

No. S 45

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

BRUNEI DARUSSALAM FOOD AUTHORITY ORDER, 2020

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

BRUNEI DARUSSALAM FOOD AUTHORITY ORDER, 2020

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 1

PRELIMINARY

Citation, commencement and long title

1. (1) This Order may be cited as the Brunei Darussalam Food Authority Order, 2020 and shall commence on a date to be appointed by the Minister, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*.

(2) The long title of this Order is "An Order to establish and incorporate the Brunei Darussalam Food Authority and for matters connected therewith or incidental thereto".

Interpretation

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

"appointed day" means the date appointed under section 1(1) as the date of commencement of this Order;

"Authority" means the Brunei Darussalam Food Authority established by section 3;

"Board" means the Board of Directors of the Authority referred to in section 5;

"Chairman" means the Chairman of the Board appointed under section 5(2) and includes any temporary Chairman;

"Chief Executive Officer" means the Chief Executive Officer appointed under section 11 and includes any person acting in that capacity;

"committee" means any committee appointed under section 6(1);

"food" has the same meaning assigned to it in section 2 of the Public Health (Food) Act (Chapter 182);

"food standard" means a standard about any of the following matters —

- (a) the composition of food, including —
 - (i) the maximum amounts of contaminants or residues that may be present in the food;
 - (ii) the maximum or minimum amount of additives that must or may not be present in the food;
 - (iii) its microbiological status and safety; and
 - (iv) the method of sampling and testing the food to determine its composition;
- (b) the production of food;
- (c) the packaging, storage or handling of food;
- (d) any information about food including labelling, promotion or advertising;

"Fund" means the Brunei Darussalam Food Authority Fund established by section 15;

"member" means any member of the Board;

"Minister" means the Minister of Health.

PART 2

BRUNEI DARUSSALAM FOOD AUTHORITY

Establishment and incorporation of Brunei Darussalam Food Authority

3. There is hereby established a body to be known as the Brunei Darussalam Food Authority which shall be a body corporate with perpetual succession and a common seal and shall, by that name, be capable of —

- (a) suing and being sued;
- (b) acquiring, owning, holding, developing or disposing of property, both movable and immovable; and

(c) doing all such other acts or things as a body corporate may lawfully do.

Common seal

4. (1) The Authority shall have a common seal and such seal may be changed, altered or made anew as the Authority thinks fit.

(2) All deeds and other documents requiring the seal of the Authority shall be sealed with the common seal of the Authority.

(3) All instruments to which the common seal is affixed shall be signed by any two officers generally or specially authorised by the Authority for that purpose.

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

(5) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to any document and shall presume that it was duly affixed.

Board of Directors

5. (1) There shall be a Board of Directors of the Authority which shall be the executive body of the Authority which may exercise all the powers conferred on the Authority under this Order and shall be responsible for the formulation of the policies of the Authority, the supervision of the implementation and the general administration of the affairs and business of the Authority.

(2) The Board shall consist of a Chairman and such other members as His Majesty the Sultan and Yang Di-Pertuan may appoint.

(3) Schedule 1 shall have effect with respect to the Board, its members and proceedings.

Committees

6. (1) The Board may, in its discretion, appoint committees consisting of persons who are members or otherwise, for purposes which, in the opinion of the Board, would be better regulated and managed by such committees.

(2) The Board may define or vary the terms of reference of the committees.

(3) Subject to this Order and to the control of the Board, each committee may regulate its procedure in such manner as the committee thinks fit.

Delegation of powers

7. (1) The Board may, in respect of a specified matter or class of matters, in writing, delegate to a member or committee of the Board or to an officer of the Authority, the exercise of any power or the performance of any function conferred or imposed on it by this Order, except for the power of delegation conferred by this section.

(2) A delegation under subsection (1) may be —

(a) subject to such conditions as the Board may determine in the instrument of delegation;

(b) revoked or varied by a subsequent order made in the same manner.

(3) The Board may continue to exercise any power and perform any function conferred or imposed on it by this Order notwithstanding the delegation by it of such power or function.

PART 3

FUNCTIONS AND POWERS OF AUTHORITY

Functions of Authority

8. (1) The functions of the Authority shall include —

(a) to act as Authority to regulate in respect of the safety and quality of food in Brunei Darussalam;

(b) to advise and make recommendations to the Government on matters, measures, standards and regulations relating to food and food safety;

(c) to exercise licensing and regulatory functions in respect of food safety aspects of food importation, manufacturing, storage, distribution and exportation;

(d) to ensure regulatory compliance of relevant businesses in respect of food safety standards relating to importation, production, processing,

storage, distribution and exportation of food so as to ensure that it is safe and suitable for human consumption;

(e) to protect the health and safety of the public by monitoring and regulating that food in Brunei Darussalam is safe and suitable for human consumption for the purpose of minimising food safety hazards;

(f) to certify or facilitate accreditation by others (third party certification body) in Brunei Darussalam of, persons or facilities related to or connected with food;

(g) to represent the Government internationally on matters relating to food, food safety and on matters that may be included in food standards;

(h) to undertake or facilitate the education and training of persons engaged in the handling or supply of food to enable them to minimise food safety risks;

(i) to develop food education initiatives, including the publication of information to increase public awareness on food safety, food standards and food labels;

(j) to cooperate and collaborate with any relevant public body or other relevant authorities or bodies in the performance of its functions; and

(k) to perform such other functions as are conferred on the Authority by this Order or any other written laws.

[2] In performing the functions conferred on the Authority by subsection (1), the Authority is to have regard to —

(a) the protection of public health and safety;

(b) the protection of public interest;

(c) ensuring food standards in Brunei Darussalam are consistent with those used internationally, based on the best available scientific evidence;

(d) providing services in an effective manner; and

(e) adopting systems and procedures that promote efficiency.

[3] In addition to the functions imposed by this section, the Authority may undertake such other functions as the Minister may assign to the Authority and in so doing —

(a) the Authority is deemed to be fulfilling the purposes of this Order;
and

(b) the provisions of this Order apply to the Authority in respect of such functions.

(4) Nothing in this section shall be construed as imposing on the Authority, directly or indirectly, any form of duty or liability enforceable by proceedings before any court.

Powers of Authority

9. (1) Subject to this Order, the Authority may carry on such activities as appear to the Authority to be advantageous, necessary or convenient for it to carry on for or in connection with the performance of its functions under this Order or any other written law, and in particular, the Authority may exercise any of the powers set out in Schedule 2.

(2) This section shall not be construed as limiting any power of the Authority as may be conferred by or under any other written law.

Directions by Minister

10. (1) The Minister may, in writing, give to the Authority such directions, not inconsistent with the provisions of this Order, as he thinks fit, as to the performance of its functions and exercise of its powers and the Authority shall give effect to any such directions.

(2) The Authority shall give effect to any direction given to it under subsection (1) notwithstanding any other duty imposed on it by or under this Order or any other written law.

(3) The Authority shall furnish the Minister with such information in respect of its property, the exercise of its powers and performance of its functions as the Minister may require.

PART 4

PROVISIONS RELATING TO STAFF

Appointment of Chief Executive Officer

11. (1) The Minister shall, with the consent of His Majesty the Sultan and Yang Di-Pertuan, appoint a Chief Executive Officer for such term of office and on such conditions of service as the Minister may determine.

(2) The Chief Executive Officer shall be responsible for the proper administration and management of the functions and affairs of the Authority in accordance with the policy of the Authority.

(3) If the Chief Executive Officer is temporarily absent from Brunei Darussalam, or is temporarily unable to perform his duties by reason of illness or otherwise, another person may be appointed by the Minister to act in the place of the Chief Executive Officer during any such period of absence from duty.

Employment of staff

12. The Authority may appoint or employ such officers and other employees, advisers, consultants and agents as may be necessary for the effective performance of its functions for such terms of office and on such conditions of service as the Authority may determine.

Protection from personal liability

13. (1) No suit or other legal proceedings shall lie personally against any member, committee member, the Chief Executive Officer or any officer or employee of the Authority or other person acting under the direction of the Authority for anything which is done or purported to be done, or omitted to be done, in good faith and with reasonable care in —

(a) the exercise or purported exercise of any power; or

(b) the performance or purported performance of any function,

under this Order or any other written law.

(2) Where the Authority provides a service to the public whereby information is supplied to the public, neither the Authority nor any of its officers and other employees involved in the supply of such information shall be liable for any loss or damage suffered by any member of the public by reason of any error or omission of whatever nature appearing therein or however caused if made in

good faith and in the ordinary course of the discharge of the duties of such employees.

Public servants

14. All members, officers and employees of the Authority are deemed to be public servants for the purposes of the Penal Code (Chapter 22).

PART 5 FINANCIAL PROVISIONS

Brunei Darussalam Food Authority Fund

15. For the purposes of this Order, there is established a fund to be known as the Brunei Darussalam Food Authority Fund into which shall be paid —

- (a)* such moneys as may be allocated from the Consolidated Fund;
- (b)* all moneys paid to the Authority by way of grants, subsidies, donations, gifts and contributions for the purposes of the Authority;
- (c)* all moneys paid to, and all other moneys and property lawfully received by, the Authority for the purposes of the Authority;
- (d)* all fees and charges payable to the Authority under this Order or any other written law administered by the Authority;
- (e)* all moneys, dividends, royalties, interest or income received from any transaction made pursuant to the powers of the Authority under this Order or any other written law administered by the Authority;
- (f)* all moneys borrowed by the Authority under this Order; and
- (g)* all accumulations of income derived from any property or money mentioned in paragraphs *(b)* to *(f)*.

Application of Fund

16. (1) The Fund for any financial year shall be applied in defraying the following charges —

- (a)* the remuneration, fees and allowances of the members of the Authority;

(b) the salaries, fees, remuneration, superannuation allowances and gratuities of the officers, agents, employees, advisers and former employees of the Authority or its predecessors;

(c) working and establishment expenses and expenditure on, or provision for, the maintenance of any of the property of the Authority, and the discharge of the functions of the Authority properly chargeable to the Fund;

(d) interest on any debentures issued and on any financing raised by the Authority;

(e) sums required to be paid to the Government towards repayment of any financing made by the Government to the Authority;

(f) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of debentures or the repayment of other borrowed money;

(g) such sums as may be deemed appropriate to set aside in respect of depreciation or renewal of the property of the Authority, having regard to the amounts set aside out of the Fund under paragraphs *(c)* and *(f)*;

(h) such sums by way of contribution, for the purposes associated with the objects of this Order as the Authority may determine, to the public or for charities; and

(i) any other expenditure authorised by the Authority and properly chargeable to the Fund.

(2) The balance of the Fund, with respect to each financial year, shall be applied to the creation of a general reserve and such other reserves as the Authority may think fit.

Grants

17. For the purpose of enabling the Authority to carry out its functions under this Order, the Minister of Finance and Economy may make grants to the Authority of such sums of moneys, as the Minister of Finance and Economy may determine, out of moneys to be provided by the Government.

Power to borrow and invest

18. (1) For the performance of its functions under this Order, the Authority may raise financing from the Government or, with the approval of the Minister who shall consult the Minister of Finance and Economy, raise financing from

banks or other financial institutions (whether in or outside Brunei Darussalam) by —

(a) mortgage, overdraft or otherwise;

(b) charge, whether legal or equitable, on any property vested in the Authority or on any other revenue receivable by the Authority under this Order; and

(c) the creation and issuance of debentures, bonds or other instruments.

(2) Subject to the approval of the Minister who shall consult the Minister of Finance and Economy, the Authority may invest its funds in such manner as the Minister thinks fit.

Bank accounts

19. (1) The Authority shall open and maintain an account or accounts with such bank or banks as the Authority thinks fit.

(2) Every such account shall be operated upon as far as practicable by cheques signed by such person or persons as may be authorised in that behalf by the Authority.

Other financial provisions

20. The financial provisions set out in Schedule 3 shall have effect with respect to the Authority.

PART 6

TRANSFER OF POWERS, FUNCTIONS, ASSETS, LIABILITIES AND EMPLOYEES

Power of Authority to exercise powers and functions under certain laws

21. (1) On the appointed day, the Authority shall, in addition to its powers, functions and duties set out in this Order, exercise all the powers and perform all the functions and discharge all duties conferred or imposed on the Authority under the written laws set out in Schedule 4.

(2) Notwithstanding any provision of this Order to the contrary, where a power, function or duty 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, performed or discharged by any other person.

(3) On the appointed day, the Authority shall be charged with the general administration of the written laws set out in Schedule 4 and the performance of its functions and discharging its duties imposed on the Authority by those written laws.

(4) The Authority may authorise any person to assist it in the performance of its functions and discharging of its duties under the written laws set out in Schedule 4, either generally or in a particular case.

(5) Any decision made by the Minister or any other person under the written laws set out in Schedule 4 before the appointed day is, so far as it is not inconsistent with any provision of this Order or any other written law and except as otherwise provided in this Order or any other written law, deemed to be a decision by the Authority and shall continue to have effect accordingly.

(6) Any permission, notice, warrant, consent, approval, certificate, direction, order, declaration or other document, prepared, made, granted or issued, and any act or thing done or given by the Minister or any other person under the written laws set out in Schedule 4 before the appointed day is, so far as it is not inconsistent with any provision of this Order and except as otherwise expressly provided in this Order or any other written law, deemed to have been prepared, made, granted, issued, done or given by the Authority and shall continue to have effect accordingly.

(7) Where any document made in connection with or related to any of the written laws set out in Schedule 4 is made before the appointed day, and such document contains any reference to the Minister, such reference shall, as from the appointed day, be read as the Authority.

Transfer of assets and liabilities of Government

22. (1) On the appointed day, such movable and immovable property vested in the Government immediately before that date and all assets, interests, rights and privileges of the Government as may be determined by the Minister, together with 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, act or deed.

(2) If any question arises as to whether any particular property, or whether any particular asset, interest, right, privilege, debt, liability and obligation has been transferred to and vested in the Authority under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the property,

asset, interest, right, privilege, debt, liability or obligation was or was not so transferred or vested.

(3) Any immovable property to be transferred to and vested in the Authority under subsection (1) shall be held by the Authority upon such tenure and subject to such terms and conditions as the Minister may determine.

Transfer of employees of Government

23. (1) On the appointed day, such persons or categories of persons employed by the Government immediately before that date as the Minister may determine shall be transferred to the service of the Authority on terms no less favorable than those enjoyed by them immediately prior to their transfer.

(2) Until such time as terms of office and conditions of service are drawn up by the Authority, the scheme and terms of office 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 terms and conditions to be drawn up by the Authority shall take into account the salaries and the terms of office 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 term and condition relating to the length of service with the Authority shall provide for the recognition of service under the Government by the persons so transferred to be service by them under the Authority.

(5) Where, on the appointed day, any disciplinary proceedings were pending against any employee of the Government transferred to the service of the Authority under subsection (1), the proceedings shall be carried on and completed by the Authority.

(6) Where, on the appointed day, any matter was in the course of being heard or investigated or had been heard or investigated by a committee acting under due authority but no order, ruling or decision had been made thereon, the committee shall complete the hearing or investigation and make such order, ruling or direction as it could have made under the authority vested in it before the appointed day.

(7) Any order, ruling or decision made by a committee pursuant to this section shall be treated as an order, ruling or decision of the Authority and have the same force or effect as if it had been made by the Authority.

(8) The Authority may reprimand, reduce in rank, retire, dismiss or punish in some other manner a person who had, whilst he was in the employment of the Government, been guilty of any misconduct or neglect of duty which would have rendered him liable to be reprimanded, reduced in rank, retired, dismissed or punished in some other manner if he had continued to be in the employment of the Government, and if this Order had not been made.

No benefits in respect of abolition or reorganisation of office

24. Notwithstanding the provisions of the Pensions Act (Chapter 38), no person who is transferred to the service of the Authority under section 23 shall be entitled to claim any benefit under the Pensions Act (Chapter 38) on the ground that he has been retired from the service of the Government on account of abolition or reorganisation of office in consequence of the establishment and incorporation of the Authority.

Existing contracts and pending proceedings

25. (1) All contracts, deeds, bonds, agreements, instruments and working arrangements subsisting immediately before the appointed day to which the Government is a party and relating to the assets and liabilities transferred under section 22(1), or the employees transferred under section 23, shall continue in force on or after that date 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.

(2) Any proceedings or cause of action relating to the assets and liabilities transferred to the Authority under section 22(1) or to any employee transferred to the service of the Authority under section 23 pending or existing immediately before the appointed day by or against the Government or any person acting on its behalf may be continued and shall be enforced by or against the Authority.

PART 7

GENERAL

Annual report

26. The Authority shall, within 6 months after the end of each financial year, submit to the Minister an annual report on the activities of the Authority during the preceding financial year, and the Minister shall cause a copy of every such annual report to be presented to His Majesty the Sultan and Yang Di-Pertuan.

Powers of enforcement

27. (1) In addition to the powers conferred on him by any other written law, an officer or employee of the Authority may, on declaration of his office and production to the person against whom he is acting such identification card as the Chief Executive Officer may direct to be carried by officers or employees of the Authority, in relation to any offence under this Order or such other written law or for the purposes of investigating any offence or contravention of a provision of this Order, do all or any of the following —

(a) conduct such investigations as may be advantageous, necessary or expedient for the purposes of performing its functions and discharging its duties under this Order;

(b) require any person whom he reasonably believes to have committed an offence under this Order or such other written law to furnish evidence of the person's identity;

(c) require any person, for the purposes of this Order or such other written law, to furnish any information or produce any book, document or copy thereof in the possession of that person, and may, without fee or reward, inspect, copy or make extracts from such book, document or copy;

(d) require, by order in writing, the attendance before the officer or employee of any person being within the limits of Brunei Darussalam who, from any information given or otherwise obtained by the officer or employee, appears to be acquainted with the circumstances of the case, and the person so ordered shall attend as so required.

(2) Any person who —

(a) refuses to give access to, or assaults, obstructs, hinders or delays, an officer or employee of the Authority in the discharge of the duties by such officer or employee of the Authority under this Order or any other written law;

(b) wilfully mis-states or without lawful excuse refuses to give any information or produce any book, document or copy thereof required of him by an officer or employee of the Authority under subsection (1); or

(c) fails to comply with a lawful demand of an officer or employee of the Authority in the discharge of the duties by such officer or employee of the Authority under this Order or any other written law,

is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 3 months or both and, in the case of a

subsequent conviction, to a fine not exceeding \$50,000, imprisonment for a term not exceeding 6 months or both.

Validity of acts and transactions of Authority

28. 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.

Preservation of secrecy

29. (1) Except for the purpose of the performance of his functions or the discharge of his duties or when lawfully required to do so by any court or under the provisions of any other written law, no person who is or has been a member, an officer, an employee, a consultant or an agent of the Authority or a member of a committee shall disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his functions or the discharge of his duties.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 3 years or both.

Name, symbol, design or representation of Authority

30. (1) The Authority shall have the exclusive right to the use of such name, symbol, design or representation as it may select or devise and thereafter display or exhibit such name, symbol, design or representation in connection with its activities or affairs.

(2) Any person who —

(a) uses, without the prior approval of the Authority, a name, symbol, design or representation identical with that of the Authority; or

(b) uses a name, symbol, design or representation which so resembles the name, symbol, design or representation of the Authority as to deceive or cause confusion, or to be likely to deceive or to cause confusion,

is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 6 months or both.

Improper use of accreditation, certification or inspection mark

31. (1) No person shall use any accreditation, certification or inspection mark, or a colourable imitation of any accreditation, certification or inspection mark, in respect of any product or process, unless the person —

(a) holds a valid accreditation or certification authorising the person to use that accreditation, certification or inspection mark in respect of that product or process; or

(b) is authorised by the Authority to use that accreditation, certification or inspection mark.

(2) No person shall use any report or certificate issued or purportedly issued by or on behalf of the Authority to convey the impression that the person holds a valid accreditation, certification or inspection mark, when in fact the person does not.

(3) No person shall forge or without lawful authority alter an accreditation, certification or inspection mark, or a report or certificate issued by the Authority.

(4) Any person who, without reasonable excuse, contravenes subsection (1), (2) or (3) is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 3 years or both.

(5) A court trying an offence under subsection (1), (2) or (3) may direct that any property in respect of which the offence has been committed be forfeited to the Government.

Offences by body corporate etc.

32. (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) applies 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 is guilty of that offence and 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.

Jurisdiction

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

Composition of offences

34. (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 \$1,000.

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

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

Amendment of Schedules

35. The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, amend the Schedules to this Order.

Regulations

36. The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as may be necessary or expedient for giving effect to and carrying out the provisions of this Order and for the due administration thereof, including the prescription of fees and of any other thing required to be or which may be prescribed under this Order.

Consequential and related amendments to other written laws

37. The provisions of the written laws specified in the first column of Schedule 5 are amended in the manner set out in the second column thereof.

SCHEDULE 1

(sections 5(3) and 35)

CONSTITUTION AND PROCEEDINGS OF BOARD

Tenure of office of members

1. A member shall hold office for a period not exceeding 3 years and on such conditions as the Minister may determine and shall be eligible for reappointment.

Temporary members

2. The Minister may appoint any person to be a temporary member during the temporary incapacity from illness or otherwise, or during the temporary absence from Brunei Darussalam, of any member.

Temporary Chairman

3. The Minister may appoint any member to be a temporary Chairman during the temporary incapacity from illness or otherwise, or during the temporary absence from Brunei Darussalam, of the Chairman.

Revocation of appointment

4. The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, at any time, revoke the appointment of the Chairman or any member without assigning any reason.

Resignation

5. A member may resign his office at any time by giving not less than one month's notice in writing to the Minister.

Chairman may delegate function

6. The Chairman may, in writing, authorise any member to exercise any power or perform any function conferred on the Chairman under this Order.

Vacation of office

7. The office of a member shall become vacant —

- (a) on his death;
- (b) if he, without sufficient cause (the sufficiency thereof to be decided by the Board), fails to attend three consecutive meetings of the Board;
- (c) if he becomes in any manner disqualified from membership of the Board;
- (d) if he resigns his office; or
- (e) if his appointment is revoked.

Filling of vacancy

8. If a vacancy occurs in the membership of the Board, the Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, appoint any person to fill the vacancy and the person so appointed shall hold office for so long as the member in whose place he is appointed would have held office.

Disqualification from membership

9. No person shall be eligible to be appointed or to remain a member if he —

- (a) is an undischarged bankrupt or has made any arrangement with his creditors;
- (b) is incapacitated by physical or mental illness; or
- (c) is otherwise unable or unfit to discharge the functions of a member.

Disclosure of interest of members

10. (1) A member who has direct or indirect personal or pecuniary interest in a transaction or project of the Board shall disclose the nature of his interest at a meeting of the Board.

(2) The disclosure by a member of his personal and pecuniary interest shall be recorded in the minutes of the Board and that member shall not take part in any deliberation of the Board with respect to the transaction or project, and if the

Chairman or the person presiding at that meeting so directs, he shall withdraw from the meeting during the consideration or discussion.

(3) For the purpose of determining whether there is a *quorum*, a member shall be treated as being present at a meeting, notwithstanding that under subparagraph (2) he cannot vote or has withdrawn from the meeting.

(4) For the purposes of this paragraph, an interest of any associate of a member shall be treated as an interest of the member.

(5) In this paragraph, "associate", in relation to another person, means any of the following —

(a) the wife or husband, or son, daughter or more remote issue, of that person;

(b) the brother or sister, or parent or more remote lineal ancestor, of that person;

(c) the trustees of any settlement under which that person has life interest in possession;

(d) any company of which that person is a director;

(e) any person who is an employee or partner of that person;

(f) if that person is a company, any director or subsidiary undertaking of that company and any director or employee of such a subsidiary undertaking.

Meetings and *quorum*

11. (1) The Board shall ordinarily meet for the despatch of business at such times and places as the Chairman may appoint.

(2) At every meeting of the Board, one half of the number of members shall constitute a *quorum*.

(3) A decision at a meeting of the Board shall be adopted by a simple majority of the members present and voting except that, in the case of an equality of votes, the Chairman of the meeting shall have a casting vote.

(4) Where not less than four members request the Chairman by notice in writing signed by them to convene a meeting of the Board for any purpose specified in the notice, the Chairman shall, within 7 days from the receipt of the notice, convene a meeting for that purpose.

(5) The Chairman shall preside at meetings of the Board.

(6) Where the Chairman is absent at a meeting, such member as the Chairman appoints as an acting Chairman shall preside at that meeting.

(7) The Board may invite any person, not being a member, to attend a meeting of the Board for the purpose of giving advice to the Board on any matter.

Vacancy

12. The Board may act notwithstanding any vacancy in its membership.

Conduct of business

13. (1) The Board may conduct its business and regulate its own procedure, including its meetings, in the way it considers appropriate.

(2) The Board shall cause proper records of its proceedings to be kept.

(3) All acts done by the Board shall, notwithstanding any vacancy in the Board or that is afterwards discovered that there was a defect in the appointment of any person purporting to be a member thereof, be valid as if no such vacancy or defect had existed.

Validity of proceedings

14. The validity of any proceedings of the Board shall not be affected by any defect in the appointment of any member or by any contravention of paragraph 10 by any member.

SCHEDULE 2

(sections 9(1) and 35)

POWERS OF AUTHORITY

1. Prescribe, regulate or implement measures and standards on any matter related to or connected with food and liaise or collaborate with any organisation for the purpose of determining the standards to be prescribed.
2. Implement an integrated food safety system that regulates the safety of food supply in Brunei Darussalam.
3. Regulate the importation, production, processing, storage, distribution and exportation of food and products related to or connected with food, in particular in the aspect of food safety.
4. Inspect, test and certify any food or premises related to or connected with food, in particular in the aspect of food safety.
5. Establish, manage and administer any accreditation, certification or inspection scheme or a register, for any purpose relating to any function of the Authority, including specifying, by order published in the *Gazette*, accreditation marks, certification marks or inspection marks of the Authority and controlling the use of those accreditation, certification or inspection marks.
6. Engage in research, technology development studies or technical cooperation projects related to or connected with food.
7. Collect, analyse, compile, publish or disseminate information of a statistical nature related to food or such other subject matter that may be included in food standard, as may be necessary for the performance of the functions of the Authority.
8. Prescribe training requirements for matters related to or connected with food, and provide training, conduct tests or certificates of proficiency.
9. Provide technical, consultancy or advisory services to any Government authority, person, company, corporation or organisation on any matter related to or connected with food.
10. With the approval of the Minister, form or participate in the formation of any company, partnership or joint venture as a shareholder or partner or in any other capacity, which must not be in conflict with the performance of its functions and the exercise of its powers.

11. Charge fees or commissions for the issuance of any licence, permit, certificate of approval and services rendered by the Authority or for the use of any facility of the Authority.
12. Carry out promotion or publicity in any form as may be necessary for the performance of the functions of the Authority.
13. Receive grants, donations or contributions from any source or raise funds by all lawful means and must not be in conflict with the performance of its functions and the exercise of its powers and apply such funds for any of its functions or duties.
14. Enter into agreements or arrangements with persons, authorities or organisations in Brunei Darussalam or overseas with respect to food safety and matters that may be included in food standards.
15. Become a member or an affiliate of any international body whose functions, objects or duties relate to food, food safety or any matter that may be included in food standards.
16. Participate in international, regional and bilateral negotiations on matters relating to the food safety and matters that may be included in food standards.
17. Do any other thing incidental to any of the Authority's powers.

SCHEDULE 3

(sections 20 and 35)

FINANCIAL PROVISIONS

Financial year

1. The financial year of the Authority shall begin on 1st April of each year and end on 31st March of the succeeding year.

Budget

2. (1) The Authority shall, in every financial year, prepare its annual budget for the ensuing financial year, which shall be approved and adopted by the Board.

(2) There shall be reported in the annual budget 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.

(3) The Authority shall then cause a copy of the approved budget to be transmitted to the Minister of Finance and Economy not later than 60 days before the commencement of the new financial year.

(4) The Minister of Finance and Economy shall submit a copy of the approved budget, together with his recommendation to His Majesty the Sultan and Yang Di-Pertuan, for approval.

Accounts and financial statements

3. (1) The Authority shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Authority and over the expenditure incurred by it.

(2) The Authority shall, as soon as practicable after the close of each financial year, cause financial statements in respect of that year to be prepared and submitted to the auditor of the Authority who shall audit and report on them.

Audit

4. (1) The accounts and financial statements of the Authority shall be audited annually by —

(a) the Auditor General; or

(b) any person 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 annually by the Authority:

Provided that where the accounts of the Authority have been audited by a person appointed under sub-subparagraph (b), they may be verified by the Auditor General before they are presented to the Minister of Finance and Economy pursuant to paragraph 6(1).

(2) The auditor shall in his report state —

(a) whether the financial statements show fairly the financial transactions and the state of affairs of the Authority;

(b) whether proper accounting and other records have been kept, including records of all assets of the Authority whether purchased, donated or otherwise;

(c) whether the receipts, expenditure, investment of moneys and the acquisition and disposal of assets by the Authority during the financial year have been in accordance with this Order; and

(d) such other matters arising from the audit as he considers should be reported.

(3) The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Authority.

(4) The auditor shall submit such periodical and special reports to the Minister and to the Authority as may appear to him to be necessary or as the Minister or the Authority may require.

(5) The remuneration of the auditor shall be paid out of the funds of the Authority.

Powers of auditor

5. (1) The auditor or any person authorised by him is entitled at all reasonable times to full and free access to all accounting and other records relating directly or indirectly to the financial transactions of the Authority.

(2) The auditor or a person authorised by him may make copies of or extracts from any such accounting and other records.

(3) The auditor may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor considers necessary for the purposes of his functions under this Order.

(4) Any person who refuses or fails without any reasonable cause to allow the auditor access to any accounting and other records of the Authority in his custody or power or to give any information possessed by him as and when required or who otherwise hinders, obstructs or delays the auditor in the performance of his duties or the exercise of his powers under this Order is guilty of an offence and liable on conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

Presentation of financial statements and audited reports

6. (1) As soon as the accounts of the Authority and the financial statements have been audited in accordance with the provisions of this Order, a copy of the audited financial statements signed by the Chairman, together with a copy of any report made by the auditor, shall be submitted to the Minister.

(2) Where the Auditor General is not the auditor of the Authority, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor General at the same time they are submitted to the Authority.

(3) The Minister shall as soon as practicable cause a copy of the audited financial statements and of the auditor's report to be presented to His Majesty the Sultan and Yang Di-Pertuan.

SCHEDULE 4
(sections 21 and 35)

LIST OF WRITTEN LAWS

1. Public Health (Food) Act (Chapter 182)
2. Wholesome Meat Order, 2011 (S 6/2011)

SCHEDULE 5

(section 37)

CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER
WRITTEN LAWS

1. Public Health (Food) Act (Chapter 182)

Section 2	Delete the definition of "Director" and substitute with the following new definition therefor — " "Authority" means the Brunei Darussalam Food Authority established by section 3 of the Brunei Darussalam Food Authority Order, 2020;".
Section 3(4)	Repeal.
Section 4(1)/b)	Delete "on payment or tender of the current market value of the food" and substitute with "without payment" therefor.
Section 5(1)	Delete "him" from the third line and substitute with "it" therefor.
Section 5(4)	Delete "he" from the sixth line and substitute with "it" therefor.
Section 5(5)	Delete "he" from the third line and substitute with "it" therefor.
Section 6(5)	Delete "him" from the third line and substitute with "it" therefor.
All applicable sections	Delete "Director" wherever it appears in the Act and substitute with "Authority" therefor.

2. Wholesome Meat Order, 2011 (S 6/2011)

- Section 2(1) Insert the following new definition immediately after "authorised officer" —
" "Authority" means the Brunei Darussalam Food Authority established by section 3 of the Brunei Darussalam Food Authority Order, 2020;".
- Delete the definition of "Director".
- Delete the definition of "Minister" and substitute with the following new definition therefor —
" "Minister" means the Minister of Health;".
- Section 3(4) Delete "him" and substitute with "it" therefor.
- Section 5 In the heading, insert "import," immediately before "export".
- Section 5(1) Insert "import," immediately before "export".
- Section 5(2)(a) Insert "imports," immediately before "exports".
- Section 6(1) Insert "the licensee has obtained a permit from the Authority in respect of each consignment of meat or meat products to be imported by him and the importation is carried out in accordance with the conditions of the permit, and" immediately after "unless" in the third line.
- Section 6(2)(d) Delete "licensed under the Miscellaneous Licences Act (Chapter 127)".

Section 6(2)(e)	Delete "under the Miscellaneous Licences Act (Chapter 127)" and substitute with "under any written law in force" therefor.
Section 7(3)	Delete "he" and substitute with "it" therefor. Delete "his" and substitute with "its" therefor.
Section 8(2)	Delete "his" from the second line and substitute with "its" therefor.
Section 12(3)	Delete "his" and substitute with "its" therefor.
Section 13(1)	Delete "he" and substitute with "it" therefor.
Section 13(2)	Delete "his" from the second line and substitute with "its" therefor.
Section 25(1)(d)	Delete "that has not been licensed under the Miscellaneous Licences Act (Chapter 127);".
Section 25(1)(d)(ii)	Delete the comma and substitute with a semi colon therefor.
Section 25(1)(g)	Delete "that has not been licensed under the Miscellaneous Licences Act (Chapter 127)".
Section 37	Delete "he" and substitute with "it" therefor.
Section 38(2)(k)	Delete "licensed under the Miscellaneous Licences Act (Chapter 127)".

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| Section 38(2)(v) | Delete "he" and substitute with "it" therefor. |
| All applicable sections | Delete "Director" wherever it appears in the Order and substitute with "Authority" therefor. |
| 3. Prevention of Corruption Act (Chapter 131)
SCHEDULE | Insert the following new item immediately after item 2 —
"2A. Brunei Darussalam Food Authority". |
| 4. Statutory Corporations (Contributions to Consolidated Fund) Order, 2016
(S 28/2016)
SCHEDULE | Insert the following new item immediately after "Authority for Info-Communications Technology Industry of Brunei Darussalam" —
"Brunei Darussalam Brunei Darussalam
Food Authority Food Authority
Order, 2020". |

Made this 6th. day of Jamadilawal, 1442 Hijriah corresponding to the 21st. day of December, 2020 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

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