

No. S 14

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

**SUPPLEMENTAL CONTRIBUTORY PENSIONS TRUST
(AMENDMENT) (NO. 4) ORDER, 2024**

ARRANGEMENT OF SECTIONS

Section

1. Citation and commencement
 2. Amendment of section 2 of S 58/2009
 3. Substitution of section 8
 4. Amendment of section 10
 5. Amendment of section 12
 6. Amendment of section 13
 7. Amendment of section 19
 8. Amendment of section 21
 9. Substitution of section 22
 10. Substitution of section 25
 11. Insertion of new sections 38A, 38B, 38C, 38D, 38E, 38F and 38G
 12. Addition of new Schedule
-

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

SUPPLEMENTAL CONTRIBUTORY PENSIONS TRUST
(AMENDMENT) (NO. 4) ORDER, 2024

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 Supplemental Contributory Pensions Trust (Amendment) (No. 4) Order, 2024 and shall be deemed to have commenced on 15th July 2023.

Amendment of section 2 of S 58/2009

2. Section 2 of the Supplemental Contributory Pensions Trust Order, 2009, in this Order referred to as the principal Order, is amended, in the definition of "wages" —

(a) by deleting "due to an employee" from the first line and by substituting "payable to an employee for work done" therefor;

(b) by deleting "and includes any bonus, commission or allowance payable" from the third and fourth lines;

(c) by deleting "whether such bonus, commission or allowance is payable" from the fourth and fifth lines.

Substitution of section 8

3. Section 8 of the principal Order is repealed and the following new section is substituted therefor —

"Rate of contributions by employers, employees and Government

8. (1) Subject to any regulations under section 39, and except as otherwise provided in this section, every employer of an employee shall pay to the Trust monthly in respect of each employee contributions at the rates set out in the Schedule.

(2) The Board may, in its discretion and on such terms and conditions, authorise an employer or a class of employers or member of the Trust to pay the contributions under subsection (1) at other intervals not exceeding 6 months.

(3) With respect to contributions under subsection (1) in respect of an employer, irrespective of an employee's wage, the minimum monthly contribution from the employer shall be \$57.50 of which \$5 shall be paid to the survivorship protection fund.

(4) Notwithstanding any written law or any contract to the contrary, an employer shall be entitled to recover from the monthly wages of an employee the amount recoverable from the employee.

(5) Where any employer who has recovered any amount from the monthly wages of an employee in accordance with subsection (4) fails to pay the contributions to the Trust within such time as may be prescribed by the Board, he is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 5 years or both.

(6) Every employee shall pay to the Trust monthly, in respect of himself, contributions at the rates set out in the Schedule.

(7) The Board may, on such terms, authorise an employee or a class of employees to pay the contributions under subsection (6) at other intervals not exceeding 6 months.

(8) Without prejudice to subsections (1) to (7) —

(a) an employer may at any time pay to the Trust voluntary contributions in respect of his employees at a rate in excess of the contribution rate under subsection (1);

(b) an employee may at any time contribute voluntarily to the Trust a sum additional to the contribution under subsection (1);

(c) an employee who desires to have the excess monthly contributions under paragraph *(b)* deducted from his monthly wages by his employer may give to his employer written notice to that effect, and thereafter, so long as he is employed by that employer, the employer shall make the deductions from his wages for each month until such time, not being less than 6 months from the giving of the previous notice, as he gives further written notice to his employer of his desire to cease to have the excess monthly contributions deducted from his wages, and the employer shall pay the amount of the excess deductions to the Trust in addition to the contributions under subsection (1).

(9) Where wages are payable at intervals of less than one month, the employer may deduct from that employee's wages at the time of each payment.

(10) All voluntary contributions paid by or for any employee under subsection (8) shall be credited to the SCP account of the employee.

(11) In the event of the death of an employee, no contributions shall be due under this section by or on behalf of the employee in respect of the month during which his death occurs.

(12) Where any contribution referred to in subsection (11) has been received, it shall be carried to the Trust in accordance with section 16."

Amendment of section 10

4. Section 10 of the principal Order is amended by deleting subsection (3) and by substituting the following new subsection therefor —

"(3) Notwithstanding section 12, where an employer fails to pay any contribution due within such period as may be prescribed, the employer shall in addition to such contribution be liable to pay the rate of dividend which would have accrued on such contribution if such contribution had been paid at the rate and in accordance with any manner and calculation determined by the Board."

Amendment of section 12

5. Section 12 of the principal Order is amended by deleting subsection (1) and by substituting the following new subsection therefor —

"(1) Where the amount of the contributions which an employer is liable to pay under this Order in respect of any month is not paid within such period as may be prescribed, the employer shall be liable to pay service charge on such amount for every day such amount remains unpaid commencing from the 16th day of the month succeeding the month in respect of which the amount is payable and the service charge shall be calculated at such rate as may be determined by the Board."

Amendment of section 13

6. Section 13 of the principal Order is amended —

(a) by deleting subsection (2) and by substituting the following new subsection therefor —

"(2) If the refund of any amount paid in error under subsection (1) is not claimed within 6 months from the date on which it was paid, the amount paid in error shall not be refunded but is deemed to have been properly paid under the provisions of this Order as service charge or

for the Government or the person in respect of whom it was paid, as the case may be.”;

(b) by deleting subsection (3) and by substituting the following new subsection therefor —

“(3) No refund shall be made and no amount shall be set off under subsection (2) except with consent of the Board and the Board may require the Government or any person who claims to have paid any amount to the Trust in error to furnish information to determine the amount so paid.”.

Amendment of section 19

7. Section 19 of the principal Order is amended by deleting paragraph *(c)* and by substituting the following new paragraph therefor —

“*(c)* is renouncing his citizenship of Brunei Darussalam or decides not to renew his Entry Permit issued under the Immigration Act (Chapter 17) or his Entry Permit is cancelled.”.

Substitution of section 21

8. Section 21 of the principal Order is repealed and the following new section is substituted therefor —

“Amount of SCP benefit

21. Where a member has attained the age of 60 years, there shall be paid to him a minimum monthly amount of \$250, for such period as the Board may determine.”.

Substitution of section 22

9. Section 22 of the principal Order is repealed and the following new section is substituted therefor —

“Amount of survivorship benefit

22. (1) Where a member dies —

(a) before attaining the age of 60 years; and

(b) has made any contribution under this Order for the month immediately preceding the month in which his death occurs, there shall be paid to —

- (i) a widow or husband;
- (ii) a widow or husband and children of the member;
- (iii) children of the member; or
- (iv) parents, if such member has no widow or husband or children,

a minimum monthly survivorship benefit of \$400 to them collectively for a fixed period of 15 years with effect from the date immediately following the death of such member.

(2) Where a widow or husband in respect of whom a monthly survivorship benefit is granted under this section remarries or dies, such benefit shall be paid to the children to whom a monthly survivorship benefit is paid or payable under subsection (1).

(3) A child in respect of whom a monthly survivorship benefit is paid under this section shall cease to be eligible for such benefit on such child attaining the age of 21 years or on marriage below such age.

(4) A monthly survivorship benefit shall be ceased if there is no eligible beneficiary.

(5) In this section —

"child" means a person under 21 years of age and includes —

- (a) a posthumous child;
- (b) a stepchild or illegitimate child born before the death of the member and wholly or mainly dependent on him for support; and
- (c) an adopted child who is adopted in a manner recognised by any written law before the death of the member and dependent on him for support;

"widow" means, in the case of a deceased member who was a Muslim, all his legal wives living at the time of his death."

Substitution of section 25

10. Section 25 of the principal Order is repealed and the following new section is substituted therefor —

"Contributions not to be assigned etc.

25. Notwithstanding anything to the contrary contained in any other written law —

(a) no amount payable by the employer as his contribution; and

(b) no amount standing to the credit of a member of the Trust,

shall be assignable, transferable, attached, sequestered or levied on for, or in respect of, any debt or claim and shall not be subjected to any set-off of any nature for any debt owing by the member and if the member is adjudicated a bankrupt by a court, it shall not pass to the Official Assignee on the bankruptcy of the member and is deemed not to form part of the property of the member."

Insertion of new sections 38A, 38B, 38C, 38D, 38E, 38F and 38G

11. The principal Order is amended by inserting the following seven new sections immediately after section 38 —

"Furnishing of information

38A. (1) The Board or any person authorised by the Board in that behalf may by notice in writing require any person to furnish to the Board or the person so authorised, within such period as shall be specified in the notice, all such documents or information relating to such matters as may be required by the Board for the purposes of this Order and as are within the knowledge of that person or in his custody or under his control.

(2) Any person who, on being required by notice under subsection (1) to furnish any document or information, fails to comply with any requirement of the notice is guilty of an offence.

(3) A person who —

(a) intentionally alters, suppresses or destroys any document which he has been required by any notice under subsection (1) to furnish; or

(b) in furnishing any estimate, return or other information required of him under any notice under subsection (1), makes any statement which he knows to be false in any material particular,

is guilty of an offence.

Preservation of secrecy

38B. (1) Except for the purpose of the performance of his duties or the exercise of his functions 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 member, an officer, an employee, a consultant or an agent of the Board or a member of a committee shall disclose any information relating to the affairs of the Board or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 12 months or both.

Recovery of sums due to Trust

38C. Any sum due to the Trust, including any sum required by the Board or ordered by a court to be paid, repaid, refunded or transferred to any account maintained for a member of the Trust in respect of the moneys standing to the credit of the member in the Trust, may be sued for and recovered by the Board as if it were a debt due to the Government.

Power to nominate administrator nominees

38D. (1) A member who has attained the age of 18 years may nominate any person as an administrator nominee to receive the amount standing to his credit and due to him at his death.

(2) A nomination may be made in favour of one person or a maximum of three persons and such nomination shall be made in such form and manner as the Board may determine.

Cessation of nominations

38E. (1) A nomination shall cease to have effect —

(a) on the death of the administrator nominee or, where there is more than one administrator nominee, all the administrator nominees during the lifetime of the member; or

(b) by written notice of revocation.

(2) The cessation of nomination under subsection (1)/b) shall not be revoked by any will or by any other means.

Payment on death of member if there is nomination

38F. (1) Subject to subsection (2), where a member dies having nominated an administrator nominee, the Board shall pay the amount standing to the credit of the deceased member according to the directions of the nominations.

(2) Where a Muslim member dies having nominated an administrator nominee in accordance with this Order, the administrator nominee shall receive the amount standing to the credit of the deceased member as an executor and not solely as a beneficiary and shall distribute the amount in accordance with *Hukum Syara'*.

(3) In this section, "*Hukum Syara'* " means the laws of Islam according to the *Shafi'ee, Hanafi, Maliki* or *Hanbali* sect of *Ahlis Sunnah Waljamaah*.

Payment on death of member if there is no nomination

38G. Where a member dies without having made any nomination, the Board shall pay any amount standing to the credit of the deceased member in accordance with section 24."

Addition of new Schedule

12. The principal Order is amended by adding the following new Schedule —

"SCHEDULE
(section 8)

RATES OF CONTRIBUTIONS

1. Employee of age 50 to 54 years old —

Income group (employee's salary)	Employer Share	Member Share
\$500 and below	6.5%	3.5%
\$500.01 to \$1,500	5.5%	3.5%
\$1,500.01 to \$2,800	4.5%	3.5%
Above \$2,800.00	3.5%	3.5%

2. Employee of age 55 to 59 years old –

Income group (employee's salary)	Employer Share	Member Share
\$500 and below	11.5%	8.5%
\$500.01 to \$1,500	10.5%	8.5%
\$1,500.01 to \$2,800	9.5%	8.5%
Above \$2,800.00	8.5%	8.5%

3. For the purposes of payment of contributions, where the percentage figure of the contribution by the employers and employees is not a whole cent, the figure shall be rounded off to two decimal points.".

Made this 11th. day of Rejab, 1445 Hijriah corresponding to the 23rd. day of January, 2024 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

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