

LAWS OF BRUNEI

CHAPTER 174

MONEY-CHANGING AND REMITTANCE
BUSINESSES

ARRANGEMENT OF SECTIONS

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MONEY-CHANGING AND REMITTANCE BUSINESSES ACT

An Act for the licensing of persons who carry on money-changing or remittance business, and for matters connected therewith

S.37/94
S.10/95
S.1/96

Commencement : 1st January 1995

1. This Act may be cited as the Money-Changing and Remittance Businesses Act.

Citation

2. (1) In the Act, unless the context otherwise requires —

Interpretation

“Authority” means the Minister of Finance ;

“licence” means a money-changer’s licence or a remittance licence, as the case may be, granted under this Act ;

“money-changer’s licence” means a licence granted under this Act authorising the holder thereof to carry on money-changing business ;

“money-changing business” means the business of buying or selling foreign currency notes ;

“remittance business” means the business of accepting moneys for the purpose of transmitting them to persons resident in another country ;

“remittance licence” means a licence granted under this Act authorising the holder thereof to carry on remittance business.

(2) For the purposes of this Act, a person shall be deemed to be carrying on money-changing business if he —

(a) advertises that he is ready to buy or sell foreign currency notes, or

(b) offers to buy or sell foreign currency notes.

Scope of this Act

3. This Act shall not be construed as requiring any person who accepts foreign currency notes from a customer or client in payment for goods sold or services rendered by him to obtain a money-changer's licence.

Authority responsible for administration of this Act

4. The Authority shall be responsible for the administration of this Act and may authorise any public officer to exercise any powers and perform any duties or functions of the Authority under this Act.

Persons carrying on money-changing business to be licensed

5. (1) No person shall carry on any money-changing business unless he is in possession of a valid money-changer's licence.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

Persons carrying on remittance business to be licensed

6. (1) No person shall carry on any remittance business unless he is in possession of a valid remittance licence.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

Application for licence

7. (1) Any person who desires to obtain a licence shall make an application to the Authority in such form as the Authority may require.

(2) Upon receiving an application under subsection (1), the Authority shall consider the application and may grant a licence with or without conditions or refuse to grant a licence without assigning any reason therefor.

(3) In considering any application by a person for a licence the Authority may require to be satisfied as to —

(a) the good character of the applicant or, if the applicant is a company, the general character of the management of the company ;

(b) the financial condition of the applicant ; and

(c) whether the public interest will be served by the granting of the licence.

(4) The Authority may at any time vary or revoke any of the existing conditions of a licence or impose new conditions.

8. Every licensee shall pay such licence fee as may be prescribed. Licence fee

9. A licence shall be in force for such period as the Authority may determine and may be renewed at the discretion of the Authority on its expiry. Period for which licence is in force

10. (1) The Authority may, by order, revoke a licence if it is satisfied that the licensee — Revocation of a licence

(a) has ceased to carry on the business for which he has been licensed or, if the licensee is a company, goes into liquidation or is wound up or otherwise dissolved ;

(b) is contravening or has contravened any of the provisions of this Act ;

(c) has failed to comply with or observe any of the conditions of his licence ;

(d) has made a false or incorrect statement in his application for a licence ;

(e) has carried on or is carrying on business in a manner likely to be detrimental to the interests of the public or his customers ; or

(f) has been convicted of any offence involving dishonesty or moral turpitude or, if the licensee is a company, any of its officers holding a managerial or an executive position has been convicted of any offence involving fraud or moral turpitude.

(2) The Authority shall, before revoking any licence under subsection (1), give the licensee notice in writing of his intention to do so, specifying a date, not less than 30 days after the date of the notice, upon which the revocation shall take effect and calling upon the person concerned to show cause to the Authority why the licence should not be revoked.

(3) When the Authority has revoked a licence under subsection (1), he shall forthwith inform the licensee by notice in writing of the revocation.

(4) The licensed may, within 30 days of the receipt of the notice referred to in subsection (3), or within such extended period of time as the High Court may allow, appeal against the revocation to the High Court, which may make such order thereon as it thinks proper, including any direction as to the costs of the appeal.

(5) An order of revocation shall not take effect until the expiration of a period of 30 days after the order has been served on the licensee.

(6) If within that period the licensee gives due notice of appeal to the High Court the order shall not take effect unless the order is confirmed by or the appeal is for any reason dismissed by the High Court or the appeal is withdrawn.

11. (1) Where an order of revocation becomes effective under section 10, the licensee shall cease to carry on money-changing or remittance business, as the case may be.

Effect of
revocation

(2) Subsection (1) shall not prejudice the enforcement by any person of any right or claim against the licensee or by the licensee of any right or claim against any person arising out of or concerning any matter or thing done prior to the revocation of the licence.

12. (1) Any person duly authorised by the Authority to act on his behalf may at any reasonable time enter any premises where a licensee is carrying on business, or any premises where he reasonably suspects any business is being carried on the contravention of this Act, and may inspect the premises and any book or document on those premises which he reasonably requires to inspect for the purpose of ascertaining whether a contravention of this Act or any regulations made thereunder is being or has been committed.

Powers to
investigate

(2) Any person who —

(a) fails without reasonable excuse to admit any person who demands admission to the premises in pursuance of subsection (1) ;

(b) on being required by a person referred to in subsection (1) to do so, fails without reasonable excuse to permit the person to inspect the premises ; or

(c) on being required by a person referred to in subsection (1) to produce any book or document in his possession or under his control and which that person reasonably requires to inspect for the purpose specified in subsection (1), fails without reasonable excuse to produce it to him and to permit him to take copies of it or of any entry in it,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Offence during investigation

13. During an investigation under section 12, any person who is suspected of having committed an offence under this Act refuses to give his name and address or who gives a name and address which the investigator has reason to believe is false shall be guilty of an offence and shall be liable on conviction to a fine of \$5,000.

Liability of directors, partners etc.

14. (1) Where an offence under this Act has been committed by a body corporate, any person who at the time of the commission of the offence was a director, secretary, manager or other officer of the company or who was purporting to act in any such capacity shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his consent or connivance and that he had exercised such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his function in that capacity and to all the circumstances.

(2) Any person who would have been guilty of an offence if anything had been done or omitted to be done by him personally shall be guilty of that offence and shall be liable to the same penalty if such thing had been done or omitted to be done by his partner, agent or employee in the course of his partnership business or in the course of his employment, as the case may be, unless he proves that the offence was committed without his knowledge or consent and that he took all reasonable precautions to prevent the doing of or omission to do such thing.

(3) Nothing in subsection (2) shall relieve any partner, agent or employee from any liability for any offence.

Service of notice etc.

15. A notice required or authorised by this Act to be given to any person may —

(a) be delivered to that person ;

(b) be left at the place of abode or the place of business of that person ; or

(c) be sent by registered post to the last known address of that person.

16. Proceedings in respect of any offence under this Act or any regulations made thereunder may be conducted by any public officer of the Authority authorised in writing in that behalf by the Authority. Conduct of proceedings

17. Neither the Authority nor any person authorised by the Authority shall be subject to any action, claim or demand by or liability to any person in respect of anything done or omitted to be done in good faith in pursuance or in execution or intended execution of any power conferred upon the Authority by this Act. Indemnity

18. (1) The Authority may, from time to time, make regulations for, or in respect of, every purpose which he considers necessary for carrying out the provisions of this Act and for the prescribing of any matter which is authorised or required under this Act to be so prescribed. Regulations

(2) Without prejudice to the generality of subsection (1), the Authority may by such regulations —

(a) prescribe fees to be charged under this Act ;
and

(b) regulate the conduct of money-changing and remittance business by persons holding licences granted under this Act.

19. (1) This Act shall not apply to company which has a valid license granted under the Finance Companies Act, the Banking Act, the Exchange Control Act, the Islamic Banking Act and the Perbadanan Tabung Amanah Islam Brunei Act. Exemptions
Caps. 89, 95,
141, 168 and
163

(2) The Authority may, by notification published in the *Gazette*, exempt any person or categories of persons from the provisions of this Act.

SUBSIDIARY LEGISLATION

Regulations under section 18(2)

MONEY-CHANGING AND REMITTANCE
BUSINESSES (LICENCE FEES) REGULATIONS

S.38/94

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
2. Fees

[Subsidiary]

MONEY-CHANGING AND REMITTANCE BUSINESSES
(LICENCE FEES) REGULATIONS

S.38/94

Commencement : 1st January 1995

Citation

1. These Regulations may be cited as the Money-Changing and Remittance Businesses (Licence Fees) Regulations.

Fees

2. The fees payable in respect of the licences issued under the Act shall be as follows —

- | | | | |
|-----|-------------------------|-------|-----------------------|
| (a) | Money-changer's licence | | \$1,000.00 per annum. |
| (b) | Remittance licence | | \$ 500.00 per annum. |