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

EMPLOYEE TRUST ACT (AMENDMENT) (NO. 2) ORDER, 2024

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EMPLOYEE TRUST ACT (AMENDMENT) (NO. 2) 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 Employee Trust Act (Amendment) (No. 2) Order, 2024 and shall be deemed to have commenced on 15th July 2023.

Amendment of section 2 of Chapter 167

2. Section 2 of the Employee Trust Act, in this Order referred to as the Act, 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.

Amendment of section 7

3. Section 7 of the Act is amended, in subsection (1), by deleting "3" from the last line and by substituting "6" therefor.

Amendment of section 8

4. Section 8 of the Act is amended —

(a) in subsection (3), by deleting "by the employer within the prescribed period and such dividend shall be calculated and credited to the account of the employee:" from the last two lines and by substituting "at the rate and in accordance with any manner and calculations determined by the Board." therefor;

(b) by deleting the proviso.

Amendment of section 10

5. Section 10 of the Act is amended, in subsection (1) —

(a) by deleting "section 7" from the second line and by substituting "this Act" therefor;

(b) by deleting "first" from the third last line and by substituting "16th" therefor.

Substitution of section 11

6. Section 11 of the Act is repealed and the following new section is substituted therefor —

"Refund of contributions paid in error

11. (1) When the Board is satisfied that any amount has been paid in error to the Trust in respect of any person or as service charge under section 10, the Board may, subject to subsection (3), refund the amount so paid in error to the person by whom it was paid:

Provided that if the refund of any amount paid in error is not claimed within 6 months of the date on which it was paid or if the member in respect of whom it was paid has withdrawn it, the amount paid in error shall not be refunded but shall be deemed to have been properly paid under the provisions of this Act as service charge or for the person in respect of whom it was paid.

(2) If any amount is due to the Trust from the person to whom refund of the amount paid in error would otherwise be made, the Board may retain the whole or any part of the amount paid in error and set it off against such amount as is due.

(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 17

7. Section 17 of the Act is amended, in subsection (1), by deleting paragraph (e) and by substituting the following new paragraph therefor —

"(e) 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 22

8. Section 22 of the Act is repealed and the following new section is substituted therefor —

"Contributions not to be assigned etc.

22. 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 section 24A

9. The Act is amended by inserting the following new section immediately after section 24 —

"Amount withdrawn not to be utilised for other purpose

24A. (1) An amount withdrawn by any member of the Trust under this Act shall be utilised for the purpose for which the withdrawal was authorised.

(2) Where all of the amount withdrawn under this Act or any part of the amount is not utilised for the purpose for which such withdrawal was authorised, the member of the Trust shall return all the amount or the part which is not utilised to the Board within 6 months from the date of withdrawal.

(3) For the purpose of subsection (2), "date of withdrawal" means the date of withdrawal as provided in section 20.

(4) Any member of the Trust who contravenes subsections (1) and (2) is guilty of an offence."

Amendment of section 26

10. Section 26 of the Act is amended —

(a) by inserting "(1)" immediately before "Any" in the first line;

(b) by adding the following new subsection —

"(2) Where an employer fails to comply with any order made under subsection (1), the court shall, on the application by the Board, issue a warrant to levy the employer's property for the whole amount of the arrears by way of distress and sale of the employer's property."

Insertion of new sections 37A, 37B, 37C, 37D, 37E, 37F and 37G

11. The Act is amended by inserting the following seven new sections immediately after section 37 —

"Furnishing of information

37A. (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 Act 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

37B. (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

37C. 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

37D. (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

37E. (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

37F. (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 Act, 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

37G. 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 21."

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.**