

No. S18

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

PERBADANAN TABUNG AMANAH ISLAM BRUNEI ACT (AMENDMENT) ORDER, 2022

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(Order made under Article 83(3))

PERBADANAN TABUNG AMANAH ISLAM BRUNEI ACT (AMENDMENT) ORDER, 2022

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

1. This Order may be cited as the Perbadanan Tabung Amanah Islam Brunei Act (Amendment) Order, 2022.

Amendment of section 2 of Chapter 163

2. Section 2 of the Perbadanan Tabung Amanah Islam Brunei Act, in this Order referred to as the Act, is amended –

(a) by deleting the definition of “bonus” and “dividend”;

(b) by inserting the following three new definitions in the appropriate alphabetical order –

“Board” means the Board of Directors of Perbadanan TAIB established by section 5(1);

“depositor” means any person who deposits money with Perbadanan TAIB in the performance of banking operations in accordance with this Act;

“director” means a director of the Board appointed under section 5(2);

(c) by deleting the definition of “Perbadanan” and by substituting the following new definition therefor –

“Perbadanan TAIB” means the Perbadanan Tabung Amanah Islam Brunei established by section 3;

(d) by deleting the definition of “Tabung” and by substituting the following new definition therefor –

“Hajj Fund” means the fund established by section 22;

Amendment of Part 2

3. Part 2 of the Act is amended by adding "TAIB" immediately after "PERBADANAN".

Amendment of section 3

4. Section 3 of the Act is amended —

(a) in the section heading, by adding "TAIB" immediately after "Perbadanan";

(b) in subsection (1)(a), by deleting "(Tabung Amanah Islam Brunei Corporation)" from the second and third lines and by substituting "(Perbadanan TAIB)" therefor.

Amendment of section 4

5. Section 4 of the Act is amended —

(a) in paragraph (a), by deleting "Tabung" and by substituting "Hajj Fund" therefor;

(b) in paragraph (c), by deleting "religious affairs with the approval" and by substituting "finance with the consent" therefor.

Amendment of section 5

6. Section 5 of the Act is amended, in subsection (2), by deleting "religious affairs" from the last line and by substituting "finance" therefor.

Amendment of section 6

7. Section 6 of the Act is amended —

(a) in the section heading, by adding "TAIB" immediately after "Perbadanan";

(b) in subsection (1), by inserting "except for matters relating to Syariah compliance" immediately after "functions" in the third line;

(c) by adding the following new subsection —

“(3) The Minister responsible for religious affairs shall be the advisor to the Perbadanan TAIB for activities carried out in the exercise and performance of the Perbadanan TAIB’s functions relating to Syariah compliance.”.

Substitution of section 7

8. Section 7 of the Act is repealed and the following new section is substituted therefor —

“Protection from personal liability

7. (1) No suit or other legal proceedings shall lie personally against any member, officer or employee of the Perbadanan TAIB or other person acting under the direction of the Perbadanan TAIB for anything which is in good faith done or intended to be done in the execution or purported execution of this Act or any other written law.

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

Insertion of new section 7A

9. The Act is amended by inserting the following new section immediately after section 7 —

“Public servants

7A. The directors, Managing Director, the Syariah Advisory Committee and all employees of the Perbadanan TAIB are deemed to be public servants within the meaning of the Penal Code (Chapter 22).”.

Substitution of section 8

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

“Allowances

8. There may be paid to each director and the Syariah Advisory Committee out of the Perbadanan TAIB such allowances, including travelling and subsistence allowances, as the Perbadanan TAIB may determine subject to such limits and conditions as the Minister responsible for finance may direct.”.

Substitution of section 9

11. Section 9 of the Act is repealed and the following new section is substituted therefor —

“Disqualification of directors etc.

9. (1) His Majesty the Sultan and Yang Di-Pertuan may terminate the appointment of any director or the Managing Director at any time without furnishing any reason for such termination.

(2) Any director or the Managing Director whose appointment has been terminated under subsection (1) shall not be entitled, unless His Majesty the Sultan and Yang Di-Pertuan otherwise decides, to any damages or other compensation and there shall be no claim, appeal or judicial review in any court against such termination.”.

Amendment of section 10

12. Section 10 of the Act is amended by deleting “religious affairs” from the fourth line and by substituting “finance” therefor.

Amendment of section 12

13. Section 12 of the Act is amended, in the section heading, by inserting “TAIB” immediately after “Perbadanan”.

Amendment of section 13

14. Section 13 of the Act is amended —

(a) in subsection (1), by deleting "religious affairs" and by substituting "finance" therefor;

(b) in subsection (6), by deleting "approval" from the third line and by substituting "consent" therefor.

Amendment of section 14

15. Section 14 of the Act is amended —

(a) by deleting "Religious Advisory Committee" wherever those words appear and by substituting "Syariah Advisory Committee" therefor;

(b) in subsection (1), by deleting "approval" and by substituting "consent" therefor.

Amendment of section 15

16. Section 15 of the Act is amended, in subsection (2), by deleting "\$5,000" and by substituting "\$10,000" therefor.

Amendment of section 17

17. Section 17 of the Act is amended, in subsection (4), by deleting "religious affairs" from the second line and by substituting "finance" therefor.

Amendment of section 18

18. Section 18 of the Act is amended, in the section heading, by adding "TAIB" immediately after "Perbadanan".

Amendment of Part 4

19. Part 4 of the Act is amended by adding "TAIB" immediately after "Perbadanan".

Amendment of section 19

20. Section 19 of the Act is amended —

(a) in the section heading, by adding "TAIB" immediately after "Perbadanan";

(b) in subsection (1) —

(i) in paragraph (b), by deleting "religious affairs" from the last line and by substituting "finance" therefor;

(ii) in paragraph (c), by inserting "from customers" immediately after "deposits".

Amendment of section 20

21. Section 20 of the Act is amended, in paragraph (g), by deleting "religious affairs" and by substituting "finance" therefor.

Insertion of new section 21A

22. The Act is amended by inserting the following new section immediately before section 22 —

"Establishment of funds

21A. There shall be established a fund or funds into which shall be paid all the monies from the investments authorised to be made by this Act."

Amendment of section 22

23. Section 22 of the Act is amended —

(a) in the section heading, by deleting "Tabung" and by substituting "Hajj Fund" therefor;

(b) in subsection (1) —

(i) by deleting "Tabung Amanah Islam Brunei" from the first two lines and by substituting "Hajj Fund" therefor;

(ii) by deleting "for the general purposes of this Act and" from the second line;

(iii) by deleting "Mecca into which Tabung" from the fourth line and by substituting "Makkah Al-Mukarramah into which the Hajj Fund" therefor;

(iv) by deleting paragraph (a) and by substituting the following new paragraph therefor —

"(a) deposits from subscribers of the Hajj Fund;"

(v) in paragraph (d), by deleting "Tabung" and by substituting "Hajj Fund" therefor;

(c) in subsection (2), by deleting "Tabung" wherever the word appears and by substituting "Hajj Fund" therefor.

Substitution of section 23

24. Section 23 of the Act is repealed and the following new section is substituted therefor —

"Expenditure of Perbadanan TAIB in relation to Hajj Fund

23. The Hajj Fund may be applied for the purpose of carrying out the functions of the Perbadanan TAIB:

Provided that expenditure of the Perbadanan TAIB shall not be made against the deposits of the subscribers of the Hajj Fund."

Amendment of section 24

25. Section 24 of the Act is amended —

(a) in the section heading, by deleting "Tabung" and by substituting "Hajj Fund" therefor;

(b) in subsection (1), by deleting "Tabung" and by substituting "Hajj Fund" therefor;

(c) in subsection (2), by deleting "Religious" and by substituting "Syariah" therefor.

Substitution of section 25

26. Section 25 of the Act is repealed and the following new section is substituted therefor —

“Reserve Fund

25. (1) The Perbadanan TAIB shall establish a Reserve Fund.

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

(a) the net income or profit from the investment of —

(i) the assets of the Reserve Fund;

(ii) the deposits from customers in the performance of banking operations in accordance with this Act; and

(iii) the deposits from the subscribers of the Hajj Fund; and

(b) any Government grant, gift, contribution or bequest made to the Perbadanan TAIB.”.

Substitution of section 26

27. Section 26 of the Act is repealed and the following new section is substituted therefor —

“Declaration of bonus, dividend or profit

26. (1) Subject to the provisions of this section, the Perbadanan TAIB may declare a rate of bonus, dividend or profit for any financial year of the Perbadanan TAIB or the Hajj Fund; and if a declaration is made, the amount standing to the credit of each depositor and Hajj Fund subscriber at the end of that year shall be increased accordingly.

(2) No bonus, dividend or profit shall be declared unless the Perbadanan TAIB has established a Reserve Fund, and no bonus, dividend or profit shall be declared in any year unless at the end of that year —

(a) the assets of the Perbadanan TAIB were not less than the aggregate liabilities of the Perbadanan TAIB;

(b) there is a surplus net income or profit of the Hajj Fund; or

(c) the assets of the Reserve Fund were not less than such percentage of the amounts actually standing to the credit of depositors and Hajj Fund subscribers as at the end of that year including the bonus, dividend or profit as the Perbadanan TAIB may approve.

(3) Any payment required to be made by the Perbadanan TAIB or those payment to be made out of the Hajj Fund shall, in so far as the monies in the Perbadanan TAIB or in the Hajj Fund are insufficient for that purpose, be made out of the Reserve Fund.

(4) Subsections (1) to (3) apply to the assets of the Reserve Fund as they apply to the assets of the Perbadanan TAIB or the Hajj Fund, and all net income or profit from investment of the assets of the Reserve Fund, deposits from customers and deposits from the subscribers of the Hajj Fund shall be paid into the Perbadanan TAIB, depositors account and the account of the subscribers of the Hajj Fund respectively.

(5) The Perbadanan TAIB may transfer assets from the Reserve Fund to the Perbadanan TAIB or the Hajj Fund or from the Perbadanan TAIB or the Hajj Fund to the Reserve Fund."

Substitution of section 27

28. Section 27 of the Act is repealed and the following new section is substituted therefor —

"Withdrawals

27. (1) Subject to the provisions of this section, any amount standing to the credit of a subscriber of the Hajj Fund may be withdrawn —

(a) for defraying all or part of the costs of the subscriber of the Hajj Fund's pilgrimage;

(b) on the death of the subscriber of the Hajj Fund;

(c) on the subscriber of the Hajj Fund satisfying the Perbadanan TAIB that by reason of age, sickness or in the other circumstances he is unlikely to be able to make his pilgrimage during his lifetime;

(d) on the subscriber of the Hajj Fund satisfying the Perbadanan TAIB that he is about to leave Brunei Darussalam and has no intention of returning thereto; and

(e) in any other case where the Perbadanan TAIB, having regard to all the circumstances of the case, allows the withdrawals,

but not otherwise.

(2) On a withdrawal under subsection (1)(a), the Perbadanan TAIB may, *in lieu* of making payment in cash, provide the subscriber of the Hajj Fund with tickets, travel voucher or other documents necessary for the pilgrimage."

Amendment of section 28

29. Section 28 of the Act is amended, in subsection (2), by deleting "Tabung" from the last line and by substituting "Perbadanan TAIB" therefor.

Amendment of section 31

30. Section 31 of the Act is amended, in subsection (1), by deleting "not later than the 30th day of April in each year" from the first two lines and by substituting ", within 6 months from the close of its financial year" therefor.

Amendment of section 35

31. Section 35 of the Act is amended —

(a) by deleting "religious affairs" and by substituting "finance" therefor;

(b) by deleting "approval" and by substituting "consent" therefor.

Amendment of Act

32. The Act is amended by inserting "TAIB" immediately after "Perbadanan" wherever the word appears.

Made this 3rd. day of Safar, 1444 Hijriah corresponding to the 31st. day of August, 2022 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

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