

No. S 32

CONSTITUTION OF BRUNEI DARUSSALAM

(Order under section 83(3))

EMERGENCY (FINANCE COMPANIES ACT) (AMENDMENT) ORDER, 1995

In exercise of the powers conferred by section 83(3) of the Constitution of Brunei Darussalam, His Majesty The Sultan and Yang Di-Pertuan has made the following Order :-

Citation and
Commence-
ment.

1. This Order may be cited as the Emergency (Finance Companies Act) (Amendment) Order, 1995 and shall come into force on 1st June, 1995.

Amendment of
Section 2 of
Chapter 89.

2. The Finance Companies Act (hereinafter referred to as the Act) is amended in section 2 by inserting immediately before the definition of "public company" the following -

""Minister"" means the Minister responsible for finance ;".

Insertion of new
section 13A.

3. The Act is amended by inserting immediately after section 13 the following new section 13A —

"Minimum
Cash Balances.

13A. (1) The Minister may from time to time require finance company to maintain minimum cash balances, not exceeding thirty per cent of each finance companys' deposit and other liabilities, on deposit with the Minister as reserves against their deposit and other liabilities.

(2) Subject to the limit specified in subsection (1) of this section, the Minister may prescribe different ratios for different types of liabilites and may further prescribe the method of computing the amount of the required reserves, but the ratios shall be uniform for all finance companies.

(3) Any prescription of, or change in, the minimum reserve requirements under subsection (1) or (2) of this section shall take effect only after the expiration of thirty days' notice to the finance companies of the Minister's intention to take such action.

(4) Where a finance company (in this section referred to as "the defaulting finance company") has failed to maintain sufficient minimum cash balances

required under subsection (1) of this section, the Minister may by order in writing direct the defaulting finance company to make good the deficiency within the period specified in the order and the defaulting finance company shall comply with the requirements of the order.

(5) If the defaulting finance company fails to make good the deficiency within the period specified in the order referred to in subsection (4) of this section, it shall be lawful, notwithstanding the provisions of any other written law, for the Minister to serve a notice in writing upon any other finance company with which the defaulting finance company has a credit balance, whether in current or deposit account, directing that finance company to transfer to the Minister such amount (not exceeding such credit balance) as is specified in the notice as being equivalent to the amount of the deficiency in the minimum cash balances of the defaulting finance company required under subsection (1) of this section and the other finance company shall immediately comply with the requirements of that notice.

(6) No action shall lie against, and no liability shall attach to, any finance company that complies with the requirements of a notice referred to in subsection (5) of this section for any loss or damage suffered by the defaulting finance company as a result of the other finance company taking action in compliance with the requirements of that notice.

(7) The Minister may, in addition to any action taken under subsections (4) and (5) of this section, impose on any finance company that fails to maintain sufficient minimum cash balances required under subsection (1) of this section a penalty interest charge of one thousand dollars per day or such larger amount as the Minister may determine for every day during which the deficiency continues.

(8) Any finance company that fails or refuses to pay a penalty interest charge under subsection (7) of this section shall be guilty of an offence under this Act, punishable under subsection (1) of section 34."

4. Subsection (2) of section 38 of the Act is amended by deleting "His Majesty in Council" and substituting therefor "the Minister with the approval of His Majesty The Sultan and Yang Di-Pertuan".

Amendment of
section 38.

Made this 29th day of Zulhijah, 1415 Hijrah corresponding to the 29th day of May, 1995 at Our Istana Nurul Iman, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM