disrupt its duties; and

(f) liaising with the external auditors of the Authority.

Appointment of employees.

24. (1) The Authority may appoint such employees as it may decide.
- (2) The Authority may engage the services of advisers as it may decide.
- (3) Section 11(4) shall apply to all employees of the Authority.

Incentive scheme.

25. The Authority may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, establish its own incentive scheme for its employees.

Retirement benefits.

26. The laws of Brunei Darussalam which relate to retirement benefits schemes shall apply to employees of the Authority.

Immunity of Authority, directors and employees etc.

27. No action, suit or other legal proceedings shall lie against —

(a) the Authority;

(b) any director or employee of the Authority;

(c) any public officer;

(d) any person who is on secondment or attachment to the Authority;
or

(e) any person appointed, approved or directed to exercise the functions of the Authority or to assist the Authority in the exercise of its functions under this Order or under any other written law,

for anything done (including any statement made) or omitted to be done in good faith in the course of or in connection with —

- (i) the exercise or purported exercise of any power under this Order or that other written law;
- (ii) the performance or purported performance of any function or duty under this Order or that other written law; or
- (iii) the compliance or purported compliance with this Order or that other written law.

Remuneration not to be related to profits.

28. No salary, fee, wage or other remuneration or allowance paid by the Authority shall be computed by reference to the profits of the Authority.

Preservation of confidentiality.

29. (1) Except for the purpose of the performance of his duties or when lawfully required to do so by any court or under the provisions of any written law, no person who is or has been a director, employee, consultant or agent of the Authority shall disclose to any other person any information relating to the affairs of the Authority or of any person which he has acquired in the performance of his duties under this Order or any other written law.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 6 years or both.

Prohibited activities.

30. (1) Except as otherwise specifically authorised by this Order, the Authority shall not —

(a) grant any credit or make any significant monetary or financial gift;

(b) engage in commerce, purchase the shares of any body corporate, including the shares of any financial institution, or otherwise have an

ownership interest in any financial, commercial, agricultural, industrial or other undertaking; or

(c) acquire by purchase, lease, or otherwise any rights in or to immovable property, except as it shall consider necessary or expedient for the provision of premises for the conduct of its administration and operations or similar requirements incidental to the performance of its duties or functions.

(2) Notwithstanding subsection (1), the Authority may –

(a) make adequately secured loans to, or have an ownership share or otherwise participate in, any organisation that is engaged in activities that are required or useful for the proper discharge of the Authority's own functions and duties; or

(b) acquire, in the course of satisfaction of debts due to it, any interest or right referred to in this section; provided, however, that all such interests or rights so acquired shall be disposed of at the earliest suitable opportunity.

(3) Any activity mentioned in subsection (2) shall be published by the Authority in the report referred to in section 62.

Standards of good administration.

31. (1) The Authority shall use the powers given to it equitably and uniformly and in accordance with sound administrative practices.

(2) The Authority shall not use any such power to serve an objective for which the power was not given and shall not use power in excess of that which is required to achieve the objective for which the power was given.

(3) The decisions of the Authority shall be impartial and shall be motivated only by objective and rational considerations.

Power to issue guidelines etc.

32. The Authority may generally in respect of any particular provision of this Order, or generally in respect of the conduct of any or all banks or financial institutions issue such guidelines, circulars or notes as it may consider desirable.

Directions or regulations to discharge Government's international obligations.

33. (1) The Authority may –

(a) issue such directions to a financial institution or class of financial institution; and

(b) make such regulations concerning any financial institution or class of financial institutions or relating to the activities of any financial institution or class of financial institution,

as the Authority considers necessary in order to discharge or facilitate the discharge of any obligation binding on Brunei Darussalam by virtue of a decision of the Security Council of the United Nations.

(2) A financial institution to which a direction is issued under subsection (1)(a) or which is bound by any regulations made under subsection (1)(b) shall comply with such direction or regulations, notwithstanding any other duty imposed on that financial institution by any rule of law, written law or contract.

(3) A financial institution shall not in carrying out any act in compliance with any direction or regulations made under subsection (1) be treated as being in breach of any such rule of law, written law or contract.

(4) A financial institution shall not disclose any direction issued under subsection (1)(a) if the Authority notifies the financial institution that the Authority is of the opinion that the disclosure of the direction is against the public interest.

(5) A financial institution which —

(a) fails or refuses to comply with a direction issued to it;

(b) contravenes any regulations made under subsection (1)(b); or

(c) discloses a direction issued to it in contravention of subsection (4), is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000.

(6) In this section, "financial institution" includes —

(a) any bank; and

(b) any person who is exempted from being licensed, approved, registered or regulated under any of the laws referred to in the definitions of "financial institution" and "bank",

but does not include such person or class of persons as the Authority may, by regulations made under this section, prescribe.

Directions or regulations to prevent money-laundering and terrorism financing.

34. (1) The Authority may issue such directions or make such regulations concerning any financial institution or class of financial institution as the

Authority considers necessary for the prevention of money-laundering or for the prevention of the financing of terrorism.

(2) A financial institution which fails or refuses to comply with any direction issued under subsection (1) or contravenes any regulations made under that subsection, is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000 and, in the case of a continuing offence, to a further fine of \$100,000 for every day during which the offence continues after conviction.

(3) In this section, "financial institution" has the same meaning as in section 33(6).

Public servants.

35. The directors, including the managing director, and all employees of the Authority shall be deemed to be public servants within the meaning of the Penal Code (Chapter 22).

PART IV

FUNCTIONS, POWERS AND DUTIES OF AUTHORITY

Functions, powers and duties of Authority.

36. (1) In implementing its objects, the Authority may, exercise and discharge the following functions, powers and duties —

(a) act as the central bank of Brunei Darussalam, including the conduct of monetary policy, the issuance of the currency of Brunei Darussalam, the oversight of payment systems and serving as banker to and financial agent of the Government;

(b) manage the exchange rate regulation regime, in particular by entering into foreign exchange arrangements, without prejudice to the principal objects of the Authority and after consultation with the Government;

(c) determine, where applicable, the conditions of employment of the Authority's agents, including receivers of banks and financial institutions, auditors and correspondents;

(d) determine the conditions of employment of the staff of the Authority, including their appointment, promotion, conduct and discipline and to determine the conditions applicable to the advisers of the Authority;

(e) determine denominations and design of banknotes, coins and their issue and handling;

(f) hold, manage, use and dispose of the foreign reserves of the Authority;

(g) develop and manage an inter-bank funds system and establish the requirements for its participants;

(h) establish principles and procedures for financial accounting and reporting of banks and financial institutions in Brunei Darussalam and branches of banks and financial institutions of foreign countries or territories operating in Brunei Darussalam;

(i) form or participate in the formation of any body corporate or in any joint venture as a shareholder or partner or in any other capacity, for purposes that are necessary or expedient for the purpose of discharging its functions or achieving its objects;

(j) carry out any ancillary activities incidental to the exercise of its functions under this Order or any other written law; and

(k) exercise and discharge such other functions, powers and duties conferred by this Order or any other written law.

(2) The Authority shall carry out activities necessary for the implementation of the functions specified in subsection (1) and for the development and maintenance of the infrastructure needed for their implementation.

Opening of accounts.

37. (1) In order to conduct its operations and financial activities, the Authority may open and maintain accounts on its books for —

(a) banks and financial institutions made subject to the supervision of the Authority under section 42 or by the provisions of any other written law, and public entities; and

(b) foreign banks, central banks, international financial institutions and, where appropriate, foreign governments, international organisations and donor organisations.

(2) Without prejudice to subsection (1) and to section 41, the Authority shall not open accounts on its books for individuals and non-financial companies and enterprises without the approval of His Majesty the Sultan and Yang Di-Pertuan or the Authority.

(3) The Authority may determine the conditions for opening an account on its books.

(4) The Authority may open and maintain cash and security accounts on the books of --

(a) banks and financial institutions made subject to the supervision of the Authority under section 42 or by the provisions of any other written law; and

(b) central banks, foreign banks, depositories and international organisations.

Custodial and registry facilities.

38. (1) The Authority may provide, upon payment of reasonable fees to cover its costs, custodial and registry facilities.

(2) The Authority may prescribe the conditions for providing custodial facilities.

Open market and credit operations.

39. (1) In order to achieve the objects of the Authority and to carry out its functions, the Authority may --

(a) operate in the financial markets by buying and selling outright (spot or forward) or under a re-purchase agreement, and by lending or borrowing claims and marketable instruments, as well as precious metals; and

(b) conduct credit operations with banks operating in Brunei Darussalam, with lending based on adequate collateral.

(2) The Authority shall --

(a) determine the types of instruments and activities to be used for open market and credit operations; and

(b) announce the conditions under which the Authority is ready to enter into such transactions.

Minimum reserves.

40. (1) The Authority may require banks to hold minimum reserves on deposit accounts with the Authority in pursuance of its monetary policy.

(2) These required reserves shall be the same for all banks for each category of liabilities and may be remunerated.

(3) The Authority shall, establish the method for calculating the minimum reserves required to be maintained under subsection (1).

Other instruments of monetary control.

41. The Authority, acting by the unanimity of all its directors, may decide upon the use of any other operational method of monetary control.

Supervisory functions.

42. (1) The Authority shall be exclusively responsible for the regulation, licensing, registration and supervision of banks and financial institutions operating in Brunei Darussalam.

(2) For the purpose of subsection (1), section 44(2) shall apply.

(3) Without prejudice to subsection (2), banks and financial institutions shall furnish the Authority with such information concerning their operations and financial condition as the Authority may require.

(4) The Authority may disclose information and data obtained under subsections (2) and (3) in whole or in part in aggregate form for classes of banks and financial institutions determined in accordance with the nature of their business.

Payment system facilities.

43. (1) The Authority may provide facilities, including intra-day credit, to payment, clearing and securities settlement systems, and their participants, to ensure the safety, soundness and efficiency of such systems, without prejudice to the development and management of an inter-bank funds system under section 36(1)(g).

(2) The Authority may organise, participate in and operate systems referred to in subsection (1).

Payment system licensing and oversight.

44. (1) The Authority shall be exclusively responsible for the regulation, licensing, and oversight of payment, clearing and securities settlement systems.

(2) The Authority may —

(a) require the licensing of any payment, clearing and securities settlement system and the operator of such system;

(b) require any payment, clearing and securities settlement system and the operator of such system to observe such conditions and requirements as may be established by the Authority; and

(c) regulate and oversee the issue and quality of payment instruments.

(3) The officers and employees of the Authority may visit the offices of payment, clearing and securities settlement systems, and their participants, to examine such accounts, books, documents and other records, to obtain such information from them, and to take such other action as the Authority shall consider necessary or advisable.

(4) Payment, clearing and securities settlement systems, and their participants, shall furnish the Authority with such information as the Authority may require.

(5) The Authority may disclose information and data obtained under subsection (4) in whole or in part in aggregate form, in accordance with section 47.

Collection of statistics and information.

45. The Authority, in pursuit of the objects, shall —

(a) collect, compile, analyse, abstract and publish statistics and information relevant to the carrying out of its functions;

(b) prescribe the statistical information so required and the form in which such information is to be provided to the Authority, the persons subject to reporting requirements and the applicable confidentiality regime;

(c) collaborate with departments and agencies of the Government in the collection, compilation, and publication of statistics and other relevant information; and

(d) coordinate with bilateral and multilateral agencies the adoption of international data dissemination standards with the aim of achieving consistency and efficiency in the organisation of statistics and information.

Furnishing of statistics and information.

46. (1) The Authority may, at any time, for the purpose of carrying out its functions under this Order request such persons or classes of person as it may decide to collect and furnish such statistical information as the Authority may specify and those persons or classes of person shall comply with that request.

(2) Statistical information received from the persons or classes of person under subsection (1) shall be regarded as confidential between them and the Authority.

(3) Any person who fails to comply with a request of the Authority under subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

Dissemination of statistics and information.

47. The Authority shall disclose statistics and information, subject to section 45(b).

Publications.

48. (1) The Authority shall, at least twice a year and at such additional times as may be necessary, inform the public regarding the conduct of its monetary policy, the achievement of its objects and its views regarding the real variables of the economy.

(2) The Authority shall, within 4 months after the close of its financial year, publish a report, approved by the board, on the state of the economy during the previous year, including an outlook for the economy for the coming year, with emphasis on its policy objectives and the condition of the financial system of Brunei Darussalam.

(3) The report referred to in subsection (2) shall also include a review and assessment of the policies of the Authority followed in the previous year and a description and explanation of the policies to be followed during the next year.

PART V

RELATIONS WITH GOVERNMENT

Authority as banker to Government.

49. (1) The Authority may act as a banker to, and a financial agent of, the Government.

(2) Where the Authority receives and disburses moneys of the Government, the Authority shall keep account thereof and may be paid an agency fee for its services.

(3) The Authority may act generally as agent for the Government on such conditions as may be agreed between the Authority and the Government where the Authority can do so appropriately and consistently with the provisions of this Order and with its duties and functions as a monetary authority.

Prohibition on lending to Government.

50. The Authority shall not grant credit to the Government or State-owned entity provided but –

(a) it may purchase Government securities provided that such purchases are made on the secondary market, on market terms and

conditions, and are not used to circumvent the prohibition established in this section; and

(b) the provisions of this section shall not apply to publicly-owned banks and other supervised publicly-owned financial entities, which shall be given the same treatment as privately-owned banks and other supervised privately-owned financial entities.

Co-operation with Government.

51. (1) Without prejudice to sections 3(5) and 11(4) and in pursuit of its objects and functions, the Authority shall hold regular meetings with the Government on monetary and fiscal policies and other matters of common interest, and both the Authority and the Government shall keep one another fully informed of all matters that affect them jointly.

(2) The Authority may render advice to the Government on any matter which, in its opinion, is likely to affect the attainment of the objects of the Authority.

(3) The Authority shall, on request of the Government, provide the Government with information regarding the functions of the Authority, specific information relating to supervised banks and financial institutions may be provided only subject to such restrictions to preserve confidentiality as the Authority may consider appropriate.

(4) The Government shall, on request of the Authority, provide the Authority with such information and documents as the Authority may request for the purpose of carrying out its functions.

(5) The Government may consult the Authority on any draft laws concerning matters that relate to the objects or functions of the Authority.

PART VI

RELATIONS WITH BANKS AND FINANCIAL INSTITUTIONS

Lender of last resort.

52. (1) In addition to the open market and credit operations in accordance with section 39, the Authority may, in exceptional circumstances, on such conditions as it determines, act as lender of last resort for a bank or financial institution.

(2) Such support may be provided by granting financial assistance to the bank or financial institution, or for the bank or financial institution's benefit, for periods not exceeding 90 calendar days that may be renewed by the Authority on

the basis of a programme specifying the remedial measures that the bank or financial institution will be taking.

(3) No such commitment shall be made by the Authority under subsection (2) unless the bank or financial institution, in the opinion of the Authority, is solvent and can provide adequate collateral to support the loan, and the request for financial assistance is based on the need to improve liquidity.

(4) The Authority shall determine the collateral required to adequately secure each of the credit operations mentioned in subsection (3).

(5) If the Authority discovers that the assisted bank or financial institution has not implemented the remedial measures mentioned in subsection (2), or that these measures did not achieve the results intended, the Authority shall take appropriate measures.

(6) In all cases, the loans and credit facilities granted under this section shall be repaid within 180 calendar days.

Emergency lending.

53. The Authority may assist the Government, acting as its financial agent in accordance with section 49, by providing emergency lending to an insolvent bank or financial institution to preserve the stability of the financial system, unless such lending, in the opinion of the Authority, interferes with its objects and functions.

Power to issue directions to banks and financial institutions.

54. (1) The Authority may, if it thinks necessary in the public interest, request information from and make recommendations to any bank or financial institution as the Authority may determine and may issue directions for the purpose of securing that effect is given to any such request or recommendation.

(2) Before issuing any direction under subsection (1), such bank or financial institution shall, unless the Authority in respect of any particular direction decides it is not practicable or desirable, be given an opportunity to make representations with regard to the proposed direction within the time as the Authority shall specify in the directions.

(3) Upon receipt of any representations referred to in subsection (2), the Authority shall consider them and may —

(a) reject the representations; or

(b) amend or modify the proposed direction in accordance with the representations, or otherwise,

and in either event, the Authority shall thereupon issue a further direction in writing to such bank or financial institution, as the case may be, requiring that effect be given to the proposed direction or to the proposed direction as subsequently amended or modified by it within a reasonable time, and such bank or financial institution, as the case may be, shall comply with that direction.

(4) Any bank or financial institution that fails or refuses to comply with a direction issued under this section is guilty of an offence and liable on conviction to a fine not exceeding \$20,000.

Clearing and settlement of balances between banks and financial institutions.

55. Any bank or financial institution shall clear and settle its payments and securities transactions, in such manner as the Authority may specify by notice in writing.

PART VII

**TRANSFER OF FUNCTIONS, POWERS, DUTIES, EMPLOYEES,
ASSETS AND LIABILITIES**

Power of Authority to exercise functions and powers under certain written laws.

56. (1) On the commencement of this Order, the Authority shall, in addition to its powers, duties and functions set out in this Order, exercise all the powers and perform all the functions and duties conferred or imposed on the Authority under the written laws set out in the First Schedule.

(2) Notwithstanding any provision of this Order to the contrary, where a function or power is vested in His Majesty the Sultan and Yang Di-Pertuan by or under any of such written laws, it shall remain so vested and shall not be exercised or discharged by any other person.

(3) Notwithstanding subsection (2), His Majesty the Sultan and Yang Di-Pertuan may, to such extent and subject to such conditions as His Majesty may determine, delegate to the Authority such functions and powers as are vested in His Majesty the Sultan and Yang Di-Pertuan by or under any of such written laws.

(4) Nothing in this section applies to any of the following offices —

(a) the Attorney General;

(b) the Auditor General;

(c) the Chief Justice;

(d) the Commissioner of Police;

(e) the Public Prosecutor;

(f) the Solicitor General.

(5) The Authority shall be charged with the general administration of the written laws set out in the First Schedule and the exercise of the functions and duties imposed on the Authority by those written laws.

(6) The Authority may authorise any person to assist it in the exercise of its functions and duties under the written laws set out in the First Schedule, either generally or in a particular case.

(7) Any decision made by the Minister or any other person under any of the written laws set out in the First Schedule before the commencement of this Order shall be deemed to be a decision by the Authority.

(8) Any permission, consent, approval or authorisation granted by the Minister or any other person under any of the written laws in the First Schedule before the commencement of this Order shall, so far as it is not inconsistent with any provision of this Order, be deemed to be a permission, consent, approval or authorisation granted by the Authority.

(9) Any certificate, notice, order, direction or declaration issued or made by the Minister or any other person under any of the written laws set out in the First Schedule before the commencement of this Order shall be deemed to be a certificate, notice, order, direction or declaration issued or made by the Authority or an officer of the Authority.

(10) Where in any document made before the commencement of this Order in connection with or related to any of the written laws set out in the First Schedule, any reference is made to the Minister or the Authority, such reference shall, as from the commencement of this Order, be read as the Autoriti Monetari Brunei Darussalam.

(11) The Minister may, by order published in the *Gazette*, make such other savings or transitional provisions which appear to him to be necessary or expedient for the purposes of this section.

Transfer of employees.

57. (1) On the commencement of this Order, such persons, as determined by the Minister, who were employed by the Government immediately prior to that commencement and were exercising or discharging any of the functions corresponding to those vested in the Authority by this Order shall be transferred to the service of the Authority on terms not less favorable than those they enjoyed immediately prior to that transfer.

(2) Until such time as conditions of service are drawn up by the Authority, the scheme and conditions of service in the Government shall continue to apply to every person transferred to the service of the Authority under subsection (1) as if he were still in the service of the Government.

(3) 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 subsection (1) while in the employment of the Government.

(4) Any condition relating to the length of service with the Authority shall provide for the recognition of service under the Government by the persons transferred under subsection (1) to be service by them under the Authority.

(5) Notwithstanding the provisions of the Pensions Act (Chapter 38), no transferred employee shall be entitled to claim any benefits under the Act on the ground that he has been retired from the service of the Government on account of abolition of office or termination in the public interest in consequence of the establishment of the Authority or the transfer of that employee to the Authority.

Transfer of assets and liabilities.

58. (1) On the commencement of this Order, such movable property, assets, rights, interests and privileges as determined by the Minister, together with any debts, liabilities or obligations connected therewith or appertaining thereto, shall be deemed to have been transferred to and vested in the Authority without further assurance.

(2) The Minister shall have power to do all acts or things as he considers necessary or expedient for giving effect to and carrying out the provisions of subsection (1).

(3) If any question arises as to whether any movable property, assets, rights interests, privileges, debts, liabilities and obligations, have been transferred to and vested in the Authority under subsection (1), a certificate signed by the Minister shall be conclusive evidence of such transfer and vesting.

Existing contracts.

59. All deeds, bonds, agreements, instruments and arrangements subsisting immediately before the commencement of this Order relating to the employees transferred under section 57 or the assets and liabilities transferred under section 58 to which the Government is a party shall continue in force on and after that commencement 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 Government.

PART VIII

GENERAL

Authority's financial year and accounting standard.

60. (1) The financial year of the Authority shall begin on the 1st. day of January and end on the 31st. day of December of each year.

(2) To the extent possible to achieve its objects, the Authority shall maintain accounts and records in accordance with the accounting standards adopted by the Authority.

Audit.

61. (1) The accounts of the Authority shall be audited annually by —

(a) the Auditor General; or

(b) any person who is of good repute and has recognised international experience in the auditing of major international financial institutions and who has been authorised to perform the duties required by the Companies Act (Chapter 39) to be performed by an auditor, who shall be appointed for not more than 5 years by the Authority.

(2) Where the accounts of the Authority have been audited by a person appointed under subsection (1)/b/, the accounts referred to in that subsection may be verified by the Auditor General before they are forwarded to the Minister pursuant to section 62(1).

Preparation and publication of financial statements and annual report.

62. (1) The Authority shall, within 3 months from the close of its financial year, forward to the Minister —

(a) a copy of the audited financial statements; and

(b) a report by the board on the working of the Authority throughout that financial year.

(2) The Authority shall, within 3 months from the close of that financial year, present such financial statements and report to His Majesty the Sultan and Yang Di-Pertuan.

(3) Such financial statements and report shall be published by the Authority, with the approval of His Majesty the Sultan and Yang Di-Pertuan, within 4 months from the close of its financial year.

Budget.

63. (1) The Authority shall prepare its annual budget, which shall be approved by the board, prior to the commencement of each financial year.

(2) The approved budget shall be communicated by the Authority to His Majesty the Sultan and Yang Di-Pertuan and the Minister.

(3) All revenue and income projected to be generated by the Authority or granted to the Authority from any source together with projected expenditures, including depreciation and provisions for losses, shall be reported in the annual budget.

Preferential right.

64. (1) The Authority shall have a first ranking unconditional preferential right to satisfy each of its claims arising from the execution of its functions from any cash balances, securities and other assets that the Authority holds for the account of the debtor concerned, whether as collateral to secure its claims or otherwise, at the time that such claim becomes due and payable.

(2) The Authority may exercise its preferential right only by appropriating the cash balances by way of compensation and by selling securities and other assets without undue delay and against a reasonable price and paying itself from the proceeds of the sale after deducting therefrom the costs associated with the sale.

(3) No legal proceedings and no competing claims shall be allowed to delay the exercise by the Authority of its preferential right in accordance with the provisions of this Order.

Immunity of all assets managed by Authority.

65. (1) No attachment or execution shall be issued against the Authority or its property, including gold, special drawing rights, currency, credits, deposits or securities and any proceeds thereof, before the issue of a final judgment in any legal proceedings brought before any court.

(2) The Authority may, in whole or in part, waive this protection, expressly and in writing, except for its gold and the special drawing rights.

Power to appoint attorney.

66. (1) The Authority may, by instrument under its common seal, appoint a person (whether in Brunei Darussalam or in a place outside Brunei Darussalam) to be its attorney.

(2) The person so appointed may, subject to the instrument, do any act or execute any power or function which he is authorised by the instrument to do or execute.

Validity of acts and transactions of Authority.

67. The validity of an act or transaction of the Authority shall not be called into question in any court on the ground that any provision of this Order has not been complied with.

Guarantee by Government.

68. The Government shall be responsible for the payment of all moneys due by the Authority.

Corporate offenders and unincorporated associations

69. (1) Where an offence under this Order committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate, he as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Order committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership is guilty of that offence and liable to be proceeded against and punished accordingly.

(4) Where an offence under this Order committed by a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner or manager of the limited liability partnership, the partner or manager (as the case may be) as well as the partnership is guilty of that offence and liable to be proceeded against and punished accordingly.

(5) Where an offence under this Order committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the unincorporated association or a member of its governing body, the officer or member (as the case may be) as well as the unincorporated association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) In this section —

"officer" —

(a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate, and includes a person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary or a member of the committee of the unincorporated association or a person holding a position analogous to that of president, secretary or member of a committee, and includes a person purporting to act in any such capacity;

"partner", in relation to a partnership, includes a person purporting to act as a partner.

(7) The Authority may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations to provide for the application of any provision of this section, with such modifications as he considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a country or territory outside Brunei Darussalam.

Prosecution of offences.

70. No prosecution in respect of any offence under this Order shall be instituted except by or with the consent in writing of the Public Prosecutor.

Representation of Authority in civil proceedings.

71. Notwithstanding the provisions of any written law —

(a) in any civil proceedings by or against the Authority; or

(b) in any other civil proceedings in which the Authority is required or permitted by the court to be represented, or to be heard, or is otherwise entitled to be represented or to be heard,

any person authorised by the Authority for that purpose may make any appearance or application and do any act in respect of any such proceedings on behalf of the Authority.

Jurisdiction.

72. Notwithstanding the provisions of any other written law, the High Court shall have jurisdiction to try all offences under this Order.

Overriding effect.

73. In the event of a conflict arising from the provisions of this Order and of any other written law relating to the exercise of the powers and the performance of the functions of the Authority, the provisions of this Order shall prevail.

Composition of offences.

74. (1) The Authority may, in its discretion, compound any offence under this Order which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the maximum fine prescribed for that offence.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

(3) The Authority may make regulations to prescribe the offences which may be compounded.

(4) All sums collected under this section shall be paid to the Authority.

Fees collected to be paid into funds of Authority.

75. All fees collected by the Authority under this Order or any other written law shall be paid into the funds of the Authority.

Amendment of Schedules.

76. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, amend the Schedules.

Regulations.

77. (1) The Authority may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as he considers necessary or expedient for giving effect to and carrying out the provisions of this Order, including the prescription of any fees or other thing required to be or which may 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.

Operation of Order not to affect S 16/04.

78. Nothing in this Order shall affect the operation of the Currency Order, 2004.

Consequential and related amendments to other written laws.

79. The provisions of the written laws specified in the first column of the Second Schedule are amended in the manner set out in the second column thereof.

FIRST SCHEDULE

(section 56(1))

LIST OF WRITTEN LAWS

the Anti Money-Laundering Order, 2000 (S 44/00);
the Anti-Terrorism (Financial and Other Measures) Act (Chapter 197);
the Banking Order, 2006 (S 45/06);
the Coin (Import and Exports) Act (Chapter 33);
the Criminal Conduct (Recovery of Proceeds) Order, 2000 (S 52/00);
the Finance Companies Act (Chapter 89);
the Hire-Purchase Order, 2006 (S 44/06);
the Insurance Order, 2006 (S 48/06);
the International Banking Order, 2000 (S 53/00);
the International Business Companies Order, 2000 (S 56/00);
the International Insurance and Takaful Order, 2002 (S 43/02);
the International Limited Partnerships Order, 2000 (S 45/00);
the International Trusts Order, 2000 (S 55/00);
the Islamic Banking Order, 2008 (S 96/08);
the Money-Changing and Remittance Businesses Act (Chapter 174);
the Moneylenders Act (Chapter 62);
the Motor Vehicles Insurance (Third Party Risks) Act (Chapter 90);
the Mutual Funds Order, 2001 (S 18/01);
the Pawnbrokers Order, 2002 (S 60/02);
the Registered Agents and Trustees Licensing Order, 2000 (S 54/00);
the Securities Order, 2001 (S 31/01);
the Takaful Order, 2008 (S 100/08).

SECOND SCHEDULE

(section 79)

CONSEQUENTIAL AND RELATED AMENDMENTS
TO OTHER WRITTEN LAWS

FIRST COLUMN	SECOND COLUMN
(1) Anti Money-Laundering Order, 2000 (S 44/00)	
Section 2	By inserting after the definition for "applicant for business" in subsection (1) the new following definition — "Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"
All applicable sections	By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.
(2) Anti-Terrorism (Financial and Other Measures) Act (Chapter 197)	
Section 2	By inserting before the definition of "funds" in subsection (1) the following new definition — "Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"
All applicable sections	By deleting "Minister" wherever it appears in the Act and by substituting "Authority" in each case.
(3) Banking Order, 2006 (S 45/06)	
Section 2	By deleting the definition of "Authority" in subsection (1) and by substituting the following new definition — "Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"
Section 3	By repealing section 3.

(4) Bretton Woods Agreement Act (Chapter 176)

Section 2 By deleting the definition of "financial authority of Brunei Darussalam" in subsection (1) and by substituting the following new definition —

"financial authority of Brunei Darussalam" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;".

(5) Finance Companies Act (Chapter 89)

Section 2 By inserting after the definition of "auditor", the following new definition —

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;".

Section 26 By deleting subsection (6).

Section 29 By deleting section 29 and by substituting the following new section —

"Indemnity.

29. Neither the Government nor the Authority, nor any officer of the Government or the Authority, shall be subject to any action, claim or demand by or liability to any person in respect of anything done or omitted to be done in good faith in pursuance or in execution or intended execution or in connection with the execution of any power conferred on the Government, the Authority, or any officer of the Government or the Authority by this Act."

Section 42 By deleting "His Majesty in Council may" in subsections (1) and (2) and by substituting "The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan," in each case.

All applicable sections, except section 38(2) By deleting "Minister" wherever it appears in the Act and by substituting "Authority" in each case.

(6) Hire Purchase Order, 2006 (S 44/06)

Section 2 By inserting after the definition of "action", the following new definition –

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"

All applicable sections By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.

(7) Insurance Order, 2006 (S 48/06)

Section 2 By deleting the definition of "Authority" in subsection (1) and by substituting the following new definition –

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"

Section 4 By repealing section 4.

All applicable sections By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.

(8) International Banking Order, 2000 (S 53/00)

Section 2 By deleting the definition of "the Authority" in subsection (1) and by substituting the following new definition –

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"

Section 14 By deleting subsection (2).

All applicable sections except section 25(5) By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.

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(9) International Business Companies Order, 2000 (S 56/00)

Section 2 By deleting the definition of "the Authority" in subsection (1) and by substituting the following new definition —

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;".

All applicable sections By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.

(10) International Insurance and Takaful Order, 2002 (S 43/02)

Section 2 By deleting the definition of "Authority" in subsection (1) and by substituting the following new definition —

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;".

All applicable sections By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.

(11) International Limited Partnerships Order, 2000 (S 45/00)

Section 2 By deleting the definition of "the Authority" and by substituting the following new definition —

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;".

All applicable sections By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.

(12) International Trusts Order, 2000 (S 55/00)

Section 2 By inserting after the definition of "authorised purpose trust" in section 2 the following new definition —

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"

All applicable sections By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.

(13) Islamic Banking Order, 2008 (S 96/08)

Section 2 By deleting the definition of "Authority" in subsection (1) and by substituting the following new definition —

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"

Section 3 By repealing section 3.

(14) Money-Changing and Remittance Businesses Act (Chapter 174)

Section 2 By deleting the definition of "Authority" in subsection (1) and by substituting the following new definition —

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"

Section 4 By repealing section 4.

All applicable sections By deleting "Minister" wherever it appears in the Act and by substituting "Authority" in each case.

(15) Moneylenders Act (Chapter 62)

Section 2 By inserting before the definition of "moneylenders" the following new definition —

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"

By deleting the words "section 4 of the Banking Act" in the proviso to subsection (1) and by substituting the words "section 4 or 23 of the Banking Order, 2006 [S 45/2006]"

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Section 3 By deleting "State Secretary" in subsection (1) and by substituting "Authority".

Section 7 By deleting "His Majesty the Sultan and Yang Di-Pertuan in Council" and by substituting "the Authority".

(16) Motor Vehicles Insurance (Third Party Risks) Act (Chapter 90)

Section 2 By inserting before the definition of "Commissioner of Police" the following new definition —

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;".

Section 23 By deleting "His Majesty the Sultan and Yang Di-Pertuan in Council" and by substituting "The Authority".

Section 25 By deleting "His Majesty in Council" and by substituting "The Authority".

All applicable sections By deleting "Minister" wherever it appears in the Act and by substituting "Authority" in each case.

(17) Mutual Funds Order, 2001 (S 18/01)

Section 2 By deleting the definition of "Authority" in subsection (1) and by substituting the following new definition —

"Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;".

Section 28 By inserting, after "public officer" in subsection (4), "or an officer of the Authority".

Section 31 By deleting "after consultation with the Minister," in paragraph (c).

Section 33 By deleting subsection (1)/b/(ii).

By deleting "the Minister or" in subsection (1)/b/(iv).

Section 43	By deleting "after consultation with the Authority".
All applicable sections	By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.
(18) Pawnbrokers Order, 2002 (S 60/02)	
Section 2	By inserting before the definition of " <i>Hukum Syara</i> " in subsection (1) the following new definition — "Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"
Section 7	By deleting "a public officer" in subsection (1) and by substituting "an officer".
All applicable sections	By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.
(19) Registered Agents and Trustees Licensing Order, 2000 (S 54/00)	
Section 2	By deleting the definition of "the Authority" and by substituting the following new definition — "Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"
All applicable sections except section 55(4).	By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.
(20) Securities Order, 2001 (S 31/02)	
Section 2	By deleting the definition of "Authority" in subsection (1) by substituting the following new definition — "Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;"

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- Section 7 By deleting ", with the approval of the Minister,".
- Section 12 By deleting "the Minister" in subsection (1).
By deleting ", after consultation with the Minister," in subsection (3).
By deleting ", after consultation with the Minister," in subsection (4).
- Section 13 By deleting "consult the Minister and" in subsection (4).
- All applicable sections except for sections 15(3), 15(4) and 32. By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.
- (21) Takaful Order, 2008 (S 100/08)
- Section 2 By deleting the definition of "Authority" in subsection (1) and by substituting the new following definition —
""Authority" means the Autoriti Monetari Brunei Darussalam established by the Autoriti Monetari Brunei Darussalam Order, 2010;".
- PART II By deleting PART II.
- All applicable sections By deleting "Minister" wherever it appears in the Order and by substituting "Authority" in each case.

Made this 8th. day of Muharram, 1432 Hijriah corresponding to the 14th. day of December, 2010 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM