

No. S 21

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

**NATIONAL RETIREMENT SCHEME ORDER, 2023**

**ARRANGEMENT OF SECTIONS**

Section

**PART 1**

**PRELIMINARY**

1. Citation, commencement and long title
2. Interpretation
3. Application
4. Appointment of inspectors
5. Power to examine persons
6. Power to assess contributions based on information available
7. Powers of Managing Director to require information and application for search warrant

**PART 2**

**NATIONAL RETIREMENT SCHEME**

8. Establishment of National Retirement Scheme
9. Membership of Scheme
10. Rates of contributions
11. Payment of contributions
12. Recovery by employer of employee's contributions
13. Payment of dividend
14. Voluntary contributions by member or employer

15. Voluntary contributions by self-employed person
16. Crediting of contributions into account
17. Transfer of amount from member account to another account
18. Payment of cash grant by Government into Scheme
19. Grants-in-aid

PART 3

WITHDRAWAL OF CONTRIBUTIONS

20. Authority for withdrawals from member account
21. Withdrawals
22. Authority for payment from retirement account

PART 4

CONTRIBUTIONS BY PERMANENT RESIDENTS HOLDING FOREIGN  
CITIZENSHIP

23. Application of this Part
24. Authority for withdrawals from member account
25. Withdrawals
26. Authority for payment from retirement account

PART 5

ADMINISTRATOR NOMINEES

27. Power to nominate administrator nominees
28. Cessation of nominations
29. Payment on death of member if there is nomination
30. Payment on death of member if there is no nomination

PART 6

OFFENCES, PENALTIES AND PROCEEDINGS

31. Offences
32. Publication of information to unauthorised person
33. Amount withdrawn not to be utilised for other purpose
34. Offences by bodies corporate etc.
35. Penalty for offences not otherwise provided for
36. Sanction for prosecution
37. Composition of offences
38. Saving for criminal proceedings
39. Certificate of authorised officer to be evidence
40. Conduct of prosecutions
41. Civil proceedings to recover contributions
42. Recovery of sums due to Scheme

PART 7

GENERAL

43. Payment of service charge on contributions in arrears
44. Refund of contributions paid in error
45. Board to inform Probate Officer
46. Preservation of secrecy
47. Power to obtain information and require production of documents
48. Protection of employee's interest in execution proceedings and sale under mortgage or charge
49. Joint and several liability by bodies corporate etc.
50. Exemption
51. Board may engage in activities not directly related to Scheme and may call for information

52. Amendment of Schedules

53. Regulations

54. Contributions not to be assigned etc.

55. Transitional provisions

56. Consequential amendments to other written law

SCHEDULE 1 — PERSONS OR CLASSES OF PERSONS SPECIFIED  
NOT TO BE EMPLOYEES

SCHEDULE 2 — RATES OF CONTRIBUTIONS

SCHEDULE 3 — TRANSITIONAL PROVISIONS

SCHEDULE 4 — CONSEQUENTIAL AMENDMENTS TO OTHER  
WRITTEN LAW

---

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

**NATIONAL RETIREMENT SCHEME ORDER, 2023**

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 —

**PART 1**

**PRELIMINARY**

**Citation, commencement and long title**

1. (1) This Order may be cited as the National Retirement Scheme Order, 2023 and shall commence on 15th July 2023.

(2) The long title of this Order is "An Order to make provisions in relation to retirement and the establishment of the National Retirement Scheme payable to or in respect of employees and for matters connected therewith or incidental thereto".

**Interpretation**

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

"administrator nominee" means any person who is of sound mind and above the age of 18 years and includes —

(a) the member's father, mother, spouse, children or siblings; or

(b) a certified lawyer;

"Board" means the Tabung Amanah Pekerja Board established by section 3 of the Tabung Amanah Pekerja Board Act (Chapter 246);

"contract" means any contract, whether written or oral and whether it is expressed or implied;

"employee" means any person below the minimum retirement age being —

(a) a citizen of Brunei Darussalam; or

(b) a permanent resident,

who is employed under a contract of service or apprenticeship or other agreement to work for an employer and includes the Minister, Deputy Minister, Ambassador, High Commissioner, Consul-General, Consul or such other person as His Majesty the Sultan and Yang Di-Pertuan may, by order published in the *Gazette*, prescribe but does not include any person or class of persons —

(i) specified in Schedule 1; or

(ii) declared by the Minister, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, not to be an employee for the purposes of this Order;

"employer" means the person with whom an employee has entered into a contract of service or apprenticeship and includes —

(a) any person, company, association or body of persons, whether or not statutory or incorporated by whom an employee is employed;

(b) the owners of any vessel on which an employee is employed;

(c) any manager, agent or person responsible for the payment of wages to an employee on behalf of an employer;

(d) any foreign mission in Brunei Darussalam;

(e) the Government in respect of such categories, classes or descriptions of officers or employees of the Government as the Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, declare to be employees for the purposes of this Order:

Provided that no such officer or employee employed by or on behalf of the Government shall be personally liable for anything done or omitted to be done by him as an officer or employee of the Government in good faith;

"Fund" means the Tabung Amanah Pekerja Fund established by section 11 of the Tabung Amanah Pekerja Board Act (Chapter 246);

"inspector" means an inspector appointed under section 4;

"Managing Director" means the Managing Director appointed under section 5(3) of the Tabung Amanah Pekerja Board Act (Chapter 246);

"member" means any person who has contributed to the member account to whose credit any amount is standing in the account and includes —

(a) a self-employed person who has contributed voluntarily under section 15;

(b) a self-employed person who has transferred his member account to the retirement account under section 17; and

(c) any person who is or was a member in a SCP account;

"member account" means an account maintained under section 16(3);

"minimum retirement age" means the retirement age provided in section 4 of the Retirement Age Order, 2010 (S 4/2010);

"Minister" means the Minister of Finance and Economy;

"ordinary account" means an account maintained under section 15 of the Employee Trust Act (Chapter 167);

"productivity" means the cumulative months of contributions in the retirement account;

"retirement account" means an account maintained under section 16(4);

"Scheme" means the National Retirement Scheme established and maintained under section 8;

"SCP account" means an account maintained under section 17(1) of the Supplemental Contributory Pensions Trust Order, 2009 (S 58/2009);

"self-employed person" means any person below the minimum retirement age who, being a citizen of Brunei Darussalam or permanent resident and not being employed under a contract of service or apprenticeship, engages in any trade, vocation, profession or other activity in Brunei Darussalam for the purpose of gain;

"wages" means the remuneration in money due to an employee for work done in respect of his employment whether agreed to be paid monthly, weekly, daily or otherwise payable by the employer under his contract of service, apprenticeship or agreement or otherwise, but does not include —

(a) the value of any house accommodation or the supply of any food, fuel, light or water or medical attendance, or of any amenity or service;

(b) any contribution paid by the employer on his own account to any pension fund or provident fund;

(c) any travelling allowance or the value of any travelling concession;

(d) any sum payable to the employee to defray special expenses entailed on him by the nature of his employment;

(e) any gratuity payable on discharge or retirement;

(f) service charge;

(g) overtime benefit;

(h) retrenchment, lay-off or termination benefits; or

(i) such other remuneration or payment as the Minister may, by notification published in the *Gazette*, specify.

#### **Application**

3. This Order applies to all employees and members in an ordinary account or a SCP account.

#### **Appointment of inspectors**

4. (1) The Board may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, appoint such number of inspectors as it may consider necessary for carrying this Order into effect.

(2) In the course of an inspection, an inspector may at any reasonable time —

(a) enter any premises or place where he has reasonable cause to believe that a person is employed therein;

(b) examine, either alone or in the presence of any other person with respect to any matter under this Order or which he may reasonably require information, any person whom he has reasonable cause to believe to be or to have been an employee or an employer, and require every such person

to be examined, and for the purposes of such examination may summon any such person to attend at the place and time specified in such summons;

*(c)* put questions concerning employees to their employers or to any person who may be in charge of them, or to the employees themselves, or to any other person whom he may consider desirable to question and the employers or employees or other person shall be legally bound to answer the questions truthfully to the best of his ability;

*(d)* require any employer to produce before him all or any of the employees employed by him together with any contract of service, book of account of salary, register and other document concerning employees of their employment and to answer such questions relating thereto as he may think proper to ask;

*(e)* require any employer to produce for his inspection the audited statements of accounts of his undertaking and other records relating to the accounts and to answer such questions relating thereto as he may think proper to ask; and

*(f)* make copies of any book, document or other records required to be produced under paragraph *(d)* or *(e)* and take possession of such book, document or records when in his opinion —

- (i)* the copying thereof cannot reasonably be performed without taking possession;
- (ii)* the book, document or records may be tampered with unless possession is taken; or
- (iii)* the book, document or records may be required as evidence in any proceedings for an offence under this Order or in any proceedings for the recovery of any money due to the Scheme.

(3) If any person —

*(a)* wilfully delays an inspector in the exercise of any power under this section;

*(b)* fails to —

- (i)* comply with the requisition of an inspector in pursuance of this section; or

(ii) produce any record, certificate, notice or document which he is required by or in pursuance of this section to produce; or

(c) wilfully —

(i) withholds any information as to who are the employees of any employer or as to who is the employer of any employee; or

(ii) conceals or prevents or attempts to conceal or prevent a person from appearing before or being examined by an inspector,

that person is deemed to obstruct an inspector in the execution of his duties under this Order.

(4) Any person who obstructs an inspector is guilty of an offence.

#### **Power to examine persons**

5. (1) Without prejudice to section 4(2), an inspector may, in the course of an inspection, examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

(2) Such person shall be legally bound to answer the questions truthfully relating to such case put to him by the inspector, but may refuse to answer any question the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) A statement made by any person under this section shall be read over to him and shall, after correction if necessary, be signed by him.

(4) Any person who obstructs an inspector is guilty of an offence.

#### **Power to assess contributions based on information available**

6. (1) An inspector may assess any contribution which is due by any employer based on any information available if the employer —

(a) fails to keep or maintain any statement, particulars, register book or any record pertaining to each employee as required to be performed by him under this Order; or

(b) fails or refuse to submit any statement, particulars, register book or record pertaining to each employee as required to be submitted by him under this Order.

(2) The assessment made under subsection (1) shall be sufficient proof of the Board's claim for the summary recovery of any contribution under section 41.

**Powers of Managing Director to require information and application for search warrant**

7. (1) For the purposes of obtaining full information for ascertaining whether any person is liable to pay contributions under this Order, the Managing Director may, by notice in writing, require any person —

(a) to furnish the Managing Director within a time specified in the notice, not being less than 30 days from the date of such notice, any information or particulars specified in the notice;

(b) to attend personally before the Managing Director or any person authorised in that behalf by the Managing Director and produce for examination all books, accounts, records and other documents which the Managing Director or authorised officer deems necessary; or

(c) to furnish the information or particulars in accordance with paragraph (a) and also to attend in accordance with paragraph (b).

(2) Where a person is found guilty of an offence under subsection (4)(a), the court before which the person is found guilty shall order such person to comply with the notice of the Managing Director under subsection (1) within 21 days from the date of the order of the court.

(3) Whenever it appears to any court, in written information on oath, and after any enquiry it may think necessary, that there are reasonable grounds for suspecting that there are in particular premises any book, account, record or other document the production of which has been required pursuant to subsection (1) and which has not been produced in compliance with that requirement, such court may issue a warrant authorising the Managing Director or any person named therein with or without assistance —

(a) to search the premises and to break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in the premises; and

(b) to take possession of, or secure against interference, any book, account, record or other document that appears to be the book, account, record or other document the production of which was so required.

(4) Any person who —

(a) fails to comply with subsection (1); or

*(b)* obstructs the Managing Director or any person named therein referred to in subsection (3),

is guilty of an offence.

## PART 2

### NATIONAL RETIREMENT SCHEME

#### **Establishment of National Retirement Scheme**

8. (1) The Board shall establish and maintain a scheme to be known as the National Retirement Scheme into which shall be paid all contributions collected under this Order and out of which shall be met all payments to be made by the Board under this Order (including any costs and expenses incurred by the Board in establishing and maintaining the Scheme).

(2) If the Board is, at any time, unable to pay any sum which the Fund is required to pay under this Order, the sum required to be paid shall be charged on and advanced to the Board from the Consolidated Fund and the Board shall, as soon as practicable, repay the sum advanced to the Government.

#### **Membership of Scheme**

9. (1) On the date of commencement of this Order, any employee and member in an ordinary account or a SCP account in respect of whom this Order applies shall —

*(a)* cease to be a member under the Employee Trust Act (Chapter 167) or Supplemental Contributory Pensions Trust Order, 2009 (S 58/2009) at such period as the Board may determine and shall cease to accrue benefits thereunder; and

*(b)* become a member of the Scheme.

(2) On the date of commencement of this Order, any amount standing to the credit of the members in an ordinary account and a SCP account shall be transferred to —

*(a)* a member account —

(i) member's principal contributions;

(ii) member's and employer's voluntary contributions; and

(iii) self-employed person's contributions; or

(b) a retirement account —

(i) employer's principal contributions;

(ii) self-employed person's contributions; and

(iii) Government's contributions under sections 8(10), 9(4) and 18 of the Supplemental Contributory Pensions Trust Order, 2009 (S 58/2009).

#### **Rates of contributions**

10. (1) Every employer of an employee shall pay to the Scheme monthly, in respect of each employee, contributions at the rates set out in Schedule 2:

Provided that the Board may, on such conditions as the Board may impose, authorise an employer to pay contributions at other intervals not exceeding 6 months.

(2) Every employee shall pay to the Scheme monthly, in respect of himself, contributions at the rate of 8.5 *per cent* of his wages.

#### **Payment of contributions**

11. (1) Except where otherwise provided in this Order, the employer shall, in the first instance, be liable to pay both the contributions payable by himself and, on behalf of and to the exclusion of the employee, the contributions payable by that employee.

(2) Contributions payable by the employer for himself and on behalf of the employee under subsection (1) shall be paid in respect of the first and subsequent months' wages.

(3) For the purposes of this Order, contributions paid by an employer on behalf of an employee are deemed to be contributions by the employee.

(4) Notwithstanding section 43, where an employer fails to pay any contribution due within such period as may be prescribed, the employer shall, in addition to such contribution, be liable to pay the rate of dividend which would have accrued on such contribution if the contribution had been paid at such rate and in accordance with such manner and calculations as the Board may determine.

**Recovery by employer of employee's contributions**

12. (1) Subject to this section, the employer shall be entitled to recover from the employee the amount of any contribution payable on behalf of the employee.

(2) The amount of any contribution payable by the employer on behalf of the employee shall, notwithstanding any written law or any contract to the contrary, be so recoverable by means of deductions from the wages of the employee due from the employer to the employee and not otherwise.

(3) No deductions of any contribution shall be made —

(a) except at the time wages are paid to the employee; and

(b) other than the contribution in respect of the wages which are then being paid.

(4) Subject to such conditions as may be prescribed by the Board, where an employer has, by error not occasioned by the employer's negligence omitted to deduct any contribution or part of any contribution payable by him on behalf of the employee, such contribution or part thereof may be deducted from the wages payable by such employee not later than 6 months from the date of payment of the wages in respect of which contribution or part thereof was omitted to be deducted.

(5) Any employer who contravenes subsection (2) or (3) is guilty of an offence.

**Payment of dividend**

13. Dividend shall be payable on contributions to the Scheme respectively at such rate and in such manner and calculation as the Board may determine.

**Voluntary contributions by member or employer**

14. Notwithstanding anything in this Order but subject to such conditions as the Board may impose —

(a) any member or employer may at any time contribute voluntarily to the Scheme in such manner and at such rate as the Board may direct;

(b) the Board shall credit every contribution received under paragraph (a) into member account in such manner as the Minister may direct; and

(c) the Minister may give different directions in respect of different classes of members.

**Voluntary contributions by self-employed person**

15. (1) Subject to any regulations made under section 53, any self-employed person may at any time contribute voluntarily to the Scheme.

(2) Any self-employed person who chooses to pay voluntary contributions to the Scheme shall pay to the Scheme monthly, in respect of himself, at the rates set out in Schedule 2.

(3) The Board may, on such conditions as the Board may impose, authorise any self-employed person or class of self-employed persons to pay contributions under subsection (2) at other intervals not exceeding 3 months.

(4) Where any self-employed person has paid any voluntary contribution under subsection (2), the Government shall match the person's contribution at the rates set out in Schedule 2.

(5) All contributions paid under this section shall be credited as provided under section 16.

**Crediting of contributions into account**

16. (1) Subject to subsection (2), the following accounts are to be maintained under the Scheme —

(a) a member account; and

(b) a retirement account.

(2) The Board shall credit to the accounts specified in subsection (1) every contribution paid into the Scheme for a member in such manner as the Minister may direct and the Minister may give different directions in respect of different classes of members.

(3) A member account referred to in subsection (1)(a) is an account maintained for the crediting of every contribution paid into the Scheme by a member, or voluntary contribution by a self-employed person or employer, under this Order in such manner as the Minister may direct and the Minister may give different directions in respect of different classes of members.

(4) A retirement account referred to in subsection (1)(b) is an account maintained for the crediting of every contribution paid into the Scheme by an

employer or self-employed person under this Order in such manner as the Minister may direct.

**Transfer of amount from member account to another account**

17. The Board may, on the application of a member, transfer the whole or part of the amount standing to the credit of the member in the member account to the retirement account in such manner as the Board may specify.

**Payment of cash grant by Government into Scheme**

18. (1) The Board may accept any cash grant made by the Government for the benefit of any person who qualifies for such grant under the Scheme and the Board shall credit the cash grant into the account of the person as the Minister may direct.

(2) Any cash grant paid into the Scheme under subsection (1) shall be disbursed in accordance with the conditions of the cash grant.

(3) Any cash grant paid into the Scheme under subsection (1) is deemed to be contributions for the purposes of this Order, but such cash grant or dividend thereon shall not be withdrawn under any regulations made under section 53 unless the regulations expressly provide for the withdrawal of such cash grant.

(4) Notwithstanding anything in this Order, the Board shall be entitled to recover on behalf of the Government any cash grant paid into the Scheme for the benefit of any person, together with any service charge which he is liable to pay the Government under the conditions of the cash grant, from any money standing to the credit of the person if he has —

(a) obtained the cash grant by means of any false or misleading statement or any document that is false or misleading in any particular; or

(b) committed a breach of any of the conditions of the cash grant.

(5) Any money recovered by the Board from any person under subsection (4) shall be refunded forthwith to the Government.

**Grants-in-aid**

19. (1) For the purpose of enabling the Board to perform its functions and discharge its duties under this Order, the Minister shall cause to be paid to the Scheme such moneys as the Government may approve as grants-in-aid to the Scheme.

(2) All moneys provided for under subsection (1) may be applied or expended by the Board for all or any of the purposes of the Scheme.

PART 3

WITHDRAWAL OF CONTRIBUTIONS

**Authority for withdrawals from member account**

20. (1) No sum of money standing to the credit of a member of the Scheme may be withdrawn from the member account except with the authority of the Board and, subject to any regulations made under section 53, such authority shall not be granted unless the Board is satisfied that —

(a) the member has died;

(b) the member has attained the minimum retirement age;

(c) the member is physically or mentally incapacitated from engaging in any further employment or is otherwise incapable of performing his duties at any time before he attains the minimum retirement age;

(d) the member is suffering from terminal illness or disease; or

(e) the member is renouncing his citizenship of Brunei Darussalam or decides not to renew his Entry Permit issued under the Immigration Act (Chapter 17) or his Entry Permit is cancelled.

(2) Notwithstanding subsection (1), the Board may, either in one or all of the following instances, on application by a member who —

(a) has attained the age of 40 years, for the purpose of —

(i) building or purchasing a house;

(ii) paying outstanding housing loan or repairs; or

(iii) renovating a house,

authorise not more than one withdrawal from the member account a sum representing 50 *per cent* of the balance amount standing to the credit of the member after deductions of authorised withdrawals in paragraph (b);

(b) has attained the age of 45, 50 and 55 years, for each years of age, authorise a withdrawal of a sum representing 30 *per cent* of the balance amount standing to the credit of the member or after deductions of authorised withdrawals for the respective years of age,

and on such conditions as the Board may impose.

(3) When authority is granted under subsection (1)(a), (b), (d) and (e), withdrawal shall be made in lump sum.

(4) Without prejudice to subsection (3), a member who is entitled to withdraw under subsection (1)(b) may apply to the Board to be paid monthly for such period as the Board may determine.

(5) For a withdrawal under subsection (1)(c), withdrawal shall be paid —

(a) pro-rated to the member monthly until he attains the minimum retirement age;

(b) for a minimum monthly payment of \$250 until such remaining amount is expended; or

(c) in any other manner of payment as the Board may determine and approve.

(6) Without prejudice to subsections 2(b) and (3), the Board may, on application by a member who has attained the age of 55 years and unemployed, authorise the withdrawal of the member from his member account and such withdrawal shall be paid monthly based on the amount standing to the credit of the member account.

### Withdrawals

21. (1) On an application for the withdrawal of the sum of money standing to the credit of a member by a person entitled thereto under section 20, the Board may authorise the payment to the applicant of such sum as the member is entitled to withdraw from the Scheme and any dividend calculated in accordance with section 13 up to the date of the authorisation:

Provided that when —

(a) any contribution is due to be paid for a member in respect of any period ending not later than the last day of the month next following the date on which the withdrawal of the sum of money standing to his credit in the Scheme is authorised; and

(b) the contributions are not paid to the Scheme until after the date of authorisation,

the contributions may, in the discretion of the Board, be treated as if they had been included in the amount standing to the credit of the member at the date of authorisation of withdrawal and paid to the applicant accordingly.

(2) All applications for withdrawal shall be supported by such evidence as may be prescribed and by such further evidence as the Board may reasonably require.

#### Authority for payment from retirement account

22. (1) Where a member has attained the minimum retirement age and on application by the member, there shall be paid to him monthly amount as the Board may determine for a period of lifetime with effect from the date of payment.

(2) Where a member has attained the minimum retirement age and has reached productivity, the amount of the monthly payment shall be determined based on the formula set out by the Board and shall reflect, among other factors, the size of the member's retirement account balance at the time he attains the minimum retirement age and in accordance with the following formula —

$(\text{average salary} \times \text{income replacement rate}) \times (\text{years of contribution} / \text{productivity}),$

where —

"average salary" means the average of salary applicable to an employee in accordance with such manner and calculations as the Minister may determine;

"income replacement rate" means the percentage of an employee's pre-retirement monthly income that he receives each month after retiring in accordance with such manner and calculations as the Minister may determine.

(3) Where a member has attained the minimum retirement age and has reached productivity and does not have sufficient amount in his retirement account to finance a minimum monthly payment of at least \$250, in accordance with the approved payment formula for the monthly payment prevailing at that time, such member shall receive such minimum monthly payment of at least \$250 for a period of lifetime.

(4) Where a member has attained the minimum retirement age and has not reached productivity and does not have sufficient amount in his retirement account to finance a minimum monthly payment of at least \$250, in accordance with the approved payment formula for the monthly payment prevailing at that time, such member shall receive such minimum monthly payment of

at least \$250 until the amount in his retirement account is expended or for such period as the Board may determine.

(5) The monthly payment may be adjusted periodically pursuant to regulations made under section 53.

(6) Where a member is renouncing his citizenship of Brunei Darussalam or decides not to renew his Entry Permit issued under the Immigration Act (Chapter 17) or his Entry Permit is cancelled and is about to leave Brunei Darussalam, such member is entitled to withdraw a lump sum of such expected annuity as the Board may determine.

(7) Where a member dies before attaining the minimum retirement age, there shall be paid to —

- (a) a widow or husband;
- (b) a widow or husband and children of the member;
- (c) children of the member; or
- (d) parents, if such member has no widow or husband and children,

a monthly derivative payment of an amount of 50 *per cent* of expected annuity or an amount of at least \$400 collectively for a period of 15 years with effect from the date immediately following the death of the member:

Provided that the member has made contributions of at least 25 *per cent* of total membership years of registration with the Board or has made active contributions to the Scheme within 3 months before the month in which his death occurs.

(8) Where a member dies after attaining the minimum retirement age, there shall be paid to —

- (a) a widow or husband;
- (b) a widow or husband and children of the member;
- (c) children of the member; or
- (d) parents, if such member has no widow or husband and children,

a monthly derivative payment of at least \$250 or an amount of 50 *per cent* of expected annuity to them collectively, or an amount as the Board may determine, with effect from the date immediately following the death of the member and continuing up to the time the deceased member would have attained the age of 75 years, if living.

(9) Where a widow or husband in respect of whom a monthly derivative benefit is granted under this section remarries or dies, such benefit shall be paid to the children to whom a monthly derivative payment is paid or payable under subsections (7) and (8).

(10) A child in respect of whom a monthly derivative payment is paid under this section shall cease to be eligible for such benefit on such child attaining the age of 21 years or on marriage below such age and such benefit shall be paid to other eligible beneficiaries under subsections (7) and (8).

(11) If there is no eligible beneficiary —

(a) the remaining monthly derivative payment; or

(b) in the case of self-employed person, the remaining balance of the self-employed person's contributions,

shall be paid to the administrator nominee in lump sum.

(12) For the purposes of this section, a husband in respect of whom a monthly derivative benefit is granted shall be entitled to receive one derivative benefit only.

(13) In this section —

"child" means a person under 21 years of age and includes —

(a) a posthumous child;

(b) a stepchild or illegitimate child born before the death of the member and wholly or mainly dependent on him for support; and

(c) an adopted child who is adopted in a manner recognised by any written law before the death of the member and dependent on him for support;

"widow" means, in the case of a deceased member who was a Muslim, all his legal wives living at the time of his death.

PART 4

CONTRIBUTIONS BY PERMANENT RESIDENTS HOLDING FOREIGN  
CITIZENSHIP

**Application of this Part**

23. This Part applies to every member who is a permanent resident holding a foreign citizenship.

**Authority for withdrawals from member account**

24. (1) No sum of money standing to the credit of a member of the Scheme may be withdrawn from the member account except with the authority of the Board and, subject to any regulations made under section 53, such authority shall not be granted unless the Board is satisfied that —

(a) the member has died;

(b) the member has attained the minimum retirement age;

(c) the member is physically or mentally incapacitated from engaging in any further employment or is otherwise incapable of performing his duties at any time before he attains the minimum retirement age;

(d) the member is suffering from terminal illness or disease; or

(e) the member decides not to renew his Entry Permit issued under the Immigration Act (Chapter 17) or his Entry Permit is cancelled and is about to leave Brunei Darussalam.

(2) Notwithstanding subsection (1), the Board may, either in one or all of the following instances, on application by a member who —

(a) has attained the age of 40 years, for the purpose of —

(i) building or purchasing a house;

(ii) paying outstanding housing loan or repairs; or

(iii) renovating a house,

authorise not more than one withdrawal from the member account a sum representing 50 *per cent* of the balance amount standing to the credit of the member after deductions of authorised withdrawals in paragraph (b);

(b) has attained the age of 45, 50 and 55 years, for each years of age, authorise a withdrawal of a sum representing 30 *per cent* of the balance amount standing to the credit of the member or after deductions of authorised withdrawals for the respective years of age,

and on such conditions as the Board may impose.

(3) When authority is granted under subsection (1)(a), (b), (d) and (e), withdrawal shall be made in lump sum.

(4) Without prejudice to subsection (3), a member who is entitled to withdraw under subsection (1)(b) may apply to the Board to be paid monthly for such period as the Board may determine.

(5) For a withdrawal under subsection (1)(c), withdrawal shall be paid —

(a) pro-rated to the member monthly until he attains the minimum retirement age;

(b) for a minimum monthly payment of \$250 until such remaining amount is expended; or

(c) in any other manner of payment as the Board may determine and approve.

(6) Without prejudice to subsections 2(b) and (3), the Board may, on application by a member who has attained the age of 55 years and unemployed, authorise the withdrawal of the member from his member account and such withdrawal shall be paid monthly based on the amount standing to the credit of the member account.

### **Withdrawals**

25. (1) On an application for the withdrawal of the sum of money standing to the credit of a member by a person entitled thereto under section 24, the Board may authorise the payment to the applicant of such sum as the member is entitled to withdraw from the Scheme and any dividend calculated in accordance with section 13 up to the date of the authorisation:

Provided that when —

(a) any contribution is due to be paid for a member in respect of any period ending not later than the last day of the month next following the date on which the withdrawal of the sum of money standing to his credit in the Scheme is authorised; and

*(b)* the contributions are not paid to the Scheme until after the date of authorisation,

the contributions may, in the discretion of the Board, be treated as if they had been included in the amount standing to the credit of the member at the date of authorisation of withdrawal and paid to the applicant accordingly.

(2) All applications for withdrawal shall be supported by such evidence as may be prescribed and by such further evidence as the Board may reasonably require.

#### **Authority for payment from retirement account**

26. (1) Where a member has attained the minimum retirement age and on application by the member, there shall be paid to him monthly amount of at least \$500 and such member shall receive such monthly payment until such amount is expended or for a period of 20 years.

(2) Where a member dies, there shall be paid to the administrator nominee the balance of amount in the member's retirement account.

### **PART 5**

#### **ADMINISTRATOR NOMINEES**

##### **Power to nominate administrator nominees**

27. (1) A member who has attained the age of 18 years may nominate any person as an administrator nominee to receive the amount standing to his credit and due to him at his death.

(2) A nomination may be made in favour of one person or a maximum of three persons and such nomination shall be made in such form and manner as the Board may determine.

##### **Cessation of nominations**

28. (1) A nomination shall cease to have effect —

*(a)* on the death of the administrator nominee or, where there is more than one administrator nominee, all the administrator nominees during the lifetime of the member; or

*(b)* by written notice of revocation.

(2) The cessation of nomination under subsection (1)/b) shall not be revoked by any will or by any other means.

**Payment on death of member if there is nomination**

29. (1) Subject to subsection (2), where a member dies having nominated an administrator nominee, the Board shall pay the amount standing to the credit of the deceased member according to the directions of the nominations.

(2) Where a Muslim member dies having nominated an administrator nominee in accordance with this Order, the administrator nominee shall receive the amount standing to the credit of the deceased member as an executor and not solely as a beneficiary and shall distribute the amount in accordance with *Hukum Syara'*.

(3) In this section, "*Hukum Syara'*" means the laws of Islam according to the *Shafi'ee, Hanafi, Maliki* or *Hanbali* sect of *Ahli Sunnah Waljamaah*.

**Payment on death of member if there is no nomination**

30. Where a member dies without having made any nomination, the Board shall pay any amount standing to the credit of the deceased member in accordance with section 45.

PART 6

OFFENCES, PENALTIES AND PROCEEDINGS

**Offences**

31. Any person who —

(a) for any purpose connected with this Order —

(i) knowingly makes any false statement; or

(ii) produces or furnishes or causes or knowingly allows to be produced or furnished any document which he knows to be false in a material particular;

(b) fails to pay to the Scheme within such period as may be prescribed any amount which he is liable under this Order to pay in respect of or on behalf of any employee in any month;

(c) obstructs any officer or employee of the Board in the discharge of his functions as such;

(d) fails to comply with any regulations made under this Order; or

(e) fails to pay to the Board within such period as may be prescribed any amount which he is liable to pay under this Order,

is guilty of an offence.

**Publication of information to unauthorised person**

32. (1) Any person employed by the Board who, without lawful authority, publishes or communicates to any person, otherwise than in the ordinary course of his duty or employment, any information acquired by him in the course of his duty or employment is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 12 months or both.

(2) The Board may, on an application by a prospective employer who is considering whether or not to employ any person as an employee, give to the prospective employer the following particulars of that person —

(a) the name of his employer or, if he has been in the employment of more than one employer, the name of all his employers during the past 3 years; and

(b) the period for which contributions were paid into the Scheme for that person by each of his employers.

(3) A prospective employer who wishes to obtain any of the particulars referred to in subsection (2) shall apply to the Board in such form and manner as the Board may determine and on payment of the prescribed fee.

(4) The Board may require an applicant under subsection (3) to furnish proof that he is considering whether to employ the person in respect of whom the application is made.

(5) No refund shall be made of any fee paid under subsection (3).

**Amount withdrawn not to be utilised for other purpose**

33. (1) An amount withdrawn by any member under this Order shall be utilised for the purpose for which the withdrawal was authorised.

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

- (3) Any member who contravenes this section is guilty of an offence.

**Offences by bodies corporate etc.**

34. Where an offence against this Order or any regulations made thereunder committed by a body corporate, partnership, association or other body of persons 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 any similar officer of that body corporate, partnership, association or other body of persons, or of any person purporting to act in any such capacity, he as well as the body corporate, partnership, association or other body of persons is guilty of that offence and liable to be proceeded against and punished accordingly.

**Penalty for offences not otherwise provided for**

35. (1) Any person who contravenes any provision of this Order or any regulations made thereunder is guilty of an offence and if no penalty is expressly provided in this Order or the regulations made thereunder shall on conviction be liable to a fine not exceeding \$3,000, and in the case of a subsequent offence, to a fine not exceeding \$10,000 and the court before which the conviction is had shall, in addition to the fine, order him to pay the amount of any contribution together with any dividend due thereon certified by an officer appointed by the Board in that behalf to be due from that person at the date of the conviction and the amount may be recovered in accordance with the law for the time being in force relating to the recovery of fines.

(2) Where an employer fails to comply with any order made under subsection (1), the court shall, on application by the Board —

(a) issue a warrant for the levy of the amount by distress and sale of any property belonging to the employer; or

(b) direct that in default of payment of the fine, the employer shall suffer imprisonment for a certain term.

**Sanction for prosecution**

36. No court shall take cognisance of any offence under this Order or any regulations made thereunder except with the sanction of the Public Prosecutor.

**Composition of offences**

37. The Board may, with the concurrence of the Minister, compound any offence punishable under this Order or any regulations made thereunder by requiring the payment of any sum of money as the Board thinks fit towards such compound, being a sum not exceeding the amount of the maximum fine to which that person would have been liable if he had been convicted of the offence.

**Saving for criminal proceedings**

38. The provisions of this Order or any regulations made thereunder shall be without prejudice to any other proceedings under any other written laws.

**Certificate of authorised officer to be evidence**

39. In any legal proceedings, a copy of an entry in the accounts of the Scheme duly certified under the hand of such officer of the Board as it may authorise shall be *prima facie* evidence of such entry having been made and of the truth of the contents thereof.

**Conduct of prosecutions**

40. Proceedings in respect of any offence under the provisions of this Order or any regulations made thereunder may be conducted by an officer authorised in writing in that behalf by the Chairman of the Board.

**Civil proceedings to recover contributions**

41. (1) Notwithstanding the provisions of any other written laws, all contributions payable under this Order may, without prejudice to any other remedy, be recoverable by the Board summarily as a civil debt.

(2) Proceedings for such summary recovery may be instituted by any person authorised in writing in that behalf by the Board and that person may conduct such proceedings.

(3) In subsection (1), "contribution" includes any dividend, service charge and penalty on any contribution charged by the Board under this Order or any regulations made thereunder.

**Recovery of sums due to Scheme**

42. Any sum due to the Scheme, including any sum required by the Board or ordered by a court to be paid, repaid, refunded or transferred to any account maintained for a member in respect of the moneys standing to the credit of the member in the Scheme, may be sued for and recovered by the Board as if it were a debt due to the Government.

PART 7  
GENERAL

**Payment of service charge on contributions in arrears**

43. (1) Where the amount of the contributions which an employer is liable to pay under this Order in respect of any month is not paid within such period as may be prescribed, the employer shall be liable to pay service charge on such amount for every day such amount remains unpaid commencing from the 16th day of the month succeeding the month in respect of which the amount is payable and the service charge shall be calculated at such rate and manner as the Board may determine.

(2) The Board may, in any case in which it thinks fit, waive the payment of the whole or part of, or remit in whole or in part, any service charge due or paid under subsection (1).

**Refund of contributions paid in error**

44. (1) When the Board is satisfied that any amount has been paid in error to the Scheme in respect of any person or as service charge under section 43, the Board may, subject to subsection (3), refund the amount so paid in error to the person by whom it was paid or to any other person as the Board may determine:

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

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

(3) No refund shall be made and no amount shall be set off under this section except with the consent of the Board who may require any person who claims to have paid any amount to the Scheme in error to make a written application for refund and to furnish such information as the Board may require to determine the amount so paid.

**Board to inform Probate Officer**

45. Subject to Part 5, if the Board is satisfied that a member of the Scheme has died, it shall inform the Probate Officer who shall proceed forthwith to exercise his powers under section 13 of the Probate and Administration Act (Chapter 11).

**Preservation of secrecy**

46. (1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any written law, no person who is or has been a member, an officer, an employee or an agent of the Board or a member of a committee of the Board shall disclose any information relating to the affairs of the Board or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 12 months or both.

**Power to obtain information and require production of documents**

47. The Board may, by notice in writing served on any person —

*(a)* require the person to provide the Board at such time or at such intervals or in respect of such period as may be specified in the notice, with such information as the Board may reasonably require for the performance of its functions under this Order;

*(b)* require the person to provide the Board with a report by an accountant or other person with the relevant professional skill on, or on any aspect of, any matter which the Board requires,

and the Board may require such information or report to be in such form and manner as may be specified in the notice.

**Protection of employee's interest in execution proceedings and sale under mortgage or charge**

48. (1) Whenever a writ of seizure and sale has been issued in execution of a judgment against an employer and any movable or immovable property or other assets belonging to the employer has been seized or sold or otherwise realised in pursuance of the execution and, prior to the payment of the proceeds of the sale or other realisation to an execution creditor, notice has been given to the officer charged with the execution of the writ by the Board that any sum is due to the Scheme, no part of the proceeds shall be paid to an execution creditor unless and until the court issuing the writ has ascertained and provided for the sum due to the Scheme at the date of the sale or other realisation.

(2) In the event of any interest in any place of employment being sold on the application of a secured creditor under any written law in force for the time being and the Board giving to the officer charged with the conduct of the sale notice that a sum of money is due by the debtor to the Scheme, the proceeds of the sale shall not be paid to any creditor other than to the Government or a

secured creditor unless and until the court ordering the sale has ascertained and provided for the amount due to the Scheme at the date of the sale or unless the court is satisfied that all sums due to the Scheme have been paid up to the date of sale.

**Joint and several liability by bodies corporate etc.**

49. (1) Notwithstanding anything to the contrary in this Order or any other written laws, where any contribution remaining unpaid by a body corporate, partnership, association or body of persons —

(a) the directors or former directors of such body corporate;

(b) the partners or former partners of such partnership; or

(c) the members or office bearers of such association or body of persons,

as the case may be, during such period in which contributions were liable to be paid shall, together with the body corporate, partnership, association or body of persons liable to pay contributions, be jointly and severally liable for the contributions due and payable to the Fund.

(2) In this section, "contribution" includes any dividend, service charge and penalties due to any contribution charged by the Board under this Order or any regulations made thereunder.

**Exemption**

50. His Majesty the Sultan and Yang Di-Pertuan may by order exempt any person or class of persons from all or any of the provisions of this Order.

**Board may engage in activities not directly related to Scheme and may call for information**

51. The Board may, if the Minister is satisfied that it is in the public interest to do so, engage in activities not directly related to the administration of the Scheme including, in particular, the compilation of information of a statistical nature or otherwise relating to employers and employees and for this purpose the Board may require employers and employees to furnish such particulars as may be necessary.

**Amendment of Schedules**

52. The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, amend the Schedules to this Order.

**Regulations**

53. (1) The Minister may, after consultation with the Board and with the consent of His Majesty the Sultan and Yang Di-Pertuan, make regulations —

*(a)* to provide for the manner of payment and collection of contributions and any matter incidental thereto;

*(b)* to provide for the disposal of amounts which are unclaimed, unpaid or otherwise remain in the Scheme;

*(c)* to provide for the classification of any employment, not being employment under a contract of service or apprenticeship, as an employment in respect of which contributions are payable under the provisions of this Order;

*(d)* to provide that where an employee is employed in a specified employment, a person specified as the principal employer is deemed to be his employer for the purposes of this Order notwithstanding that the principal employer is not the immediate employer of the employee;

*(e)* to require such person as His Majesty the Sultan and Yang Di-Pertuan may specify who derives income from any trade, business, profession or vocation, or from any other source or sources as His Majesty the Sultan and Yang Di-Pertuan may prescribe, to contribute to the Scheme in respect of such income in such manner and at such rate as His Majesty the Sultan and Yang Di-Pertuan may prescribe;

*(f)* to provide for members of the Scheme to apply, assign or withdraw all or part of the contributions and dividend standing to their credit in the Scheme for the purchase of immovable property or to repay any loan taken to finance or refinance the purchase of immovable property, including the payment of costs, fees or other incidental expenses incurred for the purchase of an immovable property or for obtaining any loan to finance or refinance such purchase or in connection with withdrawals of any money from the Scheme;

*(g)* to provide for the nomination by a member of the Scheme of the persons to whom any amount standing to his credit at the time of his death is to be paid at his death, for the manner in which such nomination may be revoked and for the circumstances in which it is to be treated as having ceased to be operative and for payment of such amount to the administrator nominee so nominated;

*(h)* to prescribe rates of contributions for the purposes of this Order;

(i) to specify and periodically revise the class of self-employed persons for the purposes of this Order;

(j) to prescribe for fees for the purposes of this Order;

(k) to periodically adjust the amounts of the monthly payments;

(l) generally for giving effect to the objects and purposes of this Order and for the due administration thereof.

(2) The Board may, in addition to the other duties imposed and powers conferred on it under this Order, make rules —

(a) to provide for —

(i) the return of contributions under this Order, or any part of such contributions, paid in error;

(ii) the payment of contributions under this Order, or any part of such contributions, omitted to be paid in error;

(b) to provide for the keeping of books, accounts or records by employers;

(c) to provide for the registration with the Board of employers and employees;

(d) to provide for the appointment of medical boards for the purpose of determining whether a member of the Scheme is physically or mentally incapacitated;

(e) to prescribe the procedure for the withdrawal of amounts from the Scheme;

(f) to prescribe the evidence to be produced and the person, officer or authority to whom the evidence is to be produced for the purposes of section 20;

(g) to prescribe the procedure to be followed when contributions are paid into the Scheme;

(h) to provide, in case where an employee is employed concurrently by two or more employers, the extent of the obligation of those employers as to payment of contributions under this Order;

*(i)* to prescribe the procedure to be followed when any voluntary contribution is paid to the Scheme;

*(j)* to prescribe the returns to be made and the registers to be used in the carrying out of the provisions of this Order;

*(k)* to prescribe anything which under this Order may be prescribed by the Board;

*(l)* generally for giving effect to the objects and purposes of this Order and for the due administration thereof.

**Contributions not to be assigned etc.**

54. Notwithstanding anything to the contrary contained in any other written laws —

*(a)* no sum deducted from the wages of a member of the Scheme under this Order;

*(b)* no amount payable by the employer as his contribution; and

*(c)* no amount standing to the credit of a member of the Scheme,

shall be assignable, transferable, attached, sequestered or levied on for, or in respect of, any debt or claim and shall not be subject to any set-off of any nature for any debt owing by the member and if the member is adjudicated a bankrupt by a court, it shall not pass to the Official Assignee on the bankruptcy of the member and is deemed not to form part of the property of the member.

**Transitional provisions**

55. The provisions of Schedule 3 shall have effect for the purpose of the transfer of moneys and dues, employees and for other transitional purposes specified in that Schedule.

**Consequential amendments to other written law**

56. The provisions of the written law specified in the first column of Schedule 4 are amended in the manner set out in the second column thereof.

**SCHEDULE 1**

(section 2)

**PERSONS OR CLASSES OF PERSONS SPECIFIED NOT TO BE EMPLOYEES**

1. Members of the Royal Brunei Armed Forces who are employed on the pensionable establishment.
2. Members of the Royal Brunei Police Force who are employed on the pensionable establishment.
3. Prison officers who are employed on the pensionable establishment.
4. Citizens of Brunei Darussalam who are employed by the Brunei Mission overseas under a contract of service or other agreement entered into outside Brunei Darussalam.

**SCHEDULE 2**

(sections 10 and 15)

**RATES OF CONTRIBUTIONS**

## 1. Rates of contributions for employers

<b>Income group (employee's salary)</b>	<b>Total employer contribution</b>
\$500 and below	\$57.50
\$500.01 - \$1,500	10.5% (minimum of \$57.50)
\$1,500.01 - \$2,800	9.5%
Above \$2,800 (removal of cap)	8.5%

## 2. Rate of contributions for self-employed persons

<b>Self-employed</b>	<b>Match amount</b>
Below \$17.50	No match up
\$17.50 - \$40 and above	\$17.50

## 3. Crediting of contributions for self-employed persons

<b>Contribution amount from self-employed person</b>	<b>Account</b>
Below \$17.50	Member account
\$17.50 - \$40	Retirement account
Excess of \$40	Member account

4. For the purposes of payment of contributions, where the percentage figure of the contribution by employers and employees is not a whole cent, the figure shall be rounded off to the two decimal points.

### **SCHEDULE 3**

(section 55)

#### **TRANSITIONAL PROVISIONS**

##### **Transfer of moneys and dues**

1. Subject to the provisions of this Order, all moneys standing in, and dues to be paid to, under the Employee Trust Act (Chapter 167) or the Supplemental Contributory Pensions Trust Order, 2009 (S 58/2009) shall on the date of commencement of this Order be transferred to the Scheme.

##### **Transfer of employees**

2. Subject to the provisions of this Order, every employee who immediately before the date of commencement of this Order was a member under the Employee Trust Act (Chapter 167) or the Supplemental Contributory Pensions Trust Order, 2009 (S 58/2009) shall on that date be a member of the Scheme and subject to all the provisions of this Order relating to the member of the Scheme.

##### **Transfer of registration of employers**

3. Every employer registered under the provisions of the Employee Trust Act (Chapter 167) or the Supplemental Contributory Pensions Trust Order, 2009 (S 58/2009) is deemed to have been registered under this Order.

##### **Prevention of anomalies**

4. (1) If any difficulty arises in respect of the foregoing transitional provisions of this Order, the Minister may by order make such modifications in those provisions as may appear to him necessary for preventing anomalies:

Provided that the Minister shall not exercise the powers conferred by this paragraph after the expiration of 2 years from the date of commencement of this Order.

(2) In this paragraph, "modification" includes amendment, addition, deletion, substitution, adaptation, variation, alteration and non-application of any provision of this Schedule.

**SCHEDULE 4**

(section 56)

**CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAW**

Tabung Amanah Pekerja Board Act (Chapter 246)

- |              |  |
|--------------|--|
| Section 5(3) | Delete "one of the directors to be the" and substitute with "a".             |
| Section 11   | Insert "and scheme" immediately after "trusts" in the third line.            |
| Schedule 2   | Add the following new item —<br>"3. National Retirement Scheme Order, 2023." |

Made this 29th. day of Syawal, 1444 Hijriah corresponding to the 20th. day of May, 2023 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

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