

No. S 16

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

CURRENCY AND MONETARY ORDER, 2004

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CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

CURRENCY AND MONETARY ORDER, 2004

In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Order —

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Currency and Monetary Order, 2004 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*.

(2) The long title of this Order is "An Order to establish a Brunei Currency Monetary Board, a Brunei currency and for purposes connected therewith or incidental thereto".

Interpretation.

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

"bank" has the same meaning as in subsection (1) of section 2 of the Banking Act (Chapter 95) and includes and Islamic bank as defined in section 2 of the Islamic Banking Act (Chapter 168);

"Board" means the Brunei Currency and Monetary Board;

"Chief Executive Officer" means a person appointed as such under subsection (1) of section 7;

"demand liabilities" means the Board's currency notes and coins in circulation and its other demand liabilities;

"foreign exchange" means foreign currencies and claims in and to foreign currencies;

"member" means any member of the Board;

"Minister" means the Minister of Finance.

PART II

BRUNEI CURRENCY AND MONETARY BOARD

Establishment of Board.

3. (1) There is hereby established a Board known as the Brunei Currency and Monetary Board.

(2) The Board shall be a body corporate with perpetual succession and a corporate seal and power, subject to the provisions of this Order, to acquire and dispose of property, both movable and immovable, and the Board may sue and be sued in its corporate name.

Constitution of Board.

4. (1) The Board shall consist of the following members —

(a) the Minister, or a person designated by name by His Majesty the Sultan and Yang Di-Pertuan, who shall be the chairman;

(b) the Deputy Minister of Finance;

(c) 4 other persons to be appointed by His Majesty the Sultan and Yang Di-Pertuan, 2 of whom shall be persons who are experienced in banking or finance.

(2) The Deputy Minister or Finance shall be the deputy chairman, who shall act for the chairman whenever the chairman is absent.

Objects of Board.

5. The object of the Board shall be to issue currency in accordance with section 13, to maintain external reserves in order to safeguard the international value of that currency and to promote monetary stability in Brunei Darussalam.

Proceedings of Board.

6. (1) The Board shall meet quarterly in each calendar year and at such other times as the chairman considers necessary.

(2) The chairman shall call a meeting as soon as practicable after receiving a request from at least 2 other members.

(3) No meeting of the Board, shall be held unless the chairman or the deputy chairman is present.

(4) A quorum of the Board shall consist of 3 members, one of whom shall be the chairman or the deputy chairman.

(5) Decisions of the Board shall be taken by simple majority of votes and in the event of an equality of votes the chairman shall have a casting vote.

(6) Subject to the provisions of this Order, the Board shall regulate its own proceedings.

(7) The Chief Executive Officer shall be the secretary to the Board.

Board may make appointments.

7. (1) The Board, shall with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint a Chief Executive Officer on such conditions as it may determine.

(2) To facilitate the general conduct of the business of the Board, the Board may appoint, as it considers necessary, such number of persons or corporations to be its agents or correspondents, employees consisting of officers and servants, and consultants, on such conditions as it may determine for the purposes of this Order.

(3) The Board and its employees shall be deemed to be public servants within the meaning of the Penal Code (Chapter 22).

Members.

8. (1) Members shall be appointed for a term not exceeding 3 years and shall vacate his office without prejudice to his eligibility for re-appointment at the expiration of that term.

(2) The office of a member shall be a distinct and separate from any offices which he may concurrently hold.

(3) The members and employees of the Board shall not be personally liable for any acts or omissions done or made with authority of the Board.

Disqualification of members.

9. (1) A member shall be disqualified from holding office if he —

(a) becomes bankrupt or insolvent, applies for any benefits under the law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment in whole or in part of his income from the Board for the benefit of such creditors;

(b) becomes totally or permanently incapable of performing his duties;

(c) is convicted of an offence involving dishonesty, fraud or moral turpitude; or

(d) is guilty of misbehaviour that would bring his office into disrepute.

(2) The chairman shall terminate the appointment of a member who, without leave, absents himself from 3 consecutive meetings of the Board.

Interest of member in contract to be made known.

10. (1) A member who is, directly or indirectly, interested in any contract made, or proposed to be made, by the Board shall disclose the nature of his interest at the first meeting of the Board at which he is present, after the relevant facts have come to his knowledge.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Board and, after such disclosure, that member —

(a) shall not take part in any deliberation or decision of the Board with respect to that contract; and

(b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

(3) No act or proceedings of the Board shall be questioned on the ground of the contravention of this section by a member.

Preservation of secrecy.

11. (1) Except for the purposes 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, agent, correspondent, employee or consultant of the Board shall disclose to any person any information which he has acquired in the performance of his duties or in 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 \$10,000, imprisonment for a term not exceeding 6 years or both.

PART III

CURRENCY

Currency of Brunei Darussalam.

12. (1) The unit of currency of Brunei Darussalam shall be the Brunei dollar which shall be divided into 100 cents.

(2) The abbreviated form of the Brunei dollar shall be "B\$" or "BND".

Board's sole right to manage and issue currency.

13. (1) The Board shall have the sole right to manage and to issue currency notes and coins in Brunei Darussalam and only currency notes and coins issued by the Board shall be legal tender in Brunei Darussalam.

(2) Subject to the provisions of this Order, no person shall issue any currency notes or coins, or any document or token, which resembles or is likely to pass as legal tender.

(3) Any person who contravenes subsection (2) is guilty of an offence and liable on conviction to a fine, imprisonment for a term not exceeding 15 years or both.

(4) In any criminal proceedings in which the genuineness of any currency note or coin shall be in question, a certificate signed by an officer of the Board authorised by the Board in writing in that behalf that he is satisfied by personal examination that such note or coin is or is not forged, shall be held to be conclusive evidence of the same, and no officer of the Board shall be cross-examined with regard to the contents of such certificate unless the court otherwise orders.

(5) Nothing in this section shall be construed as limiting or affecting the provisions of the Penal Code (Chapter 22).

Mutilating, destroying or defacing currency notes and coins.

14. (1) Any person who —

(a) mutilates or destroys any currency note or coin;

(b) causes any change in a coin so as to destroy or diminish its value or utility;

(c) prints or stamps, or by any like means, writes or impresses, on any currency note any mark, word, letter or figure; or

(d) defaces any coin by stamping thereon any name or word, whether the coin is or is not thereby diminished or lightened,

is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

(2) Nothing in this section shall be construed as limiting or affecting the provisions of the Penal Code (Chapter 22).

Printing of notes and minting of coins.

15. (1) The Board shall —

(a) arrange for the printing of currency notes and the minting of coins and for all matters relating thereto and for the security of such notes and coins; and

(b) issue, receive and, in its discretion, exchange currency notes and coins in Brunei Darussalam and at such agencies elsewhere as it may establish or appoint for such purposes.

(2) The minting facility shall be managed as a separate entity and shall be independent from the management of the Board.

Reissue and exchange of currency notes and coins.

16. (1) The Board shall arrange for the reissue and exchange of currency notes and coins subject to such conditions as it may determine.

(2) The Board shall be entitled to —

(a) charge any person or class of persons such fee as may be prescribed for the reissue and exchange of currency notes and coins with the Board;

(b) determine the minimum amount of currency which it will issue or redeem in respect of any one transaction; and

(c) determine the hours during which it will issue and redeem currency.

Denominations, weights and designs.

17. (1) The Board shall, with the approval of His Majesty the Sultan and Yang Di-Pertuan, determine the denominations, forms and designs of currency notes and coins, and the standard weights and composition of coins together with the amount of remedy and variation allowed.

(2) The dies, plate and other instruments or materials used for the printing of currency notes and the currency notes printed shall be prepared and kept, or issued and destroyed, as the case may be, in accordance with any direction of the Board.

(3) The dies and other instruments or materials used for the minting of coins and the coins minted shall be prepared and kept, or issued and destroyed, as the case may be, in accordance with any direction of the Board.

(4) The Board shall publish in the *Gazette* the denomination and other characteristics of currency notes and coins issued by it.

Legal tender.

18. (1) Currency notes issued by the Board, if the notes have not been illegally dealt with, shall be legal tender up to their face value for the payment of any amount.

(2) Coins issued by the Board, if the coins have not been illegally dealt with, shall be legal tender up to their face value in Brunei Darussalam as follows —

(a) in the case of coins of a denomination exceeding \$1 – for the payment of any amount;

(b) in the case of coins of a denomination of 50 cents and \$1 – for the payment of any amount not exceeding \$10; and

(c) in the case of coins of a denomination lower than 50 cents – for the payment of any amount not exceeding \$2.

(3) For the purposes of this Order —

(a) a currency note shall be deemed to have been illegally dealt with where it has been impaired, diminished or affected otherwise than by fair wear and tear, or has been defaced by writing or impressing on it any mark, word, letter or figure or by perforation, cutting, splitting or in any other manner, whether the note has or has not been thereby impaired or diminished; and

(b) a coin shall be deemed to have been illegally dealt with where it has been impaired, diminished, or lightened otherwise than by fair wear and tear, or has been defaced by having any mark stamped or engraved thereon, whether the coin has or has not been thereby diminished or lightened.

Lost and damaged currency.

19. (1) No person shall be entitled to recover from the Board the value of any lost, stolen, mutilated or imperfect currency note or coin.

(2) The circumstances and conditions under which such value may be refunded as of grace shall be within the absolute discretion of the Board.

(3) Mutilated currency notes or coins, or currency notes or coins that have been illegally dealt with, shall be repossessed by any officer of the Board or other person, authorised by the Board, in writing in that behalf when tendered to the Board or to such other person, as the case may be.

Demonetisation of currency notes and coins.

20. (1) Notwithstanding the provisions of section 18, the Board shall have power, on giving not less than 3 months notice, to withdraw in any currency notes and coins on payment of the face value thereof and any such notes or coins shall, on the expiration of such notice, cease to be legal tender.

(2) Any such notice shall give holders of the currency notes and coins to be withdrawn, a reasonable period being not less than 6 months, within which such notes or coins shall be exchanged at their face value for other legal tender issued by the Board.

Restriction on use of photographs etc. of currency notes and coins in advertisements etc.

21. (1) no person shall, except with the permission of the Board —

(a) use any photograph of, or any drawing or design resembling, in any size, scale or colour, any currency note or coin or part thereof, in any advertisement; or

(b) import, manufacture, sell, circulate or otherwise distribute any merchandise or product containing such photograph, drawing or design, in any size, scale or colour.

(2) No person shall, except with the permission of the Board, import, manufacture, sell, circulate or otherwise distribute any merchandise or produce containing any design or part thereof, used in or on, any currency note or coin.

(3) The Board may, in granting permission under subsection (1) or (2), impose such conditions it considers necessary.

(4) No person shall make or issue a piece of gold, silver, copper, nickel, bronze or any other material whether metal or otherwise, of any value, resembling or similar to any coin issued under this Order or any other written law relating to the issue of currency.

(5) Any person who contravenes this section is guilty of an offence and liable on conviction to a fine, imprisonment for a term not exceeding 15 years or both.

(6) Nothing in this section shall be construed as limiting or affecting the provisions of the Penal Code (Chapter 22).

Monetary obligations etc. deemed in Brunei dollars.

22. All monetary obligations or transactions in Brunei Darussalam shall be deemed to expressed and recorded, and shall be settled in the Brunei dollar unless otherwise provided for by law or validly agreed upon between the parties.

PART IV

ASSETS, RESERVES AND POWERS

Assets of Board.

23. The assets of the Board shall be made up of external assets and other assets and shall be held in accordance with sections 24 and 25.

External assets.

24. (1) The external assets of the Board shall consist of all or any of the following —

(a) gold coin or bullion;

(b) foreign exchange in the form of —

(i) demand or time deposits;

(ii) bank balances and money at call;

(iii) Treasury Bills and short-term Government securities;

(iv) notes and coins;

(c) securities, of or guaranteed by, foreign Governments or international financial institutions; and

(d) any other external investment instruments which the Board unanimously considers suitable for inclusion.

(2) The external assets of the Board net of any external liabilities shall at all times be not less than 70 per cent of the face value of the currency issued by the Board:

Provided that the figure of 70 per cent may be varied on an unanimous resolution of the Board, with the approval of His Majesty the Sultan and Yang Di-Pertuan, to that effect.

(3) The Board shall not incur external liabilities apart from those to international monetary institutions.

(4) Liquid assets shall —

(a) consist of gold, notes and coins, bank balances, money at call with banks and Treasury Bills and short-term Government securities; and

(b) amount to not less than 30 per cent of the face value of the currency issued by the Board.

(5) The securities and other external investment instruments shall —

(a) be readily marketable; and

(b) for the purpose of subsection (1), be valued in accordance with subsection (5) of section 34.

Other assets.

25. Other assets of the Board shall consist of assets other than those specified in section 24 and acquired and held under section 27.

Deficiency of assets to be liability of Government.

26. If at any time the total assets of the Board fall below the aggregate amount of the Board's currency notes and coins in circulation together with its other liabilities, such deficiency shall be made good by the Government upon demand by the Board, and the Consolidated Fund shall be charged accordingly.

Powers of Board.**27. The Board may —**

(a) open accounts with and accept deposits payable on demand on behalf of, banks and other monetary institutions abroad and banks in Brunei Darussalam;

(b) purchase, sell, discount and re-discount Treasury Bills and short-term Government securities payable in Brunei dollars forming part of a public issue;

(c) purchase and sell publicly issued securities, of or guaranteed by, the Government payable in Brunei dollars and maturing in not more than 30 years;

Provided that the par value or the cost price whichever shall be higher of the total holding of such securities does not exceed 15 per cent of the aggregate amount of the Board's demand liabilities;

(d) act generally as agent for the Government on such conditions as may be agreed between the Board and the Government, where the Board shall act appropriately and consistently within the provisions of this Order and within its role as a monetary authority;

(e) grant advances or other credit facilities to financial institutions for periods not exceeding 3 months against Treasury Bills and short-term Government securities, or against other collateral that the Board unanimously considers as appropriate;

(f) act as agents for any international monetary institution established under governmental auspices;

(g) acquire, hold and dispose of movable and immovable property where such action is necessary for the purpose of discharging its functions under this Order;

(h) charge such fee as may prescribed for any services rendered; and

(i) subject to the provisions of this Order, do all such things as are incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Order.

Reserve Fund.**28. (1) The Board shall establish a Reserve Fund.**

(2) There shall be paid into the Reserve Fund by the Board —

(a) the annual net profits of the Board so long as the Reserve Fund amounts to less than 10 per cent of the face value of the currency issued by the Board at the end of the financial year in which the net profits were earned; and

(b) any monies received by the Board from the Government.

(3) There shall be paid into the Reserve Fund by the Government from the Consolidated Fund the amount necessary to raise the value of the Reserve Fund to an amount equivalent to 10 per cent of the face value of the currency issued by the Board.

PART V

MISCELLANEOUS

Profits.

29. The net profits of the Board for each financial year shall be determined by the Board after meeting all expenditure for that year and making such provision as it considers necessary for bad and doubtful debts, depreciation in assets, replacement of currency notes and coins, contributions to employees and superannuation funds, and all other reasonable contingencies, and the balance of the net profits after any payment to the Reserve Fund in accordance with section 28 shall be paid into the Consolidated Fund.

Exemption from taxation and customs and stamp duties.

30. The Board shall be exempt from the provisions of any other written law relating to income taxation or company taxation and from the payment of customs and stamp duties under the provisions of any other written law.

Liquidation.

31. The Board shall not be placed in liquidation except pursuant to any legislation passed in that behalf and then only in the manner provided by such legislation.

Financial year.

32. The financial year of the Board shall begin on the 1st. day of January and end on the 31st. day of December of each year.

Audit.

33. (1) The accounts of the Board shall be audited by the Auditor General.

(2) The Auditor General shall, in his report, state —

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

(b) whether proper accounting and other records have been kept;

(c) whether the receipts, expenditure and investment of monies, and the acquisition and disposal of assets by the Board during the financial year were in accordance with the provisions of this Order and the Constitution; and

(d) such other matters arising from the audit as he considers necessary.

(3) The Minister shall appoint such number of Board of Survey, not less than 6 times a year to verify the stocks of unissued currency notes and coins and the Board's cash and bank balances in Brunei Darussalam, and shall lay down regulations to be observed by the Board of Survey:

Provided that not less than 2 number of such Board of Survey each year shall be appointed and enter upon their duties without the prior knowledge of the Board or of any of its officers.

(4) Unissued stocks of currency notes and coins held by the Board shall, on the first business day of each year and at such other times as may be decided by the Board, be verified by any Board of Survey to be constituted under regulations made by the Board.

Annual accounts, reports etc.

34. (1) Within 3 months of the close of each financial year, the Board shall submit its annual accounts to the Auditor General and the Auditor General shall cause them to be audited within 5 months of the end of the financial year.

(2) Within 6 months of the close of each financial year, the Board shall submit to the Minister, who shall subsequently submit to His Majesty the Sultan and Yang Di-Pertuan, a copy of its accounts certified by the Auditor General and a report on its operation during the year.

(3) The Board shall, as soon as after the end of every third month, make up a return of the circulation of its currency notes and coins together with its other demand liabilities as at the close of business on the last business day of that

month, and shall submit a copy of this return to the Minister, who shall cause it to be published in the *Gazette*.

(4) The Board shall include in the quarterly return the proportion which the value of its external assets bears to the amount of the Board's demand liabilities.

(5) The investments of the Board in securities and other external investment instruments shall be valued in the Board's accounts at not more than their current market price or their cost to the Board, whichever shall be the lower.

Regulations.

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

(2) Such regulations may include such incidental, consequential and supplementary provisions as the Minister considers necessary or expedient.

Repeal of Chapter 32.

36. (1) The Currency Act is repealed.

(2) All subsidiary legislation made and anything done under the Currency Act (Chapter 32) (repealed by this Order) and in force immediately prior to the coming into operation of this Order shall, so far as it is not inconsistent with the provisions of this Order, continue in force as if made under this Order.

Made this 10th. day of Zulhijjah, 1424 Hijriah corresponding to the 1st. day of February, 2004 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM