

No. S 35

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

BILLS OF EXCHANGE ACT (AMENDMENT) ORDER, 2015

ARRANGEMENT OF SECTIONS

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BILLS OF EXCHANGE ACT (AMENDMENT) ORDER, 2015

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 —

Citation and commencement.

1. This Order may be cited as the Bills of Exchange Act (Amendment) Order, 2015 and shall commence on such date as the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may appoint by notification published in the *Gazette*.

Amendment of section 2 of Chapter 172.

2. Section 2 of the Bills of Exchange Act, in this Order referred to as the Act, is amended by inserting the following new definition immediately after the definition of “acceptance” —

““Authority” means the Autoriti Monetari Brunei Darussalam established under section 3(1) of the Autoriti Monetari Brunei Darussalam Order, 2010 (S 103/2010);”.

Amendment of section 49.

3. Section 49 of the Act is amended by inserting the following new paragraph immediately after paragraph (f) —

“(fa) where a cheque has been presented in accordance with section 87A, the presentment of an image return document, as defined under section 87B(6), to the drawer or an indorser is, in point of form, deemed a sufficient notice of dishonour;”.

Amendment of section 86.

4. Section 86 of the Act is amended —

(a) by inserting “(1)” immediately before “The” in the first line;

(b) by adding the following two new subsections —

“(2) Sections 87A, 87B (except subsection (5)) and 87C shall, so far as applicable, have effect in relation to an instrument referred to in section 85(2)(b) as they have effect in relation to a cheque.

(3) Sections 87A and 87C shall, so far as applicable, have effect in relation to an instrument referred to in section 85(2)(c) as they have effect in relation to a cheque.”.

Insertion of new sections 87A, 87B and 87C.

5. The Act is amended by inserting the following three new sections immediately after section 87 —

“Special provisions relating to cheque truncation.

87A. (1) A collecting bank may present a cheque for payment to the paying bank by transmitting, by electronic means, an image and the electronic payment information of the cheque, instead of presenting the cheque itself.

(2) Notwithstanding subsection (1), if at any time before payment is made, the paying bank requests the collecting bank to present the cheque itself —

(a) the presentment under subsection (1) shall be disregarded; and

(b) section 87B does not apply.

(3) A request under subsection (2) for the presentment of a cheque does not constitute dishonour of the cheque by non-payment.

(4) Section 52(4) does not apply —

(a) in relation to presenting a bill for payment, to presenting a cheque for payment under subsection (1); and

(b) in relation to a bill which is paid, to a cheque which is paid following presentment under subsection (1).

(5) For the avoidance of doubt, any payment made on presentment in accordance with this section shall not be taken to have been made outside of the ordinary course of business, in bad faith or negligently only because it is made on transmission of an image and the electronic payment information of the cheque rather than presentment of the cheque itself.

(6) Where the presentment of a cheque is made under this section, the collecting bank and the paying bank shall be subject to the same duties in relation to the collection and payment of the cheque as if the cheque itself had been presented for payment.

(7) For the purposes of this section —

(a) the image of a cheque shall comprise the front view and the back view of the cheque; and

(b) the electronic payment information of a cheque shall comprise such matters as may be prescribed by the Minister under section 87C.

Image return document.

87B. (1) Where a cheque presented for payment in accordance with section 87A(1) is dishonoured by non-payment, the collecting bank shall, unless the collecting bank returns the cheque itself or the holder requests the return of the cheque itself, issue to the holder an image return document.

(2) Subject to subsection (4), an image return document may be presented for payment to the collecting bank by the holder to whom the image return document was issued as if that document were the cheque to which it relates.

(3) An image return document is deemed to be the cheque to which it relates for the purposes of presentment under subsection (2).

(4) An image return document may be presented by the holder under subsection (2) for payment only if –

(a) the collecting bank states in that document that it is valid for presentment; and

(b) the presentment is made within the period for the presentment stated in that document.

(5) Where an image return document has been lost before the expiry of the period for its presentment stated therein, the person who was the holder of the document may apply to the drawer of the cheque to which the document relates, and the drawer may be compelled, to give him another cheque of the same tenor, subject to him giving security to indemnify the drawer (if required) against all claims arising in the case the document alleged to have been lost is found again.

(6) In this section, “image return document” means a document issued by a collecting bank containing such particulars as may be prescribed by the Minister under section 87C.

Regulations.

87C. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as may be necessary or expedient for giving effect to the provisions of this Act in respect of any matter or thing relating to cheque truncation.”.

4th. JUNE, 2015

Made this 24th. day of Rejab, 1436 Hijriah corresponding to the 13th. day of May, 2015 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM