

# **LAWS OF BRUNEI**

## **CONSTITUTIONAL MATTERS III**

### **CONSTITUTION (FINANCIAL PROCEDURE) ORDER**

#### **S 101/59**

Amended by

S 50/61

2 of 1965

S 264/68

S 166/70

2 of 1972

S 56/74

S 180/74

S 8/76

S 49/76

S 109/79

S 36/84

#### **1984 Ed. Const. III**

Amended by

S 20/85

S 39/03

S 63/04

S 70/04

**REVISED EDITION 2004**

(4th October 2004)



**LAWS OF BRUNEI**  
**REVISED EDITION 2004**

**CONSTITUTIONAL MATTERS III**  
**CONSTITUTION (FINANCIAL PROCEDURE)**  
**ORDER**

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**CONSTITUTION (FINANCIAL PROCEDURE)  
ORDER**

*Commencement: 1st January 1960*  
*[S 156/59]*

**PART I**

**PRELIMINARY**

**Citation.**

1. This Order may be cited as the Constitution (Financial Procedure) Order.

**Interpretation.**

2. In this Order —

“accounting officer” includes every public officer who is charged with the duty of collecting, receiving, or accounting for, or who in fact collects, receives or accounts for, any public moneys, or who is charged with the duty of disbursing, or who does in fact disburse, any public moneys, and every public officer who is charged with the receipt, custody or disposal of, or the accounting for, public stores or who in fact receives, holds or disposes of public stores, but does not include the Minister;

*[S 63/04]*

“Consolidated Fund” means the Fund established by Article 58 of the Constitution;

“Constitution” means the Constitution of Brunei Darussalam;

“Contingencies Fund” means the Fund created by subsection (1) of section 10;

*[S 63/04]*

“financial year” means a period of 12 months ending on the 31st day of March in any year;

*[S 39/03]*

“Minister” means the Minister of Finance;

[S 63/04]

“public moneys” means all revenue, loan, trust and other moneys and all bonds, debentures and other securities whatsoever raised or received by or on account of Brunei Darussalam, including cession moneys known as *tulin* and *kuripan* paid by the Governments of Sarawak and North Borneo to Brunei Darussalam, but does not include *Zakat*, *Fitrah* or similar Muslim revenues and funds;

[S 63/04]

“Public Service Commission” means the Public Service Commission established by Article 71 of the Constitution;

[S 63/04]

“public stores” means chattels which are the property of or in the possession or under the control of the Government of Brunei Darussalam;

[S 63/04]

“Treasury” means the Minister and includes any officer under the administrative control or direction of the Minister to whom any powers under this Order have been lawfully delegated.

## PART II

### ACCOUNTING OFFICERS

#### Duties of accounting officers.

3. Every accounting officer shall be subject to the provisions of this Order and any regulations made hereunder and shall perform such duties, keep such books and render such accounts as may be prescribed by or under this Order or by instructions issued by His Majesty the Sultan and Yang Di-Pertuan in matters of financial and accounting procedure not inconsistent therewith.

[S 63/04]



**Bank accounts.** [S 63/04]

4. No accounting officer shall open any public or official account in any bank without the authority in writing of His Majesty the Sultan and Yang Di-Pertuan in respect of public moneys of Brunei Darussalam, and no bank shall permit an overdraft on any public or official account unless the same be authorised by His Majesty the Sultan and Yang Di-Pertuan.

**PART III****CONTROL AND MANAGEMENT OF PUBLIC FINANCES  
OF BRUNEI DARUSSALAM**

[S 63/04]

**Powers of Minister.**

5. The Minister shall, subject to the instructions of His Majesty the Sultan and Yang Di-Pertuan, have the management of the Consolidated Fund and the supervision, control and direction of all matters relating to the financial affairs of Brunei Darussalam which are not assigned to any other officer by any written law.

[S 63/04]

**Consolidated Fund accounts.**

6. There shall be maintained by the Treasury in respect of the Consolidated Fund 3 separate accounts —

(a) an account to be called the Consolidated Revenue Account in which account shall be kept all moneys in the Fund other than such moneys as are mentioned in paragraphs (b) and (c);

[S 63/04]

(b) an account to be called the Consolidated Loan Account in which account shall be kept all moneys received by way of loan upon the public credit of Brunei Darussalam; and

[S 63/04]

(c) an account to be called the Consolidated Trust Account in which account shall be kept all moneys received subject to a trust and to be applied in accordance with the terms of the trust.

[S 63/04]

**Custody and investment of moneys.**

7. (1) Moneys paid to the Consolidated Fund may be kept with such bank or banks as His Majesty the Sultan and Yang Di-Pertuan shall from time to time direct.

[S 63/04]

(2) All such moneys paid into any such bank or banks shall be deemed to be public moneys and the property of the Government lent by the Government to the bank.

[S 20/85; S 63/04]

(3) Moneys standing to the credit of the Government with any bank or otherwise held by the Government may on the order of His Majesty the Sultan and Yang Di-Pertuan be paid to the Brunei Investment Agency and may be invested by the Brunei Investment Agency —

(a) on deposit in any bank;

(b) in any fund maintained by the Brunei Investment Agency for such investment; or

(c) as otherwise authorised by any written law,

[S 63/04]

and such investments, together with any income in the form of dividends, profits, interest or returns received therefrom shall form part of the General Reserve Fund of the Brunei Investment Agency and any part thereof may, and shall if so ordered by His Majesty the Sultan and Yang Di-Pertuan, from time to time be paid by the Brunei Investment Agency to the Consolidated Fund.

[S 63/04]

[S 20/85]

(4) Income received from the investment of any moneys in accordance with subsection (3) shall be accounted in the General Reserve Fund of the Brunei Investment Agency except where it is so provided in any law or under any trust, that the income received from the investment of any moneys standing to the credit of any trust account in the Consolidated Trust Account shall be paid to the credit of that trust account.

[S 20/85; S 63/04]

(5) The investments specified in the First Schedule shall be authorised for the purposes of paragraph (c) of subsection (3):

[S 63/04]

Provided that it shall be lawful for His Majesty the Sultan and Yang Di-Pertuan, by Order published in the *Gazette*, to add to, amend or remove, all or any of the items of investments specified in the First Schedule.

[S 63/04]

### Trust accounts.

8. (1) The Treasury may establish such trust accounts as may be deemed necessary for the proper accounting of moneys in the Consolidated Trust Account.

(2) The following moneys shall be paid to the credit of the trust account to which they relate —

(a) all moneys appropriated for the purposes of any trust account;

(b) all moneys received from the sale to any person or department of any articles purchased or produced, or for work paid for, with moneys standing to the credit of a trust account;

[S 63/04]

(c) all moneys paid by any person for the purpose of any trust account; and

(d) income as provided in subsection (4) of section 7.

[S 63/04]

(3) Subject to any written law and any trust, the Treasury shall, in respect of any such account or class of accounts, specify the persons by whom and the manner in which such account or class of accounts shall be controlled.

[S 63/04]

(4) Subject to any written law and any trust, the Treasury may direct that any trust account shall be closed and thereupon, after all liabilities of the account have been met, the account shall be closed accordingly.

[S 63/04]

(5) Subject to any written law and any trust, the Treasury may direct that any moneys standing to the credit of any trust account which are not required for the purposes of that account and the balance of moneys standing to the credit of a trust account closed under subsection (4) shall be paid as provided in subsection (6).

[S 63/04]

(6) Where any moneys are required in accordance with subsection (5) to be paid, such moneys shall, to such extent as they were appropriated out of moneys standing to the credit of the Consolidated Loan Account, be paid to the Consolidated Loan Account and the balance shall be paid to the Consolidated Revenue Account.

[S 63/04]

### **Government trust funds.**

9. (1) There shall be paid from the Consolidated Fund into each of the funds specified in the Second Schedule such sums as may from time to time be appropriated for the purposes of the fund by any written law.

(2) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan and subject to any written law, may from time to time apply the fund for the general purposes thereof or for any particular purposes as may from time to time be specified by resolution of the Legislative Council.

[S 63/04]

(3) All moneys not applied in accordance with the provisions of subsection (2) shall be paid by the Minister into the Consolidated Fund and shall be accounted in a separate account in the Consolidated Trust Account to be applied in the manner provided in subsection (2).

[S 63/04]

(4) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may from time to time amend, delete from or add to the Second Schedule.

[S 63/04]

### **Contingencies Fund.**

10. (1) A Contingencies Fund is hereby created consisting of moneys from time to time appropriated thereto.

(2) All moneys appropriated to the Contingencies Fund shall be paid from the Consolidated Fund into the Contingencies Fund and shall be applied by His Majesty the Sultan and Yang Di-Pertuan in accordance with the provisions of subsection (3), and all moneys not so applied shall be paid by the Minister into the Consolidated Fund and shall be accounted in a separate account in the Consolidated Trust Account.

[S 63/04]

(3) His Majesty the Sultan and Yang Di-Pertuan may, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists and for which funds cannot be provided under subsection (4) of section 13, make advances from the Contingencies Fund to meet that need.

[S 63/04]

### **Payment of moneys.**

11. (1) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by this section.

(2) The Minister shall, by warrant under his hand, authorise the issue from the Consolidated Fund of sums to meet the due cost of any service properly charged upon the Consolidated Fund, and such sums shall be accounted in the Consolidated Revenue Account.

[S 63/04]

(3) (a) The Minister may, by warrant under his hand, authorise the issue from the Consolidated Fund of sums to meet the expenditure appropriated by a Supply Act or authorised by law in accordance with the provisions of Article 63 of the Constitution and such sums shall be accounted in the Consolidated Revenue Account:

Provided that the aggregate of such sums under each head of expenditure shall not exceed the total sum so appropriated or authorised in respect of such head.

(b) Notwithstanding any general or special authority which may have been given by the Minister, it shall be within the discretion of His Majesty the Sultan and Yang Di-Pertuan to limit, suspend or cancel any expenditure, or part of such expenditure, so authorised.

[S 63/04]

(4) The Minister may, by warrant under his hand, authorise the issue from the Consolidated Fund of sums to be applied for the purposes for which funds shall have been appropriated by or in accordance with any written law authorising the raising of a loan and such sums shall be accounted in the Consolidated Loan Account.

[S 63/04]

(5) (a) No moneys accounted in the Consolidated Trust Account shall be withdrawn from the Consolidated Fund except for the purposes of a trust or under the authority of a law.

(b) The Minister or any person authorised under subsection (3) of section 8 in respect of any trust account or class of trust accounts may withdraw moneys accounted in the Consolidated Trust Account.

[S 63/04]

(6) Every warrant issued under this section for the service of any financial year shall lapse and cease to have any effect at the close of that year.

#### **Guarantees.**

12. No guarantee involving a financial liability shall be binding upon Brunei Darussalam, unless entered into with the written authority of His Majesty the Sultan and Yang Di-Pertuan or in accordance with any written law.

[S 63/04]

#### **Estimates and virement.**

13. (1) The estimates of expenditure laid before the Legislative Council in accordance with the provisions of Clause (1) of Article 60 of the Constitution in respect of any financial year shall show sub-heads under each head of expenditure.

(2) The first sub-head under each head of expenditure in the estimates shall show the public offices in that head and the personal emoluments estimated to be paid in respect of them.

(3) Except in accordance with any written law, no addition to the public offices provided under any head of estimates may be made nor may the appropriation of the established salaries under any head be altered either

as regards the number of appointments or the rates of personal emoluments, unless the prior approval of the Treasury has been obtained.

[S 63/04]

(4) If the exigencies of the public service render it necessary to alter the proportions assigned to the sub-heads under a head of expenditure shown in the estimates referred to in subsection (1) or to create a new sub-head, His Majesty the Sultan and Yang Di-Pertuan may direct that there shall be applied in aid of any sub-head which may be deficient or any new sub-head a further sum out of any surplus arising on any other sub-head of the same head, provided that the amount appropriated under any head of expenditure by a Supply Act is not thereby exceeded.

[S 63/04]

#### **Yearly statement of accounts.**

**14.** The Minister shall, as soon as practicable after the end of every financial year, prepare in respect of that year —

(a) a full and particular statement of the Consolidated Revenue Account showing under the heads and sub-heads of the estimates laid in accordance with the provisions of Article 60 of the Constitution in respect of that year the amounts estimated to be received and spent in that year and the amounts actually received and spent together with the amounts actually received and spent under any heads and sub-heads not included in the estimates so laid;

(b) a full and particular statement of the Consolidated Loan Account showing receipts and expenditure of loan moneys;

(c) a statement of receipts and expenditure of moneys accounted in the Consolidated Trust Account;

(d) a statement of the accounts of any fund created by the Constitution or by section 10 and not accounted in the Consolidated Trust Account;

(e) so far as is practicable, a statement of the assets and liabilities of the Government other than the assets and liabilities of the Brunei Investment Agency at the end of the financial year, the manner in which those assets are invested or held, and the general heads in respect of which those liabilities are outstanding;

[S 20/85; S 63/04]

(f) as far as is practicable, a statement of outstanding guarantees and other financial liabilities of the Government at the end of the financial year; and

[S 63/04]

(g) such other statements as His Majesty the Sultan and Yang Di-Pertuan may from time to time require:

[S 63/04]

Provided that where the Minister is His Majesty the Sultan and Yang Di-Pertuan, then the reference to “Minister” in the first line of this section shall be deemed to be a reference to the Deputy Minister of Finance.

[S 63/04]

**Approval from His Majesty.** [S 63/04]

**14A.** No statement referred to in section 14 shall be released unless the prior approval of His Majesty the Sultan and Yang Di-Pertuan has been obtained.

**Write-off.**

**15.** The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, shall, in respect of public moneys, revenue and stores of Brunei Darussalam, have power —

[S 63/04]

(a) to write off losses or deficiencies of public moneys and the value of lost, deficient, condemned, unserviceable or obsolete stores; and

(b) to abandon any claim to irrecoverable amounts of revenue, debts and overpayments.

[S 63/04]

In this section, the expression “Minister” includes the Deputy Minister of Finance.

[S 36/84]



**Decision under section 15 to be final and binding.** [S 63/04]

**15A.** Where any decision is taken in respect of section 15, such decision shall be final and binding and shall not be debated, challenged or reviewed in the Legislative Council, any court or elsewhere.

**Surcharge.**

**16.** If it appears to His Majesty the Sultan and Yang Di-Pertuan, after consultation with the Public Service Commission and the Treasury, that any person who is or was in the employment of the Government of Brunei Darussalam —

[S 63/04]

(a) has failed to collect any moneys owing to the Government for the collection of which he is or was responsible;

(b) is or was responsible for any improper payment of public moneys of Brunei Darussalam or for any payment of such moneys which is not duly vouched; or

[S 63/04]

(c) is or was responsible for any deficiency in, or for the destruction of, any public moneys, stamps, securities, stores or other property of the Government,

and if a satisfactory explanation is not, within a period specified by the Public Service Commission, furnished to that Commission with regard to such failure to collect, improper payment, payment not duly vouched, deficiency or destruction, His Majesty the Sultan and Yang Di-Pertuan may surcharge against that person a sum not exceeding the amount of any such amount not collected, payment, deficiency, or loss of the value of the property destroyed, as the case may be.

[S 63/04]

**Notification of surcharge.**

**17.** The Chairman of the Public Service Commission shall notify the head of the department of the person surcharged of any surcharge made under section 16 and such head of department shall thereupon notify the person surcharged.

[S 63/04]

**Withdrawal of surcharge.**

18. His Majesty the Sultan and Yang Di-Pertuan may at any time withdraw any surcharge in respect of which an explanation satisfactory to His Majesty the Sultan and Yang Di-Pertuan has been received or if it otherwise appears that no surcharge should have been made, and the Chairman of the Public Service Commission shall at once notify the head of department of such withdrawal.

[S 63/04]

**Recovery of surcharge.**

19. The amount of any surcharge made under section 16, and not withdrawn under section 18, shall be a debt due to the Government from the person against whom the surcharge is made, and such person may be sued and the surcharge recovered, in any court of competent jurisdiction at the suit of the Government; and the Minister may direct that the amount of any surcharge shall be recovered by equal monthly instalments, by deductions from the salary or pension of such person being sued, in amounts not exceeding one-fourth of the total monthly salary or pension, as the case may be, of such person being sued.

[S 63/04]

**PART IV****REGULATIONS****Regulations.**

20. (1) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may make regulations, to be called "Financial Regulations", that are not inconsistent with the provisions of this Order, for the general purpose of carrying out the provisions of this Order and, in particular, such regulations may provide for —

[S 63/04]

(a) the collection, receipt, custody, issue, expenditure, due accounting for, care and management of all public moneys and the guidance of all persons concerned therein;

(b) the more effective record, examination, inspection and departmental check of all receipts and expenditure and the keeping of all necessary books and accounts;

[S 63/04]

(c) the forms for all books and documents whenever required under the provisions of this Order or the regulations made thereunder;

[S 63/04]

(d) the purchase, safe custody, issue, sale or other disposal or writing off of stores and other property of Brunei Darussalam, and the proper accounting for, and stock-taking of, such stores and property;

[S 63/04]

(e) the preparation of estimates of revenue and expenditure in Brunei Darussalam;

[S 63/04]

(f) the authorisation of rates of payment of public funds for specific purposes where such rates of payment are not provided by law; and

(g) the making of advances to public officers and other persons and the rates and limits of such advances and the rates of interest thereon.

(2) Regulations made pursuant to the foregoing provisions of this Order shall, when made, have full force and effect and shall be laid before the Legislative Council as soon as possible after they are made.

**FIRST SCHEDULE**

*(section 7(5))*

[S 63/04]

**AUTHORISED INVESTMENTS**

- (a) Any stocks, funds, shares or securities of companies incorporated in Brunei Darussalam approved by His Majesty the Sultan and Yang Di-Pertuan;
- [S 63/04]
- (b) Investments in any other countries and currencies approved by His Majesty the Sultan and Yang Di-Pertuan including —
- (i) Fixed interest securities issued by or guaranteed by governments, states or municipalities or by international institutions guaranteed by governments;
  - (ii) Securities issued by companies of which the total issued and paid up capital is not less than the equivalent of one million pounds sterling;
  - (iii) Bullion and commodities;
  - (iv) Real estate.

**SECOND SCHEDULE**

[S 63/04]

*(section 9(1))*

**GOVERNMENT TRUST FUNDS**

**Loan and Advances —**

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- Housing Loans Fund
- Shophouses Loans Fund
- Development Loans Fund
- Livestock Loans Fund
- Personal Loans Fund
- Conveyance Advance Fund
- Personal Advance (Public Officers) Fund
- Miscellaneous Advances Fund
- Petty Cash Imprest Fund
- Small and Medium Business Financing Scheme
- Departmental Clearance Fund

**Inter Administration and Agency Current Accounts —**

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- Government of Malaysia
- Government of the State of Sarawak
- Government of Singapore

## SECOND SCHEDULE — (continued)

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Money Orders Fund

Police Reward Fund

Home Allotment

## Stocks and Trading —

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Unallocated Stores

Public Works Department

Small Works Trading Account

Unallocated Stores – Stone Account

Bitumen and Concrete Products  
Trading Account

Workshop Trading Account

Unallocated Stores – Petrol, Oil and  
Lubricants Account

State Stores and Supplies

Unallocated Stores – Essential  
Foodstuffs

Unallocated Stores

Unallocated Stores – Workshop  
(Spare Parts)

Arts and Crafts Centre Trading Account

Cooperative Supply Trading Account