

LAWS OF BRUNEI

CHAPTER 95 BANKING ACT

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S 43/92

S 18/94

S 30/95

S 34/97

S 16/99

S 53/00

S 16/02

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LAWS OF BRUNEI
REVISED EDITION 2002

CHAPTER 95
BANKING ACT

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BANKING ACT**An Act to provide for the regulation and licensing of the business of banking**

Commencement: 1st January 1957

Citation.

1. This Act may be cited as the Banking Act.

Interpretation.

2. (1) In this Act —

“advertisement” means the disseminating or conveying of information, invitation or solicitation by any means or any form, including by means of —

(a) publication in a newspaper, magazine, journal or other periodical;

(b) display of a poster or notice;

(c) a circular, handbill, brochure, pamphlet, book or other document;

(d) a letter addressed to an individual or a body;

(e) a photograph or cinematograph film; and

(f) sound broadcasting, television, the Internet or other electronic media;

[S 16/02]

“bank” means any company carrying on banking business or using the word “bank” or the equivalent thereof in any language other than English or in any dialect of such language or any derivative of the word “bank” or its equivalent as aforesaid as part of the title under which business is carried on or using any name implying that such person carries on the business of banking and holds a valid licence granted under this Act, but

shall not include a registered co-operative society or a remittance shop duly registered or licensed under any written law;

“banking business” means the business of receiving money or current or deposit account, paying and collecting cheques drawn by or paid in by customers, the making of advances to customers, and includes such other business as the Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan may prescribe for the purposes of this Act;

[S 18/94]

“Clerk of Council” means the person appointed to the position of Clerk to the Council of Ministers;

“company” means a company incorporated in Brunei Darussalam under the Companies Act (Chapter 39) or a company incorporated or registered under the law of any country provided that such company, if not incorporated in Brunei Darussalam, has complied with the provisions of Part IX of the Companies Act (Chapter 39);

“deposit” means a sum of money or any precious metal, any precious stone or any article which is comprised, in part or in whole, of any precious metal or precious stone, and any other article or thing as may be prescribed by the Minister, received, paid or delivered on terms —

(a) under which it will be repaid or returned, with or without interest or at a premium or discount; or

(b) under which it is repayable or returnable, either wholly or in part, with any consideration in money or money’s worth,

and such repayment or return being either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment or delivery and the person receiving it, regardless whether the transaction is described as a loan, an advance, an investment, a saving, a sale or a sale and repurchase, but does not include money paid *bona fide* —

(i) by way of an advance or part payment or delivery under a contract for the sale, hire or other provision of property or services,

and repayable or returnable only in the event that the property or services is not or are not in fact sold, hired or otherwise provided;

- (ii) by way of security for the performance of a contract or by way of security in respect of any loss which may result from the non-performance of a contract;
- (iii) without prejudice to sub-paragraph (ii), by way of security for the delivery up or return of any property, whether in a particular state of repair or otherwise; or
- (iv) in such other circumstances or to or by such other person as the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, specify by notification published in the *Gazette*;

[S 16/02]

“document” includes —

(a) any letter, figure, mark, symbol, signal, inscription, writing, sign, caricature, picture, drawing or other representation in any form; and

(b) any visual recording (whether of still or moving images), any sound recording, or any electronic, magnetic, mechanical or other recording, whatsoever and howsoever made,

on any substance, material, thing or article;

[S 16/02]

“Islamic bank” means a bank licensed under the Islamic Banking Act (Chapter 168);

[S 43/92]

“international bank” means a licensee within the meaning of the International Banking Order, 2000 (S 53/2000);

[S 53/00]

“investigating officer” means a person appointed under subsection (1) of section 14;

[S 16/02]

“licensed bank” means a bank licensed under section 4;

“Minister” means the Minister responsible for finance.

[S 30/95]

(2) If it is provided in any section that the bank and every officer thereof who is in default shall be liable to a default fine the same shall mean that the bank and every officer thereof who knowingly and wilfully authorises or permits the default or contravention specified, shall for every day during which the default or contravention continues be liable to a fine of an amount not exceeding such amount as may be specified in such section.

Banking business to be transacted only by a company.

3. (1) No banking business shall be transacted in Brunei Darussalam except by a company or an international bank.

[S 53/00]

(2) A contravention by any person of subsection (1) shall constitute an offence punishable by the penalty provided by section 15.

Banking business to be transacted only by a company licensed for such purpose.

4. (1) Notwithstanding the provisions of any law to the contrary, no company other than an international bank shall continue or commence to carry on banking business in Brunei Darussalam without obtaining from His Majesty in Council a licence so to do. His Majesty in Council may in his discretion, and without assigning any reasons therefor, refuse to grant such a licence.

[S 53/00]

(2) In the event of doubt as to whether a company is or is not carrying on banking business the matter shall be submitted to His Majesty in Council for determination and the decision of His Majesty in Council thereon shall be final and conclusive for all purposes of this Act.

(3) A contravention by any person of subsection (1) shall constitute an offence punishable by the penalty provided by section 15.

Minima for authorised capital.

5. (1) The incorporation of a company which has as its object or one of its objects the carrying on of banking business shall not be authorised unless its authorised capital is not less than \$3,000,000.

(2) Notwithstanding that section 94 of the Companies Act (Chapter 39), shall have been complied with no company which has as its object or one of its objects the carrying on of banking business, shall be entitled to commence to carry on business, unless —

(a) if its authorised capital is \$3,000,000 the sum has been subscribed and not less than \$1,500,000 have been paid up thereon in cash; or

(b) if its authorised capital is more than \$3,000,000, at least \$3,000,000 have been subscribed and not less than \$500,000 have been paid up thereon in cash.

(3) Notwithstanding anything contained in Part IX of the Companies Act (Chapter 39), no company incorporated outside Brunei Darussalam, which has as its object or one of its objects the carrying on of banking business shall continue or commence to carry on banking business within Brunei Darussalam unless it has proved to the satisfaction of the Minister that it has a paid up capital of a sum which in his opinion is equivalent to an amount being not less than \$6,000,000.

[S 30/95]

(4) Notwithstanding the provisions of subsection (3) a company incorporated outside Brunei Darussalam which has as its object or one of its objects the carrying on of banking business, but does not intend to carry on banking business in Brunei Darussalam, may commence business within Brunei Darussalam upon the filing by the directors of such company with the Registrar of Companies of a declaration to the effect that the company will not carry on banking business in Brunei Darussalam.

(5) Notwithstanding the provisions of the foregoing subsections, the statutory minima for paid up and authorised capital prescribed therein may be hereafter and from time to time amended by order of the Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan signified in the *Gazette*.

[S 18/94]

(6) Nothing in the foregoing provisions of this section applies to an international bank.

[S 53/00]

Reserve fund.

6. Every bank incorporated in Brunei Darussalam other than an international bank shall maintain a reserve fund and shall out of the net profits of each year and before any dividend is declared, transfer a sum equivalent to not less than 20% of such profits to the reserve fund, until the amount of the said fund is equal to the paid up capital.

[S 53/00]

For the purposes of this section “net profits” means the profits of the company calculated after allowing for all the usual working charges, interest on loans and advances, repairs and outgoings, depreciation, bounties or subsidies received from any Government or from a public body, profits by way of premium on shares sold, profits on sale proceeds of forfeited shares, or profits from the sale of the whole or part of the undertaking of the company but without any deduction in respect of income tax or any other tax or duty on income or revenue or for expenditure by way of interest on debentures, or otherwise on capital account or on account of any sum which may be set aside each year out of the profits for reserve or any other special fund.

Minimum cash balances. [S 30/95]

6A. (1) The Minister may from time to time require banks other than an international bank to maintain minimum cash balances, not exceeding 30% of each bank’s deposit and other liabilities, on deposit with the Minister as reserves against their deposit and other liabilities.

[S 53/00]

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

(3) Any prescription of, or change in, the minimum reserve requirements under subsection (1) or (2) of this section shall take effect only after the expiration of 30 days’ notice to the banks of the Minister’s intention to take such action.

(4) Where a bank (in the section referred to as “the defaulting bank”) has failed to maintain sufficient minimum cash balances required under subsection (1) of this section the Minister may by order in writing direct the defaulting bank to make good the deficiency within the period specified in the order and the defaulting bank shall comply with the requirements of the order.

(5) If the defaulting bank fails to make good the deficiency within the period specified in the order, referred to in subsection (4) of this section, it shall be lawful, notwithstanding the provisions of any other written law, for the Minister to serve a notice in writing upon any other bank with which the defaulting bank has a credit balance, whether in current or deposit account, directing that bank to transfer to the Minister such amount as is specified in the notice as being equivalent to the amount of the deficiency in the minimum cash balances of the defaulting bank required under subsection (1) of this section and the other bank shall immediately comply with the requirements of that notice.

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

(7) The Minister may, in addition to any action taken under subsections (4) and (5) of this section, impose on any bank that fails to maintain sufficient minimum cash balances required under subsection (1) of this section a penalty interest charge of \$1,000 per day or such larger amount as the Minister may determine for every day during which the deficiency continues.

(8) Any bank that fails or refuses to pay a penalty interest charge under subsection (7) of this section shall be guilty of an offence under this Act.

Liquid assets. [S 16/99]

6B. (1) The Minister may from time to time, prescribe by notice in writing to each bank other than an international bank a minimum amount or amounts of liquid assets to be held by the banks at all times.

[S 53/00]

(2) The minimum amount of or amounts of the assets so prescribed to be held shall be expressed in the form of —

(a) a percentage or percentages which such assets shall bear the sight, saving account, time and other deposit liabilities of each bank and such other liabilities thereof as may be determined by the Minister either jointly or separately; and

(b) a percentage which such assets shall bear to the investment account of each bank and such percentages may be varied by the Minister from time to time by notice in writing to the bank.

(3) Where the Minister issues a notice under subsection (1) each bank shall be allowed such uniform period of grace, being not less than 7 days, as may be specified in that notice in which to comply with the provisions thereof.

(4) A bank shall not, during any period in which it has failed to comply with any notice under subsection (1), without the approval of the Minister, lend or advance any money to any person.

(5) For the purpose of computing the minimum amount or amounts of liquid assets under this section and the sight, savings account, investment account, time and other deposit liabilities of a bank carrying on business in Brunei Darussalam and elsewhere and such other liabilities of such bank as may be determined by the Minister, the offices and branches of such bank in Brunei Darussalam shall be deemed to constitute a separate bank carrying on business in Brunei Darussalam.

(6) For the purpose of this section liquid assets means —

(a) notes and coins which are legal tender in Brunei Darussalam;

(b) balances with the Ministry of Finance;

(c) balances with the banks in Brunei Darussalam, after deducting therefrom balances held for banks in Brunei Darussalam;

(d) net money at call in Brunei Darussalam;

(e) Treasury Bills issued by the Government; and

(f) such other assets as the Minister may from time to time approve.

(7) The Minister may by notice in writing require each bank to render such return or returns as the Minister deems necessary for the implementation of this section.

(8) Any bank which fails to comply with any of the provisions of this section shall be liable to pay, on being called upon to do by the Minister, a penalty interest charge of \$1,000.00 per day or such larger amount as the Minister may determine for every day during which the deficiency continues.

(9) Any bank that fails or refuses to pay a penalty interest charge under subsection (8) shall be guilty of an offence under this Act.

Restriction on use of word “bank”.

7. (1) No person other than a licensed bank carrying on banking business in accordance with the provisions of section 4 and an Islamic bank and an international bank shall, without the consent of the Minister, use or continue to use the word “bank” or the equivalent thereof in any language or dialect other than English or any derivative of such word or equivalent in the name under which business is being carried on or continue to use any name implying that the business of banking is carried on.

[S 43/92; S 30/95; S 53/00]

(2) Any person who acts in contravention of the provisions of this section shall be guilty of an offence and shall in addition to the penalty for such offence provided for by section 15 be liable to a fine of \$250 for every day, subsequent to the day of conviction of such offence, during which such offence continues.

Special powers of the Minister. *[S 18/94]*

8. (1) The Minister may, if he considers it to be in the public interest so to do, order any licensed bank —

[S 18/94]

(a) to produce within such period as may be named in such order any books, accounts or documents of any such bank;

(b) to delete from the name under which it is carrying on business, within such period as shall be named in such order, the word “bank” or any derivative thereof, or any other word or words forming part of its name;

(c) to refrain from carrying on banking business;

(d) to return for cancellation by the Minister any licence issued to such bank under section 4:

Provided that before any order is made under paragraph (b), (c) or (d) notice in writing shall be given by the Minister to such licensed bank, that it is intended to make such an order and shall afford such licensed bank an opportunity of submitting a written statement of its case.

[S 18/94]

(2) Any licensed bank failing to comply with an order made under this section shall be guilty of an offence and shall in addition to the penalty provided for by section 15 be liable to a default fine of \$100 for every day during which the default continues after conviction.

(3) The Minister shall publish in the *Gazette* the name of any licensed bank the licence of which has been cancelled.

Annual fee payable by licensed bank.

9. (1) Every licensed bank shall pay to the Government an annual fee and such other fees as are set out in the Fourth Schedule. Such fee shall be payable as at the date of the grant of a licence in accordance with the provisions of section 4 and thereafter upon each anniversary of such date.

[S 18/94]

(2) A contravention of subsection (1) shall constitute an offence: Penalty, the penalty provided for by section 15 and in addition the bank and every officer thereof who is in default shall be liable to a default fine of \$250.

(3) The Minister shall publish annually in the *Gazette* the name of every licensed bank which has paid the annual fee prescribed in this section.

(4) The Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan may by regulations amend from time to time the Fourth Schedule.

[S 18/94]

Exhibition and publication of audited balance sheet by licensed banks.

10. Every licensed bank shall —

(a) on or before the 30th day of April in every year exhibit, and shall keep exhibited until the audited balance sheet for the succeeding year is so exhibited, in a conspicuous position in every office and branch of such bank in Brunei Darussalam a copy of its audited balance sheet for the preceding financial year;

(b) on or about the date of the presentation of such balance sheet to the shareholders in general meeting, cause a copy thereof to be published in the *Gazette*, and in a newspaper circulating in Brunei Darussalam.

(2) Any licensed bank which fails to comply with the requirements of this section shall be guilty of an offence: Penalty, a fine of \$8,000.

Returns to be submitted.

11. (1) Every licensed bank shall furnish to the Minister —

(a) not later than 42 days after the last day of June and December a statement in the form set out in the First Schedule showing the assets and liabilities of the bank at the close of business on the 30th day of June and the 31st day of December respectively;

(b) not later than 42 days after the last day of June and December a statement in the form set out in the Second Schedule giving an analysis of advances current and bills discounted as at the 30th day of June and the 31st day of December respectively; and

(c) within 20 days of the commencement of each month, a statement in the form set out in the Third Schedule, giving a statement of the assets and liabilities as at the close of business at the end of the preceding month:

Provided that in the case of a bank which is a company incorporated outside Brunei Darussalam the statements to which reference is made in paragraphs (a), (b) and (c) shall comprise data only with respect to offices and/or branches of such company which are situated in Brunei Darussalam:

Provided further that the Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan may by order signified in the *Gazette* from time to time vary the form of the First, Second and Third Schedules, and the dates

as at which the information required in the Second Schedule should be compiled and forwarded to the Minister.

[S 18/94]

(2) No information supplied by any licensed bank pursuant to the provisions of this section which might disclose the state of the banking account or accounts of any person shall be published or made public in any manner.

(3) A contravention of any of the requirements of subsection (1) shall constitute an offence: Penalty, the bank and every officer thereof who is in default shall be liable to a default fine of \$100.

Saving of requirements of other law.

12. The requirements of this Act shall be in addition to and not in derogation of the requirements of any written law relating to companies for the time being in force in Brunei Darussalam.

Individuals not eligible to take part in management of licensed banks.

13. (1) No person —

(a) who has been a director of, or directly or indirectly concerned in the management of a bank which has been wound up by a court; or

(b) who has been sentenced by a competent court to a term of imprisonment for an offence involving dishonesty and has not received a full pardon for the offence for which he was sentenced,

shall, without the express authorisation of the Minister, act or continue to act as a director of, or be directly or indirectly concerned in the management of, any licensed bank.

[S 30/95]

(2) Any person contravening subsection (1) shall be guilty of an offence.

Receiving, taking or acceptance of deposits prohibited, except under and in accordance with a licence granted under section 4(1). [S 16/02]

13A. (1) Subject to section 13D, no person shall receive, take or accept deposits except under and in accordance with a licence granted under subsection (1) of section 4 to carry on banking business.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000,000, imprisonment for a term not exceeding 10 years or both, and in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day during which the offence continues after conviction.

Unsolicited calls. [S 16/02]

13B. (1) Subject to section 13D, no person shall, without the written consent of the Minister, make an unsolicited call —

(a) to solicit or procure the making of any deposit; or

(b) to enter into or offer to enter into, any agreement with a view to the acceptance of any deposit,

from any person in Brunei Darussalam or outside Brunei Darussalam.

(2) The consent of the Minister under subsection (1) may be given to such person or such classes, categories or descriptions of persons, and be made subject to such terms and conditions, including a condition requiring the disclosure of such information to the persons on whom unsolicited calls are made, as may be set out in the consent.

(3) In this section —

“Minister” includes the Deputy Minister responsible for finance;

“unsolicited call” includes a personal visit or verbal communication made without express invitation.

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

Advertisements for deposits. [S 16/02]

13C. (1) Subject to section 13D and to subsection (2), no person other than a licensed bank shall issue, publish or otherwise facilitate any person to issue or publish an advertisement containing —

(a) any invitation to make a deposit or to enter into or offer to enter into any agreement to make a deposit; or

(b) any information which is intended or might reasonably be presumed to be intended to lead directly or indirectly to the making of a deposit.

(2) Subsection (1) does not apply to the publication by any person of any such advertisement for or on behalf of a licensed bank.

(3) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 5 years or both.

Non-application of sections 13A, 13B and 13C. [S 16/02]

13D. Sections 13A, 13B and 13C do not apply to —

(a) the Government;

(b) any person licensed to carry on the business of a money-lender under the Moneylenders Act (Chapter 62);

(c) any person licensed to carry on the business of a pawnbroker under the Pawnbrokers Act (Chapter 63);

(d) any co-operative society registered under the Co-operative Societies Act (Chapter 84);

(e) any finance company licensed under the Finance Companies Act (Chapter 89);

(f) the Tabung Amanah Islam Brunei Corporation established under the Perbadanan Tabung Amanah Islam Brunei Act (Chapter 163);

(g) any Islamic bank licensed under the Islamic Banking Act (Chapter 168);

(h) any person carrying on the business of insurance with the approval of the Minister;

(i) a statutory body which is authorised under any written law to accept, receive or take deposit; and

(j) any person related or associated with any person referred to in paragraphs (a) to (i).

Fraudulent inducement in relation to deposits. [S 16/02]

13E. Any person who —

(a) makes, publishes or facilitates the making or publication of, any statement, promise or forecast which he knows to be misleading, false or deceptive;

(b) dishonestly conceals any material fact; or

(c) recklessly makes or publishes (dishonestly or otherwise), or recklessly facilitates the making or publication (dishonestly or otherwise) of, a statement, promise or forecast which is misleading, false or deceptive,

when he makes, publishes or facilitates the making or publication of such statement, promise or forecast or conceals such material fact, for the purpose of inducing, or who is reckless as to whether the same may induce, another person (whether or not it is the person to whom the statement, promise or forecast is made or from whom such material fact is concealed) —

(i) to make or refrain from making a deposit; or

(ii) to enter or refrain from entering into an agreement for the purpose of making a deposit, with him or any other person,

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

Investigating officers. [S 16/02]

14. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint such number of investigating officers as he may consider necessary for the purpose of this Act.

(2) The Permanent Secretary of the Ministry of Finance and any public officer authorised by him to act on his behalf shall have all the powers and duties of an investigating officer for the purposes of this Act.

(3) An investigating officer conducting any examination of any person under this Act shall have the power to administer an oath to the person who is being examined.

(4) An investigating officer shall be deemed to the public servant for the purposes of the Penal Code (Chapter 22).

Powers of entry, search and seizure. [S 16/02]

14A. (1) Where an investigating officer or a police officer is satisfied or has any reason to believe that any person has committed an offence under this Act, he may without warrant, if in his opinion it is necessary to do so for the purposes of investigating such offence —

(a) enter any premises and therein search for, seize and detain any property, book or other document, article or thing;

(b) inspect, make copies of or take extracts from, any book or other document to seized and retained;

(c) take possession of and remove from the premises, any property, book or other document, article or thing so seized and detained;

(d) search any person who is in or on such premises and for the purpose of such search, detain such person and remove him to such place as may be necessary to facilitate such search, and seize and detain any property, book or other document, article or thing found on such person;

(e) break open, examine and search, any article, container or receptacle; and

(f) stop, detain or search any conveyance.

(2) An investigating officer or a police officer may if it is necessary to do so —

(a) break open any outer or inner door of such premises and enter thereinto;

(b) forcibly enter such premises and every part thereof;

(c) remove by force any obstruction to such entry, search, seizure, detention or removal as he is empowered to effect; and

(d) detain all or any person found on any premises or in any conveyance searched under subsection (1) until the search has been completed.

(3) A list of all things seized in the course of a search made under this section and of the premises or conveyance in which they are found shall be prepared by the investigating officer or the police officer conducting the search, and shall be signed by him.

(4) The occupant of the premises entered under subsection (1) of some person on his behalf shall in every instance be permitted to attend during the search and a copy of the list prepared and signed under subsection (3) shall be delivered to such occupant or person at his request.

(5) No female person shall be searched under this section except by another female.

Search of person. [S 16/02]

14B. (1) An investigating officer or a police officer may search any person whom he has reason to believe has on such person any property, book or other document, article or thing whatsoever, if in his opinion in necessary for the purpose of investigation into any offence under this Act.

(2) An investigating officer or a police officer making a search of any person under subsection (1) may seize, detain or take possession of any property, book or other document, article or thing found upon such person for the purpose of carrying out the investigation.

(3) No female person shall be searched under this section except by another female.

Power to examine persons. [S 16/02]

14C. (1) Where an investigating officer or a police officer suspects any person to have committed an offence under this Act, he may, if in his opinion it is necessary to do so for the purpose of investigation into such offence —

(a) order any person verbally or in writing to attend before him for the purpose of being examined verbally by the investigating officer or the police officer in relation to any matter which may, in the opinion of the investigating officer or the police officer, assist in the investigation into the offence;

(b) order any person verbally or in writing to produce before the investigating officer or the police officer any property, book or other document, article or thing which may, in the opinion of the investigating officer or the police officer, assist in the investigation into the offence; or

(c) by written notice, require any person to furnish a statement in writing made on oath setting out all such information which may be required under such notice, being information which may, in the opinion of the investigating officer or the police officer, assist in the investigation into the offence.

(2) A person to whom an order under paragraph (a) or (b) of subsection (1) or a written notice under paragraph (c) of subsection (1), has been given shall comply with the terms of such order or written notice, and in particular —

(a) a person to whom an order has been given under paragraph (a) of subsection (1) shall attend in accordance with the terms of the order to be examined, and shall continue to attend from day to day as direct by the investigating officer or the police officer until the examination is completed, and shall during such examination disclose all information which is within his knowledge or which is available to him or which is capable of being obtained by him, in respect of the matter in relation to which he is being examined, whether or not any question is put to him with regard thereto, and where any question is put to him he shall answer the same truthfully and to the best of his knowledge and belief, and shall not refuse to answer any question on the ground that it tends to incriminate him or his spouse;

(b) a person to whom an order has been given under paragraph (b) of subsection (1) shall not conceal, hide, destroy, alter, remove from or send out of Brunei Darussalam, or deal with or dispose of, any property, book or document, article or thing specified in the order, or alter or deface any entry in any such book or other document, or cause the same to be done, or assist or conspire to do the same; and

(c) a person to whom a written notice has been given under paragraph (c) of subsection (1) shall, in his statement made on oath, furnish and disclose truthfully all information required under the notice which is within his knowledge or which is available to him or which is capable of being obtained by him, and shall not fail to furnish or disclose the same on the ground that it tends to incriminate him or his spouse.

(3) A person to whom an order or a written notice is given under subsection (1) shall comply with such order or written notice and with the provisions of subsection (2) in relation thereto notwithstanding the provisions of any other written law, whether enacted or made before or after the 27th day of March 2002, or of any oath, undertaking or requirement of secrecy (including bank secrecy) to the contrary, or any obligation under any contract, agreement or arrangement, whether express or implied, to the contrary.

(4) Where any person discloses any information or produces any property, book or other document, article or thing pursuant to subsection (1) or (2), neither that person nor any other person on whose behalf or direction or as whose agent or employee, the first-mentioned person may be acting shall, on account of such disclosure or production, be liable to any prosecution for any offence under or by virtue of any law, or to any proceeding or claim in any form or any description by any person under or by virtue of any agreement, arrangement or otherwise howsoever.

(5) An investigating officer or a police officer may seize, take possession of and retain for such duration as he thinks necessary, any property, book or other document, article or thing produced before him in the course of an investigation under subsection (1), or search the person who is being examined by him under paragraph (a) of subsection (1) or who is producing anything to him under paragraph (b) of subsection (1), for ascertaining whether anything relevant to the investigation is concealed or is otherwise, upon such person.

(6) An examination under paragraph (a) of subsection (1) shall be reduced into writing by the investigating officer or the police officer and shall be read to and signed by the person being examined, and where such person refuses to sign the record, the investigating officer or the police officer shall endorse thereon under his hand the fact of such refusal and the reasons thereof, if any, stated by the person examined.

(7) The record of an examination under paragraph (a) of subsection (1), a written statement on oath made pursuant to paragraph (c) of subsection (1), any property, book or other document, article or thing produced under paragraph (b) of subsection (1), or otherwise in the course of an examination under paragraph (a) of subsection (1) or under a written statement on oath or affirmation made pursuant to paragraph (c) or subsection (1) shall, notwithstanding any written law or rule of law to the contrary, be admissible in evidence in any proceedings in any court —

- (a) for or in relation to, an offence under this Act;
- (b) for or in relation to, any other matter under this Act; or
- (c) for or in relation to, any offence under any other written law,

regardless whether such proceedings are against the person who was examined or who produced the property, book or other document, article or thing or who made the written statement on oath, or against any other person.

Requirement to provide translation. [S 16/02]

14D. (1) Where an investigating officer or a police officer finds, seizes, detains or takes possession of, any book or other document in exercise of any power under this Act, and such book or other document or any part thereof is in a language other than the Malay or English languages, or in any sign or code, the investigating officer or the police officer may verbally or in writing require the person who had the possession, custody or control of such book or other document, to furnish to the investigating officer or the police officer a translation into the Malay or English languages of such book or other document within such period as, in the opinion of the investigating officer or the police officer, would be reasonable having regard to the length of the book or other document or other circumstances relating to it.

(2) Any person who knowingly furnishes a translation under subsection (1) which is not an accurate, a faithful and true translation or who knowingly makes a translation under that subsection which is not accurate, faithful and true is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000, and in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day during which the offence continues after conviction.

Powers of arrest. [S 16/02]

14E. An investigating officer or a police officer may arrest without warrant any person who has committed or whom he reasonably suspects to have committed an offence under this Act.

Powers of investigation. [S 16/02]

14F. In any case relating to the offence mentioned in section 14E, an investigating officer shall have all the powers of a police officer under the Criminal Procedure Code (Chapter 7).

Restriction on disposal of property etc. [S 16/02]

14G. (1) The Public Prosecutor may, by written notice to a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed under this Act or against whom a prosecution for such offence has been instituted, direct that such person shall not dispose of or otherwise deal with any property specified in such notice without the consent of the Public Prosecutor.

(2) Where any property specified in a notice under subsection (1) includes any debt or obligation due by a licensed bank or any other person to the person to whom the notice is given, the Public Prosecutor may serve on that bank or other person a copy of that notice, which shall have the effect of directing that bank or other person not to pay any money to the person specified in the notice without the consent of the Public Prosecutor.

(3) A notice under subsection (1) —

(a) may be served by delivering it personally to the person to whom it is addressed or may, where a Court of a Magistrate is satisfied that such person cannot be found or is not in Brunei Darussalam, be served in such other manner as the court may direct on application *ex parte* by or on behalf of the Public Prosecutor;

(b) shall have effect from the time of service and shall continue in force for a period of 12 months or until cancelled by the Public Prosecutor, whichever is the earlier.

(4) Nothing in subsection (3) shall prevent the Public Prosecutor from giving a further notice in respect of the same property.

(5) The Public Prosecutor may impose such terms and conditions as he thinks fit to consent to the disposal of or other dealing with any property specified in a notice under subsection (1).

(6) A person who disposes of or otherwise deals with any property specified in a notice under subsection (1) or any licensed bank or other person who pays any money to a person specified in the notice served on that bank or other person under subsection (2) other than in accordance with the consent of the Public Prosecutor is guilty of an offence and liable on conviction to a fine of not exceeding \$50,000 or the value of the property disposed of or otherwise dealt with, whichever is the greater, imprisonment for a term not exceeding 3 years or both.

Surrender of travel documents. [S 16/02]

14H. (1) A magistrate may, on the application of a police officer not below the rank of Assistant Superintendent, by written notice require any person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by him under this Act to surrender to the Commissioner of Police any travel documents in his possession.

(2) A notice under subsection (1) shall be served by delivering it personally to the person to whom it is addressed.

(3) A person on whom a notice under subsection (1) is served shall comply with such notice forthwith.

(4) If a person on whom a notice under subsection (1) has been served fails to comply with the notice forthwith, he may thereupon be arrested and taken before a magistrate.

(5) Where a person is taken before a magistrate under subsection (4), the magistrate shall, unless such person thereupon complies with the notice under subsection (1) or satisfies the magistrate that he does not possess a travel document, by warrant commit him to prison to be safely kept —

(a) until the expiry of the period of 28 days from the date of his committal to prison; or

(b) until such person complies with the notice under subsection (1) and a magistrate, by order in that behalf, orders and directs the Director of Prisons to discharge such person from prison (which order shall be sufficient warrant for the Director of Prisons to do so),

whichever occurs first.

(6) A travel document which is surrendered to the Commissioner of Police under this section may be detained for 6 months from the date on which it was surrendered and may be detained for a further 3 months if a magistrate, on application by a police officer not below the rank of Assistant Superintendent, is satisfied that the investigation could not reasonably have been completed before the date of such application and authorises such further detention.

(7) All proceedings before a magistrate under this section shall be conducted in chambers.

(8) In this section, “travel document” means a passport or other document establishing the identity or nationality of the holder.

Obstruction to exercise of powers by investigating officer or police officer. [S 16/02]

14I. (1) No person shall —

(a) refuse any investigating officer or any police officer exercising his power under sections 14A or 14B access to any premises or conveyance or part thereof, or fail to submit to a search of himself;

(b) assault, obstruct, hinder or delay such investigating officer or police officer in effecting any entrance which he is entitled to effect;

(c) fail to comply with any lawful demands of any investigating officer or police officer in the execution of his duties and sections 14A, 14B or 14C;

(d) refuse to give to an investigating officer or a police officer any information which may reasonably be required of him and which he has in his power to give;

(e) fail to produce to or conceal or attempt to conceal from, an investigating officer or a police officer, any property, book or other document, article or thing in relation to which the investigating officer or the police officer has reasonable grounds for suspecting that an offence has been or is being committed under this Act;

(f) retrieve or endeavour to retrieve any book or other document, article or thing which has been duly seized;

(g) furnish to an investigating officer or a police officer as true, information which he knows or has reason to believe to be false; or

(h) before or after any seizure, break or otherwise destroy any book or other document, article or thing to prevent the seizure thereof or the securing of the same.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000,000, imprisonment for a term not exceeding 5 years or both, and in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day during which the offence continues after conviction.

Attempts, preparations, abetments and conspiracies punishable as offences. [S 16/02]

14J. (1) Any person who —

(a) attempts to commit any offence under this Act;

(b) does any act preparatory to or in furtherance of the commission of any offence under this Act; or

(c) abets or is engaged in a criminal conspiracy to commit (as defined in section 120A of the Penal Code (Chapter 22)) any offence under this Act, whether or not the offence is committed in consequence thereof,

shall be guilty of such offence and liable to the penalty provided for such offence.

(2) Any provision of this Act which contains a reference to an offence under any specific provisions of this Act shall be read as including a reference to an offence under subsection (1) in relation to the offence under that specific provision.

Service of notice etc. [S 16/02]

14K. Without prejudice to subsection (3) of section 14G and to subsection (2) of section 14H, any notice or order given to any person under this Act may —

- (a) be delivered to that person personally;
- (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 place of abode or place of business of that person.

Offences committed by partnerships and companies. [S 16/02]

14L. (1) Where a partnership is guilty of an offence under this Act, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, is also guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where an offence under this Act is committed by a company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of that company, or of a person purporting to act in any such capacity, he, as well as the company, is also guilty of the offence and liable to be proceeded against and punished accordingly.

(3) In relation to a company whose affairs are managed by its members, “director” in subsection (2) means any member of that company.

Offences to be seizable offences. [S 16/02]

14M. Every offence under this Act shall be a seizable offence for the purposes of the law relating to criminal procedure.

Exemption. [S 16/02]

14N. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*, exempt any person or classes, categories or descriptions of persons from any of the provisions of this Act.

General penalty.

15. Any person who is guilty of an offence against this Act for which no other penalty is provided shall be liable to a fine of not exceeding \$10,000,000, imprisonment for a term not exceeding 10 years or both.

[S 16/02]

Power to make regulations.

16. The Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan may from time to time make regulations generally for carrying out the provisions of this Act.

[S 18/94]

FIRST SCHEDULE**(section 11(1)(a))**

Statement of Assets and Liabilities of the Bank,
on the day of, 20

LIABILITIES

1. Subscribed capital.
Paid up capital.
Reserve fund.
2. Deposits payable after notice or on a fixed day.
3. Deposits on current account.
4. Balance due on current account to other banks.
5. Special advances by other banks.
6. Bills payable.
7. Bills received for collection.
8. Liabilities other than the foregoing.

FIRST SCHEDULE — (continued)**ASSETS**

1. Coin in bank coffers.
2. Coin in transit.
3. Bullion in hand or in transit.
4. Drafts on State Treasury.
5. Treasury Bills.
6. Brunei Darussalam currency notes.
7. Balances due from other banks.
8. Bills under discount covered by bonds, shares and other securities.
9. Bills under discount covered by bonds, shares and other securities overdue and unpaid.
10. Bills under discount unsecured.
11. Bills under discount unsecured overdue and unpaid.
12. Loans and advances other than bills secured.
Loans and advances unsecured.
13. Overdrawn accounts unsecured.
14. Loans to Government.
Loans to public bodies.
Loans to public companies other than banks.
15. Advances to other banks.
16. Landed property other than bank premises.
17. Bank premises.
18. Other assets not included in the foregoing.

Aggregate amount of loans to and liabilities direct and indirect of directors or officers of bank and of any firm or partnerships in which they or any of them have any interest.

FIRST SCHEDULE — (continued)

We declare that the foregoing return is made up from the books of the bank and that to the best of our knowledge and belief it is correct, and shows truly and clearly the financial position of the bank.

A.B. Director

C.D. Director

E.F. Accountant

or

A.B. Agent

SECOND SCHEDULE

(section 11(1)(b))

Name of Bank

ANALYSIS OF CUSTOMERS' LIABILITIES TO BANK

AS AT FOR LOANS AND ADVANCES

	Amount	Number of
	\$	Customers
	<hr/>	
1. Government		
2. Local Councils		
3. Electricity, water, harbour, dock and other public utility bodies		

CREDIT AND FINANCIAL INSTITUTIONS:

4. Banks etc.

SECOND SCHEDULE — (continued)**PRIMARY PRODUCTION:**

5. Rubber
6. Sago
7. Timber
8. Padi (including milling)
9. Pepper
10. Other agriculture (including livestock)

FOR MANUFACTURE OF:

11. Textiles, leather and clothing
12. Wood products (including furniture)
13. Soaps and oils
14. Stone, cement, bricks, glass, ceramics and pottery
15. Other manufactured products

CONSTRUCTION:

16. For buildings in course of erection

GENERAL COMMERCE:

17. Wholesale and retail merchants
18. Copra and rubber shippers

MISCELLANEOUS:

19. Transport services
20. Hotels and restaurants
21. Entertainments
22. Professional and private individuals
23. Building (mortgage)*

SECOND SCHEDULE — (continued)

24. Other advances

Amount \$	Number of Customers
--------------	------------------------

Number of customers liable in respect of loans and advances:

- Up to \$400
- Over \$400 and up to \$800
- Over \$800 and up to \$4,000
- Over \$4,000 and up to \$8,000
- Over \$8,000 and up to \$40,000
- Over \$40,000 and up to \$80,000
- Over \$80,000

TOTAL \$

* to include all mortgage loans which cannot be classified under items 1 to 19.

..... General Manager
 Chief Accountant

Date

THIRD SCHEDULE

(section 11(1)(c))

Name of Bank

Month of 20

Total Brunei
Darussalam
(All Branches)
\$

ASSETS

- 1. Cash on hand including bullion and non-Brunei Darussalam currency notes
- 2. Treasury Bills
- 3. Investments in Government and other securities
- 4. Advances in current account, loans, fixed loans, past due loans, local bills discounted, sundry clients etc. (excluding balances due by other banks)

\$

LIABILITIES

- 5. Current Accounts in all currencies, sundry clients, margins etc. (excluding balances due to other banks)
- 6. Deposit receipts and fixed deposits in all currencies
- 7. Savings Deposits (not included elsewhere)

\$

THIRD SCHEDULE — (continued)

VOLUME OF OPERATIONS DURING THE MONTH

- 8. Cheques sent out for clearing
 - 9. Debits to current deposit accounts (excluding cheques received through local clearing)
- _____
- _____

I/We hereby certify that the above is a true and correct statement to the best of my/our knowledge and belief.

Signed

Name and address of Bank

.....

Date 20

FOURTH SCHEDULE

[S 18/94; S 34/97]

(section 9(1))

FEEs

- (a) Headquarters or principal branch of a licensed bank; \$50,000
- (b) Branch of a licensed local bank and sub-branch of a licensed foreign bank; \$10,000
- (c) Automatic Teller Machine (ATM) off premises of a licensed bank. \$ 3,000

