CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3) and 5)

SUPPLY (2001) ORDER, 2000

WHEREAS His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam by a Proclamation of Emergency dated the 20th. day of May, 2000 has declared a state of emergency in the whole State;

AND WHEREAS it is provided by subsection (3) of section 83 of the Constitution of Brunei Darussalam, that when a Proclamation of Emergency has been made and for so long as such Proclamation is in force, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam may make any Orders whatsoever which he considers desirable in the public interest;

AND WHEREAS it is provided by subsection (5) of section 83 of the Constitution of Brunei Darussalam, that such powers shall include the power to make such financial provisions as may be necessary during the period of the emergency including provision for the public service;

NOW, THEREFORE, in the exercise of the powers conferred on him by subsections (3) and (5) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam has made the following Order —

Citation and commencement.


Issue and appropriation.

2. (1) The issue of the sum not exceeding $4,092,516,190.00 out of the Consolidated Fund for the service of the year 2001 is hereby authorised.

(2) The said sum is appropriated for the purposes specified in the Schedule.
## SCHEDULE

<table>
<thead>
<tr>
<th>Head</th>
<th>Title</th>
<th>Amount Appropriated</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>PRIME MINISTER’S OFFICE</strong></td>
<td></td>
</tr>
<tr>
<td>S.A1</td>
<td>Prime Minister’s Office</td>
<td>$9,536,028.00</td>
</tr>
<tr>
<td>S.A2</td>
<td>Adat Istdiat Negara</td>
<td>$2,605,778.00</td>
</tr>
<tr>
<td>S.A3</td>
<td>Audit</td>
<td>$4,715,008.00</td>
</tr>
<tr>
<td>S.A4</td>
<td>Narcotic Control Bureau</td>
<td>$4,770,312.00</td>
</tr>
<tr>
<td>S.A5</td>
<td>Anti-Corruption Bureau</td>
<td>$4,086,496.00</td>
</tr>
<tr>
<td>S.A6</td>
<td>Internal Security</td>
<td>$20,531,260.00</td>
</tr>
<tr>
<td>S.A7</td>
<td>Councils of State</td>
<td>$1,415,997.00</td>
</tr>
<tr>
<td>S.A8</td>
<td>Radio Television Brunei</td>
<td>$47,708,892.00</td>
</tr>
<tr>
<td>S.A9</td>
<td>Information</td>
<td>$5,704,758.00</td>
</tr>
<tr>
<td>S.A10</td>
<td>Public Services</td>
<td>$20,725,695.00</td>
</tr>
<tr>
<td>S.A11</td>
<td>Management Services</td>
<td>$1,493,262.00</td>
</tr>
<tr>
<td>S.A12</td>
<td>Royal Brunei Police</td>
<td>$84,507,050.00</td>
</tr>
<tr>
<td>S.A14</td>
<td>Public Service Commission</td>
<td>$4,273,404.00</td>
</tr>
<tr>
<td>S.A15</td>
<td>Petroleum Unit</td>
<td>$4,153,230.00</td>
</tr>
<tr>
<td>S.A16</td>
<td>Government Mufti</td>
<td>$3,548,783.00</td>
</tr>
<tr>
<td>S.G1</td>
<td>Law Section</td>
<td>$736,735.00</td>
</tr>
<tr>
<td>S.G2</td>
<td>Judicial</td>
<td>$3,524,017.00</td>
</tr>
<tr>
<td>S.G3</td>
<td>Government Printer</td>
<td>$9,583,154.00</td>
</tr>
<tr>
<td>S.G4</td>
<td>Attorney General</td>
<td>$5,718,269.00</td>
</tr>
<tr>
<td></td>
<td><strong>MINISTRY OF DEFENCE</strong></td>
<td></td>
</tr>
<tr>
<td>S.B</td>
<td>Ministry of Defence</td>
<td>$446,711,611.00</td>
</tr>
<tr>
<td></td>
<td><strong>MINISTRY OF FOREIGN AFFAIRS</strong></td>
<td></td>
</tr>
<tr>
<td>S.C</td>
<td>Ministry of Foreign Affairs</td>
<td>$125,310,793.00</td>
</tr>
</tbody>
</table>
## SCHEDULE (Continued)

<table>
<thead>
<tr>
<th>Head</th>
<th>Title</th>
<th>Amount Appropriated</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>MINISTRY OF FINANCE</strong></td>
<td></td>
</tr>
<tr>
<td>S.D1</td>
<td>Ministry of Finance Department</td>
<td>$48,908,272.00</td>
</tr>
<tr>
<td>S.D2</td>
<td>Brunei Investment Agency</td>
<td>$0</td>
</tr>
<tr>
<td>S.D3</td>
<td>Royal Customs and Excise</td>
<td>$10,862,703.00</td>
</tr>
<tr>
<td>S.D4</td>
<td>Economic Planning and Development</td>
<td>$6,919,849.00</td>
</tr>
<tr>
<td>S.D51</td>
<td>Treasury</td>
<td>$7,523,174.00</td>
</tr>
<tr>
<td>S.D52</td>
<td>Miscellaneous Services</td>
<td>$1,126,718,465.00</td>
</tr>
<tr>
<td>S.D53</td>
<td>Miscellaneous Services HMSF</td>
<td>$129,439,927.00</td>
</tr>
<tr>
<td>S.D6</td>
<td>Information Technology and State Store</td>
<td>$7,233,947.00</td>
</tr>
<tr>
<td>S.D7</td>
<td>Employees Trust Fund</td>
<td>$1,625,816.00</td>
</tr>
<tr>
<td></td>
<td><strong>MINISTRY OF HOME AFFAIRS</strong></td>
<td></td>
</tr>
<tr>
<td>S.E1</td>
<td>Ministry of Home Affairs Department</td>
<td>$3,309,265.00</td>
</tr>
<tr>
<td>S.E2</td>
<td>Bandar Seri Begawan Municipal Board</td>
<td>$23,653,316.00</td>
</tr>
<tr>
<td>S.E3</td>
<td>Kuala Belait and Seria Municipal Board</td>
<td>$8,765,055.00</td>
</tr>
<tr>
<td>S.E4</td>
<td>Tutong Municipal Board</td>
<td>$2,156,668.00</td>
</tr>
<tr>
<td>S.E5</td>
<td>Labour</td>
<td>$4,045,814.00</td>
</tr>
<tr>
<td>S.E6</td>
<td>Brunei and Muara District Office</td>
<td>$11,093,245.00</td>
</tr>
<tr>
<td>S.E7</td>
<td>Belait District Office</td>
<td>$4,556,609.00</td>
</tr>
<tr>
<td>S.E8</td>
<td>Tutong District Office</td>
<td>$5,133,004.00</td>
</tr>
<tr>
<td>S.E9</td>
<td>Temburong District Office</td>
<td>$5,166,598.00</td>
</tr>
<tr>
<td>S.E10</td>
<td>Immigration and National Registration</td>
<td>$14,854,952.00</td>
</tr>
<tr>
<td>S.E11</td>
<td>Prisons</td>
<td>$9,158,029.00</td>
</tr>
<tr>
<td>S.E12</td>
<td>Fire Services</td>
<td>$24,359,496.00</td>
</tr>
<tr>
<td>Head</td>
<td>Title</td>
<td>Amount Appropriated</td>
</tr>
<tr>
<td>------</td>
<td>-------</td>
<td>---------------------</td>
</tr>
<tr>
<td>MINISTRY OF EDUCATION</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S.F1</td>
<td>Ministry of Education Department</td>
<td>$383,030,799.00</td>
</tr>
<tr>
<td>S.F2</td>
<td>University of Brunei Darussalam</td>
<td>$47,537,557.00</td>
</tr>
<tr>
<td>MINISTRY OF INDUSTRY AND PRIMARY RESOURCES</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S.H1</td>
<td>Ministry of Industry and Primary Resources Department</td>
<td>$8,524,407.00</td>
</tr>
<tr>
<td>S.H2</td>
<td>Forestry</td>
<td>$7,027,298.00</td>
</tr>
<tr>
<td>S.H3</td>
<td>Fisheries</td>
<td>$5,907,124.00</td>
</tr>
<tr>
<td>S.H4</td>
<td>Agriculture</td>
<td>$28,349,290.00</td>
</tr>
<tr>
<td>S.H5</td>
<td>Brunei Industrial Development Authority (BINA)</td>
<td>$3,070,352.00</td>
</tr>
<tr>
<td>MINISTRY OF RELIGIOUS AFFAIRS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S.J1</td>
<td>Ministry of Religious Affairs</td>
<td>$132,884,731.00</td>
</tr>
<tr>
<td>MINISTRY OF DEVELOPMENT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S.K1</td>
<td>Ministry of Development Department</td>
<td>$8,260,010.00</td>
</tr>
<tr>
<td>S.K2</td>
<td>Housing Development</td>
<td>$10,610,273.00</td>
</tr>
<tr>
<td>S.K3</td>
<td>Public Works</td>
<td>$151,677,068.00</td>
</tr>
<tr>
<td>S.K4</td>
<td>Town and Country Planning</td>
<td>$3,022,866.00</td>
</tr>
<tr>
<td>S.K5</td>
<td>Electrical Services</td>
<td>$90,145,506.00</td>
</tr>
<tr>
<td>S.K6</td>
<td>Land</td>
<td>$9,241,433.00</td>
</tr>
<tr>
<td>S.K7</td>
<td>Survey</td>
<td>$12,832,465.00</td>
</tr>
<tr>
<td>MINISTRY OF CULTURE, YOUTH AND SPORTS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S.L1</td>
<td>Ministry of Culture, Youth and Sports Department</td>
<td>$21,048,286.00</td>
</tr>
</tbody>
</table>
## SCHEDULE (Continued)

<table>
<thead>
<tr>
<th>Head</th>
<th>Title</th>
<th>Amount Appropriated</th>
</tr>
</thead>
<tbody>
<tr>
<td>S.L2</td>
<td>Language and Literature Bureau</td>
<td>$10,976,996.00</td>
</tr>
<tr>
<td>S.L3</td>
<td>Youth and Sports</td>
<td>$14,665,658.00</td>
</tr>
<tr>
<td>S.L41</td>
<td>Museums</td>
<td>$8,408,554.00</td>
</tr>
<tr>
<td>S.L42</td>
<td>Arts and Handicrafts Centre</td>
<td>$3,272,049.00</td>
</tr>
<tr>
<td>S.L5</td>
<td>History Centre</td>
<td>$3,612,232.00</td>
</tr>
</tbody>
</table>

**MINISTRY OF HEALTH**

<table>
<thead>
<tr>
<th>Head</th>
<th>Title</th>
<th>Amount Appropriated</th>
</tr>
</thead>
<tbody>
<tr>
<td>S.M1</td>
<td>Ministry of Health Department</td>
<td>$13,310,852.00</td>
</tr>
<tr>
<td>S.M2</td>
<td>Medical and Health</td>
<td>$168,434,937.00</td>
</tr>
<tr>
<td>S.M3</td>
<td>Health Services</td>
<td>$24,241,183.00</td>
</tr>
</tbody>
</table>

**MINISTRY OF COMMUNICATIONS**

<table>
<thead>
<tr>
<th>Head</th>
<th>Title</th>
<th>Amount Appropriated</th>
</tr>
</thead>
<tbody>
<tr>
<td>S.N1</td>
<td>Ministry of Communications Department</td>
<td>$3,395,767.00</td>
</tr>
<tr>
<td>S.N2</td>
<td>Marine</td>
<td>$7,635,511.00</td>
</tr>
<tr>
<td>S.N3</td>
<td>Ports</td>
<td>$7,001,842.00</td>
</tr>
<tr>
<td>S.N4</td>
<td>Civil Aviation</td>
<td>$19,469,000.00</td>
</tr>
<tr>
<td>S.N5</td>
<td>Land Transports</td>
<td>$5,682,310.00</td>
</tr>
<tr>
<td>S.N6</td>
<td>Postal Services</td>
<td>$9,004,422.00</td>
</tr>
<tr>
<td>S.N7</td>
<td>Telecommunications</td>
<td>$52,990,676.00</td>
</tr>
</tbody>
</table>

**DEVELOPMENT**

<table>
<thead>
<tr>
<th>Head</th>
<th>Title</th>
<th>Amount Appropriated</th>
</tr>
</thead>
<tbody>
<tr>
<td>S.P1</td>
<td>Appropriation to Development Fund</td>
<td>$550,400,000.00</td>
</tr>
</tbody>
</table>

Made this 3rd. day of Syawal, 1421 Hijriah corresponding to the 30th. day of December, 2000 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY  
THE SULTAN AND YANG DI-PERTUAN  
BRUNEI DARUSSALAM
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

ISLAMIC ADOPTION OF CHILDREN ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Citation, commencement and long title.
2. Interpretation.
3. Text in Malay language shall prevail.
4. Saving of prerogative.
5. Application.

PART II

ADOPTION ORDERS

7. Power to make adoption orders.
8. Restrictions on adoption orders.
9. Prohibition against taking back the child.
10. Non-Muslim child.
11. Conditions of adoption orders.
12. Grant of property.
15. Attendance before Syar’ie Judge.
16. Effect of failure to comply with conditions of adoption order.

17. *Nasab* of adopted child, rights and obligations.

18. Beneficiary rights.

**PART III**

**MISCELLANEOUS**


20. Appeal.


22. Registration.

23. *De facto* adoptions.

24. Power to make rules.

25. *Hukum Syara* to be applied if no provision.

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

ISLAMIC ADOPTION OF CHILDREN ORDER, 2001

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

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Islamic Adoption of Children Order, 2001 and shall commence on such date or dates as to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the Gazette.

(2) Different dates may be appointed under subsection (1) for different provisions of this Order or for different purposes of the same provision.

(3) The long title of this Order is "An Order to make certain provisions on the laws of adoption of children according to Islam".

Interpretation.

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

"adopter" means a person authorised by this Order to adopt a child to be his adopted child;

"adoption" means to bring up, maintain and educate the child of another person like one’s own child without becoming a natural child of the adopter;

"child" means an unmarried person who has not attained the age of 18 years qamariah;

"Court" means the Syariah Subordinate Court, the Syariah High Court or the Syariah Appeal Court, as the case may be, established under section 6(1) of the Syariah Courts Act (Chapter 184);

"guardian" means a person having the legal right as the guardian of the child according to law;
"Hukum Syara’" means the laws of any sects which the Court considers valid;

"Minister" means the Minister of Religious Affairs;

"nas" means descent based on lawful blood relationship;

"parent" means the natural mother or father of the adopted child;

"relative" includes the brother, sister, grandparents on the side of the father and the mother, uncle on the side of the mother and the father and aunt on the side of the father and the mother whether by nasab or affinity;

"Syar’ie Judge" means a Syar’ie Judge appointed under sections 9(1), 10(1) and 11 of the Syariah Courts Act (Chapter 184) and includes the Chief Syar’ie Judge;

"year qamariah" means a year according to the Islamic calendar

(2) All words and expressions used in this Order and not defined therein but defined in the Interpretation and General Clauses Act (Chapter 4) shall have the same meanings respectively assigned thereto to the extent that they do not conflict with Hukum Syara’.

(3) The Chief Syar’ie Judge may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, amend the Schedule.

(4) References in this Order to the date of commencement of this Order are references to the date of commencement of the main substantive provisions of this Order.

Text in Malay language shall prevail.

3. If any conflict or doubt arises as to the meaning or requirement of a provision under this Order, the text in the Malay language shall prevail.

Saving of prerogative.

4. Nothing contained herein shall derogate from or affect the prerogative rights and powers of His Majesty the Sultan and Yang Di-Pertuan as the Head of the Religion of Brunei Darussalam.

Application.

5. (1) Notwithstanding the provisions of any other written law to the contrary, this Order shall apply in any matter where at least one of the parties professes the Islamic religion.

(2) For the avoidance of any doubt it is hereby declared that no person or court other than a court established under Part II of the Syariah Courts Act (Chapter 184) shall have
jurisdiction to hear or determine any claims or proceedings where at least one of the parties professes the Islamic religion and relating to any matter which arises in this Order.

**Saving.**

6. Nothing in this Order shall affect the validity of an adoption which has been made under any law wheresoever before the date of commencement of this Order.

**PART II**

**ADOPTION ORDERS**

**Power to make adoption orders**

7. (1) Upon an application made by any person wishing to be authorised to adopt a child in the prescribed manner, the Syar’ie Judge may, after being satisfied, make an adoption order authorising the applicant to adopt the child and keep the child in his custody.

(2) An application for an adoption may be made in the prescribed form in the Schedule and sent to the Court. In certain cases, the Syar’ie Judge may, if he is satisfied, dispense with any particulars in the application available in the prescribed form.

(3) The Syar’ie Judge shall, before making an adoption order, be satisfied that the order, if made, is for the *maslahah* of the child.

(4) In considering the *maslahah* of the child, the Syar’ie Judge shall have regard to —

(a) the wishes of the parent, if any, or the guardian or the person who is responsible for the maintenance of the child; and

(b) the wishes of the child, if he is in the age capable of expressing his own opinion.

**Restrictions on adoption orders.**

8. (1) An adoption order shall not be made in the case where a non-Muslim applies for the adoption of a child if —

(a) both parents of the child or one of them is a Muslim; or

(b) both parents of the child are not known.

(2) Notwithstanding the provisions of any other written law to the contrary, a child both of whose parents are not known shall, until the contrary is proved, be deemed to be a Muslim for the purposes of this Order.
(3) An adoption order shall not be made unless —

(a) the applicant or in the case of an application by 2 spouses, one of them has
tained the age of 25 years qamariah and is at least 18 years qamariah
older than the child in respect of whom the application is made unless the
Syar’ie Judge is satisfied that there are special circumstances for the
making of the order; or

(b) the applicant is a relative of the child and has attained the age of 18 years
qamariah.

(4) An adoption order shall not be made except with the consent of both parents, if
any, or the guardian or the person who is responsible for the maintenance of the child.

(5) The Syar’ie Judge may dispense with any consent required by subsection (4) if
the Syar’ie Judge is satisfied that the person whose consent is to be dispensed with —

(a) has abandoned, neglected or persistently ill-treated the child;

(b) has persistently neglected or refused to provide maintenance; or

(c) is unfit to take care of the child by reason of physical or mental incapacity
and most likely the unfitness to take care of the child continues for an
indefinite period.

(6) Notwithstanding subsection (5), the Syar’ie Judge may dispense with any
consent required by subsection (4) if he is satisfied that, in the particular circumstances, it is
reasonable for the maslahah of the child to do so.

(7) An adoption order shall not be made unless, in the case of an application made
by a husband or a wife, the consent of the wife or the husband, as the case may be, has been
obtained.

(8) The Syar’ie Judge may dispense with the consent required by subsection (7) if
the Syar’ie Judge is satisfied that the person whose consent is to be dispensed with cannot be
found or is incapable of giving his consent or that his consent is unreasonably withheld.

(9) An adoption order shall not be made if —

(a) the applicant is a male and the child in respect of whom the application is
made is a female or the applicant is a female and the child is a male unless
the applicant and the child have connections by nas under which they are
haram to marry forever; or

(b) the child has already been adopted under an earlier adoption order unless
the Syar’ie Judge is satisfied that the earlier adoption order has been
revoked by the Syar’ie Judge or the Court or requires change accordingly.
(10) A n adoption order shall not be made by authorising more than one applicant to adopt the child. For the purpose of this Order, 2 spouses wishing to apply for authorisation to adopt a child shall be deemed as one applicant.

Prohibition against taking back the child.

9. (1) Where an adoption order by the Syar‘ie Judge is still pending, any parent, if any, or guardian or person who is responsible for the maintenance of the child who has submitted the child to the applicant for adoption shall not separate the child from the custody of the applicant except with the leave of the Court; and in considering whether to accept or reject the application, the Court shall take into account the *maslahah* of the child.

(2) When an adoption order is made by the Syar‘ie Judge and thereupon the parent or the guardian or the person who is responsible for the maintenance of the child applies for the return of the child, the child shall not be returned to them unless the Court permits.

Non-Muslim child

10. A non-Muslim child who is adopted by a Muslim shall be considered Muslim

Conditions of adoption orders.

11. The Syar‘ie Judge in making an adoption order may impose such conditions as he thinks fit, in particular may require the adopter to give a bond or otherwise, if any, as in the opinion of the Syar‘ie Judge is necessary and expedient.

Grant of property.

12. The adopter may, during his lifetime, transfer his immovable property to the adopted child and may grant his movable property as a gift and grant his property by a will of not more than one third of his whole property

Guardian *ad litem*.

13. The Syar‘ie Judge may, if he thinks necessary in respect of an application for an adoption order, appoint a guardian *ad litem* of the child in respect of whom the application is made. The guardian shall investigate the circumstances of the child and the applicant and all other matters relevant to the proposed adoption in order to safeguard the interests of the child by providing the requisite information to the Syar‘ie Judge.

Interim orders.

14. (1) When an application for an adoption order is made, the Syar‘ie Judge may, if he thinks necessary for the *maslahah* of the child, postpone the determination of the application and the Syar‘ie Judge may make an interim order which shall not be deemed to be an
adoption order for the purposes of this Order, giving the custody of the child to the applicant for a period not less than 3 months and not more than 2 years by way of a probationary period upon such terms as regards provision for the maintenance, education and supervision of the welfare of the child and otherwise as the Syar’ie Judge thinks fit.

(2) If the probationary period has ended satisfactorily, the Syar’ie Judge may, if he thinks fit, make an adoption order authorising the applicant to adopt the child.

**Attendance before Syar’ie Judge.**

15. (1) An adoption order or an interim order shall not be made unless the applicant, the child to be adopted and the parent, if any, or the guardian or the person who is responsible for the maintenance of the child attends before the Syar’ie Judge.

(2) The Syar’ie Judge may dispense with the attendance of any applicant or child or parent, if any, or guardian or the person who is responsible for the maintenance of the child if he is satisfied that —

(a) an affirmation from the applicant in respect of the application has been obtained;

(b) special circumstances exist which render it unnecessary or inexpedient for the child to attend before the Syar’ie Judge;

(c) the parent, if any, or the guardian or the person who is responsible for the maintenance of the child cannot be found or is unable to attend unless an affirmation in respect of the consent of the parent, if any, or the guardian or the person who is responsible for the maintenance of the child has been obtained; or

(d) there are other reasons which the Syar’ie Judge may think reasonable.

**Effect of failure to comply with conditions of adoption order.**

16. When an adoption order is made by a Syar’ie Judge in respect of a child under this Order and thereupon the adopter persistently ill-treats the child or fails to comply with any condition imposed in the adoption order which may affect adversely the *maslahah* of the child, the Court shall, after being satisfied, order the child to be taken from him and may order that the child be handed over either to his parent or any person or any institution as the Syar’ie Judge thinks fit taking into account the *maslahah* of the child.

**Nasab of adopted child, rights and obligations.**

17. An adoption order shall not transfer the *nasab* of the child to the adopter and the child shall not have the rights and obligations of a natural child of the adopter. The adopted child shall remain the child of his natural parents and shall retain the name given to him by his natural parents or one of them, if it is known.
Beneficiary rights.

18. An adoption order shall not prejudice the beneficiary rights of the child.

PART III
MISCELLANEOUS

Procedure.

19. (1) All applications made under this Order shall be heard and determined by the Syar’ie Judge.

(2) All disputes relating to this Order shall be decided in open Court.

Appeal.

20. Any person aggrieved by or dissatisfied with any decision of the Syar’ie Judge or the Court under this Order may appeal in the prescribed procedure in any law relating to the civil and criminal procedure in the Court.

Penalty.

21. Any person who commits forgery in any entry in the application of adoption or the certified copy of the adoption order or the interim order issued under this Order or who fraudulently or dishonestly uses as genuine any such certified copy which he knows or has reason to believe to be false or fails to comply with any condition imposed in the adoption order or the interim order made under this Order shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 7 years.

Registration.

22. (1) No child shall be registered as an adopted child unless an adoption order has been made by the Syar’ie Judge or the Court under this Order.

(2) When an adoption order has been made by the Syar’ie Judge or the Court, it shall be registered by a Registrar of Adoptions under the Registration of Adoptions Act (Chapter 123).

De facto adoptions.

23. Where, at the date of commencement of this Order, any child is in the custody of and is being brought up, maintained and educated by any person as his own child under a de facto adoption, and has for a period of not less than 2 years before the commencement of this Order been in such custody, and has been so brought up, maintained and educated, the Syar’ie
Judge may, upon the application of such person, make an adoption order authorising him to adopt the child without requiring the consent of the parents, if any, the guardian or the person who is responsible for the maintenance of the child after the Syar’ie Judge is satisfied that in all the circumstances of the case it is just and reasonable for the maslahah of the child.

Power to make rules.

24. (1) The Chief Syar’ie Judge may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules —

(a) prescribing all matters which are required or convenient to be prescribed by this Order, including the prescription of fees; and

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

(2) Such rules may make different provision as respect different classes of case to which they apply, and may include such incidental, consequential and supplementary provisions as the Chief Syar’ie Judge considers necessary or expedient.

Hukum Syara’ to be applied if no provision.

25. (1) Any provision or the interpretation of any provision in this Order in conflict with Hukum Syara’ shall be invalid to the extent that they are contrary.

(2) On any matter which is not expressly provided in this Order or in any rule made under this Order, the Syar’ie Judge or the Court shall follow Hukum Syara’.

SCHEDULE

FORM section 7(2)

ISLAMIC ADOPTION OF CHILDREN ORDER, 2001

APPLICATION FOR AN ADOPTION

A. PARTICULARS OF APPLICANT

1.

1. Name ...........................................................................................................

Identity Card/Passport No. .................................. Colour ..............................

Date of birth ............................................. Nationality ..............................
Race ........................................... Religion ...........................................

Address ..........................................................................................

Occupation ............................................... Income ................. per month

Name of employer .................................................................

Address of employer .............................................................

Telephone No. (if any) ................................................................

hereby state that I wish to be authorised to adopt a child under the Islamic Adoption of Children Order, 2001.

And I,

2. Name .......................................................... ...........................................

Identity Card/Passport No. ..................... Colour ..............................

Date of birth .......................... Nationality ....................................

Race .................................... Religion ...........................................

Address ..........................................................................................

Occupation ............................................... Income ................. per month

Name of employer .................................................................

Address of employer .............................................................

Telephone No. (if any) ................................................................

hereby state that I wish to be authorised to adopt a child under the Islamic Adoption of Children Order, 2001.

3. I/We have .............................................................. dependants.

   (1) ......................................................... Age .................. Male/Female

   (2) ......................................................... Age .................. Male/Female

   (3) ......................................................... Age .................. Male/Female
(4) ……………………………….. Age ……………… Male/Female

(5) …………………………………. Age ……………… Male/Female

4. I/We *have/have not made previous application under any written law in Brunei Darussalam in respect of the child mentioned in Part B.

5. I/We have not agreed to make any payment to the parents or guardian or person who is responsible for the maintenance of the child.

6. I/We have not received or agreed to receive any payment or other reward in connection with the adoption of the child except ……………………………

…………………………………………………………………………………………………………………………

7. *I, ………………………………………………., age ..……..……….. years, am over 25 years qamariah of age and not less than 18 year qamariah older than the child to be adopted./

I, ………………………………………………., age ..……..……….. years, am not less than 18 year qamariah of age and are related to the child to be adopted as ……………………………………………………………………….

B. PARTICULARS OF CHILD TO BE ADOPTED

1. Name …………………………………………………………………………………
 Birth Certificate No. …………………………………………………………………
 Identity Card/Passport No. (if any) ……………………….. Colour ……………
 Date of birth ………………………….. Age ………………………….. years
 Place of birth ………………………….. Race ……………………………
 Nationality ………………………….. Religion ……………………………
 Address …………………………………………………………………………. 

2. ** The father of the child is:
 Name …………………………………………………………………………………
 Identity Card/Passport No. …………….. Colour ………………………
 Date of birth ………………………….. Nationality ………………………
Race ................................................. Religion ......................................

Address ................................................................................................

Telephone No. (if any) ...........................................................................
whose written permission is enclosed herewith.

3. ** The mother of the child is:

   Name ................................................................................................

   Identity Card/Passport No. .................................... Colour .................

   Date of birth ........................................ Nationality .........................

   Race .................................................... Religion ............................

   Address ................................................................................................

   Telephone no. (if any) ...............................................................
whose written permission is enclosed herewith.

4. ** The guardian of the child is:

   Name ................................................................................................

   Identity Card/Passport No. .................................... Colour .................

   Date of birth ........................................ Nationality .........................

   Race .................................................... Religion ............................

   Address ................................................................................................

   Telephone No. (if any) ...............................................................
whose written permission is enclosed herewith.

5. ** The person who is responsible for the maintenance of the child is:

   Name ................................................................................................

   Identity Card/Passport No. .................................... Colour .................

   Date of birth ........................................ Nationality .........................
Race ........................................... Religion ..........................................

Address ..........................................................................................................

Telephone No. (if any) ....................................................................................
whose written permission is enclosed herewith.

C. DECLARATION OF APPLICANT

1. I am/We are fit and proper to maintain and bring up the child to be adopted.

2. And I/we do hereby solemnly declare and certify to the best of my/our knowledge that the particulars in this form are true and correct and that I/we do not conceal, misinterpret, falsify or give particulars which are not true in respect of any material information.

Affirmed by .................................................

..............................................................

..............................................................

..............................................................

..............................................................

Signature of Applicant

and .........................................................

..............................................................

..............................................................

..............................................................

..............................................................

Signature of Applicant

on .............. day of .............................. H}
corresponding to ........ day of ... M}
at ....................................................... a.m./p.m.}
at ............................................................

118
Before me,

........................................

SYAR'IE JUDGE

* Delete where not applicable

** Where applicable only

Note:

1. All written permission shall be enclosed with this application.

2. Please enclose a copy of:
   
   (i) Identity Card of the applicant.

   (ii) Birth Certificate of the child to be adopted.

   (iii) Identity Card of the child to be adopted (if any).

   (iv) Passport of the child to be adopted (if any).

Made this 18th. day of Zulkaedah, 1421 Hijriah corresponding to the 12th. day February, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))  

ADOPTION OF CHILDREN ORDER, 2001  

ARRANGEMENT OF SECTIONS  

Section  

PART I  

PRELIMINARY  

1. Citation, commencement and long title.  
2. Non-application.  
3. Interpretation.  

PART II  

ADOPTION ORDERS  

4. Power to make adoption orders.  
5. Restrictions on adoption orders.  
6. Matters with respect to which court to be satisfied.  
7. Terms and conditions of adoption orders.  
8. Effect of adoption orders.  
9. Interim orders.  
10. Subsequent orders.  
11. Attendance before court.  
12. Effect of failure to comply with terms and conditions of adoption order.  

PART II  

MISCELLANEOUS  

14. Guardian *ad litem*.

15. Restriction on payments.


17. *De facto* adoptions.

18. Power to make rules.


20. Repeals.
No. S 16

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

ADOPTION OF CHILDREN ORDER, 2001

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

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Adoption of Children Order, 2001 and shall commence on the same date as the Islamic Adoption of Children Order, 2001.

(2) The long title of this Order is "An Order to make provision for the adoption of children in Brunei Darussalam and to provide for matters incidental thereto".

Non-application.

2. This Order shall not apply to any person who professes the Islamic religion either so as to permit the adoption of any child by such a person or so as to permit the adoption by any person of a child who according to the law of the Islamic religion is a Muslim.

Interpretation.

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

"adopted child" means a child who has been authorised by the court to be adopted or re-adopted;

"adopter" means a person authorised by an adoption order to adopt a child;

"adoption order" means an order made under section 4 authorising a person to adopt a child;

"child" means an unmarried person who has not attained the age of 18 years;

"court" means the High Court or any judge thereof;
"father", in relation to an illegitimate child, means the natural father;

"spouse", in relation to a woman, means her husband and, in relation to a man, means his wife.

PART II

ADOPTION ORDERS

Power to make adoption orders.

4. (1) Upon an application made by any person wishing to be authorised to adopt a child, the court may, subject to this Order, make an adoption order authorising the applicant to adopt the child.

(2) Where an application for an adoption order is made by 2 spouses jointly, the court may make the order authorising the 2 spouses jointly to adopt a child.

(3) An adoption order may be made authorising the adoption of a child by the mother or father of the child, either alone or jointly with her or his spouse.

(4) An application for an adoption order may be made in such form as the Chief Justice may approve.

(5) Except as provided in this section, no adoption order shall be made by authorising more than one person to adopt a child.

Restrictions on adoption orders.

5. (1) An adoption order shall not be made if —

(a) the applicant is under the age of 25 years; or

(b) the applicant is less than 21 years older than the child in respect of whom the application is made.

(2) Notwithstanding subsection (1), it shall be lawful for the court to make an adoption order —

(a) where the applicant is under the age of 25 years and is less than 21 years older than the child if —

(i) the applicant and the child are within the prohibited degrees of consanguinity; or
(ii) there are other special circumstances which justify the making of the order;

(b) in the case of an application by 2 spouses jointly where one of the spouses and the child are within the prohibited degrees of consanguinity, notwithstanding that the other spouse is under the age of 25 years and less than 21 years older than the child; and

(c) in the case of an application by 2 spouses jointly where neither spouse is within the prohibited degrees of consanguinity with the child, notwithstanding that one or both the spouses are less than 21 years older than the child.

(3) An adoption order shall not be made if the sole applicant is a male and the child in respect of whom the application is made is a female, unless the court is satisfied that there are special circumstances which justify the making of the order.

(4) An adoption order shall not be made except with the consent of every person who is a parent or guardian of the child in respect of whom the application is made or who has the actual custody of the child or who is liable to contribute to the support of the child.

(5) The court may dispense with any consent required by subsection (4) if the court is satisfied —

(a) that the person whose consent is to be dispensed with —

(i) has abandoned, neglected or persistently ill-treated the child or cannot be found, and that reasonable notice of the application for the order has been given;

(ii) has persistently neglected or refused to provide maintenance to the child; or

(iii) is unfit by reason of any physical or mental incapacity to have the care and control of the child, that the unfitness is likely to continue indefinitely and that reasonable notice of the application for the order has been given; or

(b) in any other special circumstances, that consent ought to be dispensed with, notwithstanding that such person may have made suitable initial arrangements for the child.

(6) An adoption order shall not be made upon the application of one of 2 spouses without the consent of the other of them.

(7) The court may dispense with any consent required by subsection (6) if it is satisfied that the person whose consent is to be dispensed with cannot be found or is
incapable of giving such consent or that the spouses have separated and are living apart and that the separation is likely to be permanent.

(8) An adoption order shall not be made if both parents of the child are not known.

(9) Notwithstanding the provisions of any other written law to the contrary, a child both of whose parents are not known shall, until the contrary is proved, be deemed to be a Muslim for the purposes of this Order.

Matters with respect to which court to be satisfied.

6. The court, before making an adoption order, shall be satisfied that —

(a) every person whose consent is necessary under this Order and whose consent is not dispensed with has consented to and understands the nature and effect of the adoption order, and in particular, in the case of any parent, understands that the effect of the adoption order will be to deprive him of his parental rights in respect of the child;

(b) the order if made will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child having regard to his age and understanding; and

(c) the applicant has not received or agreed to receive, and that no person has made or given, or agreed to make or give, to the applicant any payment or other reward in consideration of the adoption, except such as the court may sanction.

Terms and conditions of adoption orders.

7. The court in any adoption order may impose such terms and conditions as the court may think fit, and in particular may require the adopter by bond or otherwise to make for the adopted child such provision, if any, as the court considers just and expedient.

Effect of adoption orders.

8. (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parents or guardians of the adopted child, in relation to his future custody, maintenance and education, including all rights to appoint a guardian or to consent or give notice of dissent to marriage shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as though the adopted child is a child born to the adopter in lawful wedlock, and in respect of the same matters and in respect of the liability of a child to maintain his parents the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.
(2) If 2 spouses are the adopters, such spouses shall, in respect of the matters mentioned in subsection (1) and for the purpose of the jurisdiction of any court to make orders as to the custody and maintenance of and right of access to children, stand to each other and to the adopted child in the same relation as they would have stood if they had been the lawful father and mother of the adopted child, and the adopted child shall stand to them respectively in the same relation as a child would have stood to a lawful father and mother respectively.

(3) If, at any time after the making of an adoption order, the adopter or the adopted child or any other person dies intestate in respect of any property, that property shall devolve in all respects as if the adopted child is the child of the adopter born in lawful wedlock and not the child of any other person.

(4) In any disposition of any property made after the date of an adoption order —

(a) any reference (whether express or implied) to the child or children of the adopter shall, unless the contrary intention appears, be construed as, or as including, a reference to the adopted child;

(b) any reference (whether express or implied) to the child or children of the adopted child’s natural parents or either of them shall, unless the contrary intention appears, be construed as not being, or as not including, a reference to the adopted child; and

(c) any reference (whether express or implied) to a person related to the adopted child in any degree shall, unless the contrary intention appears, be construed as a reference to the person who would be related to him in that degree if he is the child of the adopter born in lawful wedlock and is not the child of any other person.

(5) Where an adopted child or the spouse or issue of an adopted child takes any interest in any property under a disposition by the adopter or under any intestacy, or where an adopter takes any interest in any property under a disposition by an adopted child or the spouse or issue of an adopted child, or under the intestacy of an adopted child or the spouse or issue of an adopted child, any estate or other duty which becomes leviable in respect thereof shall be payable at the same rate as if the adopted child had been a child born to the adopter in lawful wedlock.

(6) For the purposes of any written law for the time being in force in Brunei Darussalam relating to the provision of compensation to families for loss occasioned by the death of a person caused by actionable wrong, a person shall be deemed to be the parent or child of the deceased person notwithstanding that he is only related to him in consequence of adoption; and accordingly, in deducing any relationship which under the provisions of any such written law is included within the meaning of the expressions "parent" and "child", an adopted child shall be treated as being the child of the adopter born in lawful wedlock and not the child of any other person.
(7) Notwithstanding anything in this section, trustees or personal representatives may convey or distribute any property to or among the persons entitled thereto without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest therein, and shall not be liable to any such person of whose claim they have not had notice at the time of that conveyance or distribution; but nothing in this subsection shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person, other than a purchaser, who may have received it.

(8) Where an adoption order is made in respect of a child who has been previously adopted, the previous adoption shall be disregarded for the purposes of this section in relation to the devolution of any property on the death of a person dying intestate after the date of the subsequent adoption order and in relation to any disposition made after that date.

(9) For the purposes of any law relating to marriage, an adopter and the child whom he has been authorised to adopt under an adoption order and all children and adopted children of the adopter shall be deemed to be within the prohibited degrees of consanguinity; and this subsection shall continue to have effect notwithstanding that some person other than the adopter is authorised by a subsequent order to adopt the same child.

(10) For the purposes of this section, "disposition" means an assurance of any interest in any property by any instrument whether inter vivos or by will.

Interim orders.

9. (1) Upon any application for an adoption order, the court may postpone the determination of the application and may make an interim order (which shall not be an adoption order for the purposes of this Order) giving the custody of the child to the applicant for a period not exceeding 2 years by way of a probationary period upon such terms as regards provision for the maintenance, education and supervision of the welfare of the child and otherwise as the court may think fit.

(2) All such consents as are required in respect of an adoption order shall be necessary in respect of an interim order, but subject to a like power on the part of the court to dispense with any such consent.

Subsequent orders.

10. An adoption order or an interim order may be made in respect of a child who has already been the subject of an adoption order and, upon any application for such further adoption order, the adopter or adopters under the adoption order last previously made shall, if living, be deemed to be the parent or parents of the child for all the purposes of this Order.

Attendance before court.

11. (1) An adoption order or an interim order shall not be made unless all parties (including the child to be adopted) attend before the court.
(2) The court may dispense with the attendance of any party (including the child) if it is satisfied that special circumstances exist which render it unnecessary or inexpedient for that party to attend before the court.

(3) The court shall have power in its discretion to direct that any party (including the child) attend separately and apart from the other party.

Effect of failure to comply with terms and conditions of adoption order.

12. When an adoption order is made by the court in respect of a child and thereupon the adopter persistently ill-treats the child or fails to comply with any term or condition imposed in the adoption order which may affect adversely the welfare of the child, the court may, taking into account the welfare of the child, order the child to be taken from him and handed over to any other person or any institution.

PART III

MISCELLANEOUS

Jurisdiction and procedure.

13. (1) The court having jurisdiction to make an adoption order under this Order shall be the High Court.

(2) All applications made under this Order shall be heard and determined otherwise than in open court.

Guardian ad litem.

14. For the purpose of any application under this Order, the court may appoint some person or body to act as guardian ad litem of the child upon the hearing of the application. The guardian ad litem shall investigate the circumstances of the child and the applicant and all other matters relevant to the proposed adoption in order to safeguard the interests of the child by providing the requisite information to the court.

Restriction on payments.

15. It shall not be lawful for any adopter or for any parent or guardian, except with the sanction of the court, to receive any payment or other reward in consideration of the adoption of any child under this Order or for any person to make or give, or agree to make or give, to any adopter or to any parent or guardian any such payment or reward.
Registration of adopted children.

16. Where an adoption order has been made, it shall be registered in accordance with the Registration of Adoptions Act (Chapter 123).

De facto adoptions.

17. If, at the commencement of this Order, any child is in the custody of and is being brought up, maintained and educated by any person or by 2 spouses jointly as his or their own child under any de facto adoption, and has for a period of not less than 2 years before such commencement been in such custody, and has been so brought up, maintained and educated, the court may, upon the application of such person or spouses and notwithstanding that the applicant is a male and the child is a female, make an adoption order authorising him or them to adopt the child without requiring the consent of any parent or guardian of the child to be obtained, upon being satisfied that in all the circumstances of the case it is just and equitable and for the welfare of the child that no such consent should be required and that an adoption order should be made.

Power to make rules.

18. (1) The Chief Justice may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules —

(a) prescribing all matters which are required or convenient to be prescribed by this Order, including the prescription of fees; and

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

(2) Such rules may make different provision as respect different classes of case to which they apply, and may include such incidental, consequential and supplementary provisions as the Chief Justice considers necessary or expedient.

Transitional and saving.

19. (1) Any proceedings relating to the adoption of a child which had been commenced but not completed before the commencement of this Order shall be continued and disposed of as if this Order had not been made.

(2) Nothing in this Order shall affect the validity of any adoption order made before the commencement of this Order under any written law.

Repeals.

20. All statutes of general application of England relating to the adoption of children, so far as they are in force in Brunei Darussalam by virtue of section 2 of the Application of
Laws Act (Chapter 2), shall cease to apply in Brunei Darussalam, but without prejudice to anything done thereunder before the commencement of this Order.

Made this 18th. day of Zulkaedah 1421 Hijrah corresponding to the 12th. day of February, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
MUTUAL FUNDS ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Citation, commencement and long title.

2. Interpretation.

3. Regulations.

4. Mutual funds.

5. Bearer shares.

PART II

REGULATION OF OPERATION OF MUTUAL FUNDS

6. Operation of mutual funds restricted.

7. Application for mutual fund licence or permission.


9. Provisional mutual fund licences and permissions.

10. Issue of mutual fund licences or permissions.

11. Operator’s licences and permissions.

12. Effect of operators’ licences and permissions.

13. Trustee or custodian.

14. Licences and permissions generally.

15. Conditions.
PART III
CONTROL AND SUPERVISION

Chapter 1
Appeals to the Court and Register

16. Appeals to the High Court.
17. Powers to High Court.
18. The Register.

Chapter 2
Accounts and Administration

19. Accounts, audits and reports.
20. Mutual fund’s name.
21. Amendment of registered fund’s memorandum etc.
22. Change of manager etc.
23. Duty of manager etc. to inform Authority of certain matters.
24. Duty of auditors to inform Authority.
25. Further information.
27. Access to documents etc.

Chapter 3
Investigations etc.

29. Registered fund’s insolvency etc.
30. Insolvency of manager etc.
31. Winding-up order etc.
PART IV
CODES OF PRACTICE, CONFIDENTIALITY, PERMITTED DISCLOSURE AND RECOGNISED JURISDICTIONS

32. Codes of Practice.
33. Confidentiality.
34. Disclosure to other supervisory authorities.
35. Recognised authorisations.

PART V
MISCELLANEOUS

36. Immunity etc.
37. Offences and penalties.
38. Onus of proof, presumption.
39. Offences by bodies corporate.
40. Giving of notice.
41. Annual and other fees.
42. Tax and filing exemptions.
43. Exemption from Order.
44. Transitional provision.

FIRST SCHEDULE
Revocation of Licences and Permissions

SECOND SCHEDULE
Investigations etc.

Part 1
Investigations under section 28 — Supplementary provisions
Part 2

Direction under section 29 — Authority’s consequential powers
10th. MARCH, 2001

No. S 18

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

MUTUAL FUNDS ORDER, 2001

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

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Mutual Funds Order, 2001 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the Gazette.

(2) The long title of this Order is "An Order to provide for the regulation of mutual funds in Brunei Darussalam, the supervision and licensing of such funds and of persons promoting and providing services in connection therewith and for other matters related to mutual funds".

Interpretation.

2. (1) In this Order, except where the context otherwise requires —

"administrative service", in relation to a registered fund, means any service which is administrative in nature but is neither a management service nor service as a trustee or custodian;

"administrator" means, in relation to a registered fund, a person who provides one or more administrative services as regards the fund;

"approved auditor" has the meaning ascribed thereto in the International Business Companies Order, 2000 (S 56/2000);

"arrangement" includes a proposed arrangement;

"Authority" means such person or body as is appointed by His Majesty the Sultan and Yang Di-Pertuan to be the Authority for the purposes of this Order;

"bearer share" has the meaning given by section 5(2);
"category", in relation to a mutual fund, means a private fund, professional fund or public fund;

"current" means in force for the time being or, as regards a permission, given and not withdrawn;

"custodial licence" means a licence issued for the purposes of section 13;

"custodial permission" means a permission given for the purposes of section 13;

"custodian", in relation to a mutual fund, means any person who —

(a) pursuant to or under a trust deed or other instrument or agreement (whether executed or made under the law of Brunei Darussalam or that of a country, territory or recognised jurisdiction outside Brunei Darussalam);

or

(b) under the law of such a country, territory or recognised jurisdiction, is the person in whom the property of the fund is vested or the person who is otherwise responsible to the fund or its participants for the safe-keeping of that property;

"dedicated shares" has the meaning ascribed thereto in Part XIIA of the International Business Companies Order, 2000 (S 56/2000);

"designated day", in relation to a fund described in section 7(4), means the day specified as such under section 10(1)(d);

"director" includes an alternate or substitute director and any person occupying the position of director of a company, by whatever name so called;

"fund interest" means, in relation to a mutual fund, a share, an interest in a limited or other partnership, a unit of participation in a unit trust to which this Order applies or any other security which is a unit of proprietorship (however that unit is described) which —

(a) is issued or is otherwise offered by the fund; and

(b) represents rights in or carries an entitlement to receive income or participate in profits or other gains or which otherwise confers or constitutes an entitlement so to receive and participate,

but "fund interest" does not include a bearer share;

"inspector" means a person appointed under section 28(2);

"Islamic fund" means a mutual fund which does not offend against the Islamic Religion;
"jurisdiction", except in the expression "recognised jurisdiction", means —

(a) a legal jurisdiction extending to —

(i) every place within a particular state;

(ii) where a state is a federation or confederation (whether it is styled or otherwise described as being such), every place within a state, province, canton or other federal or confederated territory which forms part of the state;

(iii) where a state is a unitary state with two or more distinct legal systems, every place to which any particular such system applies; and

(b) the civil jurisdiction of a court or other tribunal which extends to two or more independent states and which is created by a treaty or other international agreement between those states;

"management service", in relation to a mutual fund, includes any of the following —

(a) giving investment advice;

(b) acquiring, disposing of or otherwise dealing in investments or other property on behalf of a mutual fund;

(c) the exercise of day to day control over the management of a mutual fund’s assets;

(d) any other service or activity which is prescribed for the purposes of this definition;

"manager", in relation to a registered fund, means subject to subsection (5), the person who provides one or more management services as regards the fund, and in this Order, apart from sections 4, 25, 28(9) and 39, "manage", "management" and kindred words shall be construed in accordance with the foregoing;

"Minister” means the Minister of Finance;

"mutual fund” shall be construed in accordance with section 4 and any related reference to a "fund" shall be construed accordingly;

"mutual fund licence” means a licence issued on an application under section 7;

"mutual fund permission” means a permission given on an application under section 7;
"operator’s licence" means a licence described in section 11;

"operator’s permission" means a permission described in section 11;

"participant", in relation to a mutual fund, shall be construed in accordance with paragraph (a) or, as the case may be, paragraph (b) of section 4(1) (and regardless of whether the fund concerned refers to those participating therein as participants, members or otherwise);

"prescribed" means prescribed by regulations made under section 3;

"private fund" means a mutual fund which is not a professional fund and whose terms —

(a) limit the number of participants for the time being to not more than 50,
and

(b) enable the participants at any time to remove from office in terms provided by the mutual fund the person who is the manager of the mutual fund for the time being;

"a professional fund" means a mutual fund whose terms —

(a) limit the number of participants for the time being to not more than 50;
and

(b) also require each participant to contribute, subject to subsection (2), not less than $500,000 or, if the mutual fund is not denominated in the currency of Brunei Darussalam, not less than an equivalent amount in the currency in which the mutual fund is denominated, such amount being calculated by reference to the foreign exchange rate obtaining in Brunei Darussalam on the designated day;

"prospectus" means any kind of offering document, whether the document is a single document or one of a series and however it is described;

"public fund" means any mutual fund other than a professional fund or a private fund;

"recognised authorisation" shall be construed in accordance with section 35;

"recognised jurisdiction" means a jurisdiction which is for the time being recognised for the purposes of this Order by an order made by the Minister and published in the Gazette;

"record" includes any electronic or other means of storing information which enables the information when stored to be retrieved or reproduced;
"Register" means the register established pursuant to section 18;

"registered fund" means a mutual fund to which a current mutual fund licence or a current mutual fund permission relates;

"regulations" means regulations made under section 3;

"shares" shall, where the context so admits, have the meaning ascribed thereto in the International Business Companies Order, 2000 (S 56/2000);

"unit trust to which this Order applies" means a unit trust which, whether it is established under the laws of Brunei Darussalam or under those of any jurisdiction outside Brunei Darussalam, is by virtue of section 4 a mutual fund.

(2) Where in relation to a particular mutual fund the currency used as regards its fund interests is a currency other than that of Brunei Darussalam, in applying this Order as regards that fund, the definition of "professional fund" in subsection (1) shall be construed and have effect as if for "$500,000" there were substituted "the amount of the currency used as regards the mutual fund’s fund interests needed on the designated day to purchase $500,000".

(3) For the purposes of this Order, an individual shall be regarded as being ordinarily resident in Brunei Darussalam during any period of 12 months if during that period he has resided in Brunei Darussalam for an aggregate period of at least 170 days or if he establishes to the satisfaction of the Authority that he has a genuine intention of so residing and holds any necessary permits to live, and be employed in Brunei Darussalam.

(4) For the purposes of this Order —

(a) a company registered under the Companies Act (Chapter 39) or the International Business Companies Order, 2000 (S 56/2000) shall be deemed to be ordinarily resident at its registered office or, in case another address has been furnished in relation to it at such registered office or, if the Authority so determines, at that other address;

(b) every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident —

(i) in case its registered or principal office or place of business is in Brunei Darussalam, at such registered office or place or, in case another address has been so furnished in relation to it, at such office or place or, if the Authority so determines, at that other address; or

(ii) in case its principal office or place of business is outside Brunei Darussalam, at any office or place in Brunei Darussalam at which it carries on business or, in case another address has been so furnished in relation to it, at such office or place or, if the Authority so determines, at that other address.
(5) References in this Order to a manager include, except where the context otherwise requires, references to a person appointed pursuant to paragraph 4(1)(d) of the Second Schedule to be the manager of a registered fund.

**Regulations.**

3. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make the following regulations —

(a) prescribing any matter referred to in this Order as prescribed or to be prescribed;

(b) regulating the use of any name or any word or expression in a name connected with mutual funds;

(c) designating mutual funds or a class or classes thereof as private funds;

(d) regulating the publication of advertisements offering the services of dealers in securities or offering securities for purchase or sale and the form or content of such advertisements;

(e) regulating the particulars to be included in a statement by the manager under section 7(3);

(f) without limitation making such incidental or supplementary provisions as may appear to the Minister to be necessary or proper for any purpose of this Order or in consequence of, or to give full effect to, any of its provisions including prudential and due diligence principles, principles of supervision, operation and marketing, capitalisation, methods of valuation and any other relevant matter.

(g) prescribing any fees in respect of any requirements under this Order.

(2) Regulations made under this Order may make different provisions for different cases or classes of case and for different purposes of the same provision.

**Mutual funds.**

4. (1) Subject to the following provisions of this section, for the purposes of this Order each of the following is a mutual fund —

(a) an arrangement under which property belongs beneficially to, and is managed, either as a whole or in two or more separate parts, by or on behalf of, a body corporate whether incorporated or otherwise established in Brunei Darussalam or elsewhere) having as its purpose or effect —
(i) the investment of its funds with the aim of spreading investment risk; and

(ii) to give the persons taking part in the arrangement ("the participants") the benefit of the results of the management of those funds by or on behalf of that body and to participate in or receive profits or other gains or income arising from the acquisition, holding, management or disposal of the property or any part thereof or of any sums paid out of such profits or income;

(b) a unit trust, a limited or other partnership or other arrangement with respect to property, whose purpose or effect is —

(i) to enable persons taking part in the arrangement ("the participants"), whether by becoming owners of the property or any part thereof or otherwise, to participate in or receive profits or other gains or income arising from the acquisition, holding, management or disposal of the property or any part thereof or of any sums paid out of such profits or income; and

(ii) to spread risk by means of pooling in the manner described in subsection (3)(a);

and in this subsection "property" means property of any description, including money or any fund interest;

(2) In the case of such an arrangement as is mentioned in subsection (1)(a), the rights of the participants must be represented by shares in or securities of that body at least some of which shares or securities, either on demand or within a specified period after demand —

(a) are redeemable or repurchasable at the option of the participant concerned; or

(b) the body ensures can be sold by the participants at a price, whether incorporating a premium or profit or a discount or loss, related to the value of the property to which they relate.

(3) A unit trust, partnership or other arrangement such as is mentioned in subsection (1)(b) —

(a) must be such that the participants do not have day to day control over the management of the property, whether or not they have rights to attend and vote at meetings of the body or to be consulted or to give directions;

(b) must have both of the characteristics mentioned in subsection (4); and

(c) must be such that —
(i) at least some of the fund interests issued or otherwise offered under the arrangement are, under the arrangement, redeemable or repurchasable at the option of the participant concerned on demand or within a specified period after demand; or

(ii) must be such that the fund interests issued or otherwise offered under the arrangement are, under that arrangement, transferable by the participants at a price related to the value of the property to which they relate.

(4) The characteristics referred to in subsection (3)(b) are —

(a) that the contributions of the participants and the profits or income out of which payments are to be made to them are pooled either in a single pool or in two or more pools however segregated; and

(b) that the property in question is managed as a whole by or on behalf of the manager of the fund.

Bearer shares.

5. (1) Subject to subsection (3), neither a mutual fund licence nor a mutual fund permission shall be issued or given as regards any arrangement which issues or offers, or has at any time issued or offered, bearer shares.

(2) In this Order, "bearer share" means any share, bond or other security the title to which is vested in a particular person by reason only of his being in possession of or the bearer of a particular certificate or other document relating to the security.

(3) The Minister may in any particular case and on such terms and conditions as he thinks fit exempt a mutual fund, in whole or in part, from the application of this section.

PART II

REGULATION OF OPERATION OF MUTUAL FUNDS

Operation of mutual funds restricted.

6. (1) No mutual fund shall at any time be established, domiciled, offered to the public, trade, listed, managed or administered in or from within Brunei Darussalam, unless at that time —

(a) a mutual fund licence or a mutual fund permission is in force with respect to the mutual fund;
(b) the persons who are, or are to be, respectively the manager and the administrator of the mutual fund are the persons specified as such in that licence or permission;

(c) every person by whom the mutual fund is established, promoted or sponsored and every person who is, or is to be, a manager or administrator of the mutual fund is the holder of an operator’s authorisation applicable to that fund; and

(d) the conditions of the mutual fund licence or permission and of each of the operator’s authorisations referred to in paragraph (b) are complied with.

(2) In subsection (1), “operator’s authorisation”, in relation to a mutual fund, means —

(a) an operator’s licence in respect of that fund or mutual funds generally;

(b) an operator’s permission in respect of that fund or mutual funds generally;

(c) in the case of an administrator who does not have a licence or permission falling within paragraph (a) or (b), an appropriate licence granted under section 9 of the Registered Agents and Trustees Licensing Order, 2000 (S 54/2000) respect of that fund or mutual funds generally; or

(d) a bank appropriately licensed under any written law.

(3) If at any time there is a contravention of subsection (1), then, subject to subsection (4), any person who at the time of the such contravention was a manager, administrator or custodian of the mutual fund or was otherwise involved in the promotion or sponsorship of the mutual fund shall be guilty of an offence and liable on conviction to a fine not exceeding $200,000, imprisonment for a term not exceeding 2 years or both.

(4) In any proceedings for an offence under subsection (3), it shall be a defence to prove —

(a) that the defendant could not reasonably have known of the circumstances giving rise to the contravention; or

(b) that any act or omission by him which formed part of or gave rise to the contravention was either wholly or essentially administrative in nature or was done in the course of providing a service which at the time of the contravention was prescribed for the purposes of this section.

**Applications for mutual fund licence or permission.**

7. (1) An application for a mutual fund licence or a mutual fund permission shall be made to the Authority in the prescribed form and shall be accompanied by the prescribed fee, a copy of the mutual fund’s memorandum and articles of association, partnership agreement,
trust deed or other instrument under which it is incorporated, established or otherwise constituted, and any other document relevant to the application or required by the Authority, and shall comply with the following provisions of this section.

(2) The application shall specify the names and principal address of each of the persons described in paragraph (a) to (c) —

(a) the person who as regards the mutual fund is or, where appropriate, is to be the manager;

(b) the person who as regards the mutual fund is or, where appropriate, is to be the administrator;

(c) the person who as regards the mutual fund is or, where appropriate, is to be the trustee or custodian,

and as regards each of those persons the application shall also state whether or not that person is a body corporate and, in the case of any person who is a body corporate, shall state the name of each of the directors thereof:

Provided that any person whose name is specified pursuant to paragraph (c) shall not be specified pursuant to paragraph (a).

(3) Except where the mutual fund to which the application relates is, or when constituted or established will be, a professional fund or a private fund, in either of which cases a statement by the Manager containing such particulars of the fund as may be prescribed shall accompany the application, the application shall be accompanied by a copy of the prospectus issued in relation to that fund or, in case such a prospectus is to be so issued, a copy of the prospectus or a draft thereof.

(4) Where the application relates to a mutual fund under which the currency by which its fund interests are, or are intended to be, designated is a currency other than that of Brunei Darussalam, the mutual fund or a person acting on its behalf shall, after the application is received by the Authority, nominate a day, being either the day of the nomination or a later day, which is proposed as the designated day for the purposes of the fund.

Criteria for considering applications.

8. (1) Subject to the following provisions of this section, where an application is made under section 7, the Authority shall not issue or give a mutual fund licence or permission unless —

(a) the application complies with each of the applicable requirements of that section;
each of the persons whose name is specified pursuant to the requirements of
section 7(2) is the holder of an operator’s authorisation, as defined in section
6(2); and

the Authority is satisfied —

(i) that the company, unit trust, partnership or other arrangement to which
the application relates is, or when incorporated, established or
otherwise constituted will be, a mutual fund;

(ii) that the memorandum of association, articles of association, limited or
other partnership agreement, trust or other deed or other instrument
under which such arrangement is, or is proposed to be, incorporated,
established or otherwise constituted provides adequate protection to
the interests of participants in the arrangement, be they actual or
prospective;

(iii) that at least one of the persons whose name is specified pursuant to the
requirements of section 7(2) is for the time being ordinarily resident in
Brunei Darussalam; and

(iv) that the mutual fund, subject to the provisions of section 5(3), does not
issue or offer, and has not any outstanding bearer shares; and

(v) in the case of an Islamic fund, that provision is made for the
appointment of an appropriate Shari’ah Council.

If, in considering an application under section 7, the Authority is not satisfied with
regard to any instrument or document required under subsection (1) of that section —

(a) the Authority shall either refuse the application or adjourn it for the purpose
of enabling that instrument or document to be amended or otherwise revised;
and

(b) either at the time at which the application is refused or adjourned or as soon
thereafter as is practicable, the Authority shall give the applicant written
reasons for the decision.

Where section 7(3) applies to the application, the Authority shall not issue a
mutual fund licence or permission unless satisfied that the relevant prospectus or statement
by the manager, in addition to containing the particulars specified in section 7(2), also
contains —

(a) such information (if any) as the Authority considers sufficient to inform a
prospective participant of the nature and activities of the arrangement
concerned; and
(b) information regarding the relevant fund interests, and any other interest which the Authority considers relevant in the particular case, being, in either case, information which the Authority is satisfied would enable a prospective participant in the arrangement to make an informed decision as to whether to subscribe for, purchase or otherwise acquire such interests.

(4) Where an application for a mutual fund licence or permission is refused, the Authority shall give to the person who made the application notice in writing of the refusal and the notice shall state that an appeal may be made to the Tribunal against the refusal and shall specify the period within which any such appeal shall be made be taken.

**Provisional mutual fund licences and permissions.**

9. (1) Where an application is made under section 7 and any of the requirements of that section are not fully complied with, the Authority, having had regard to the particular circumstances of the case may, in the Authority’s absolute discretion, provisionally issue or give the licence or permission sought.

(2) Where a mutual fund licence or mutual fund permission is issued or given provisionally and during the period specified in subsection (6) no application under that subsection is made as regards the arrangement to which licence or permission applies, then immediately after the expiration of that period the licence or permission shall cease to be in force.

(3) Where the Authority exercises the power conferred by subsection (1), the Authority shall at the same time specify the requirements which are to be complied with if an application under subsection (6) as regards the provisionally issued licence or permission is to be successful.

(4) Where a mutual fund licence or a mutual fund permission is issued or given provisionally, then, until an application under subsection (6) as regards the arrangement to which it applies is allowed, the operation of the licence or permission shall be limited to authorising the promotion, including promotion by circular or any other advertising method, of the mutual fund or proposed mutual fund.

(5) The reference to promotion in subsection (4) shall not be construed as including a reference to any of the following —

(a) the issue of any fund interest relating to a mutual fund whose promotion is authorised by a licence or permission issued or given provisionally pursuant to that subsection;

(b) the execution of any proposed contract or other agreement as regards any such interest;

(c) the acceptance of any subscription or other payment as regards any such interest.
(6) Where a mutual fund licence or a mutual fund permission is issued or given provisionally, then, at any time within the period of 6 months beginning on the day on which the licence or permission was issued or given, an application under this subsection may be made to the Authority to remove the limitation imposed by subsection (2) as regards the arrangement to which the provisional licence or permission applies.

(7) Where an application is made under subsection (6), the Authority shall remove the limitation imposed by subsection (2) as regards the provisional licence or permission if, the Authority is satisfied that each of the requirements previously specified under subsection (3) as regards the application has been satisfied.

**Issue of mutual fund licences or permissions.**

10. (1) Where an application under section 7 is allowed —

(a) the licence or permission issued or given shall specify as being the manager, administrator and trustee or custodian of the arrangement to which the licence or permission relates the persons who were respectively named as such in the application;

(b) such licence or permission shall be subject to a condition that at all times at least one of the persons specified mentioned in paragraph (a) shall be ordinarily resident in Brunei Darussalam;

(c) where as regards the application a person whose name was specified pursuant to any requirement of section 7(2) is a body corporate, the Authority may so attach a condition that at all times at least one of the body corporate’s directors or, where appropriate, its officers whose office is similar or analogous to that of a company director, shall be an individual who is ordinarily resident in Brunei Darussalam;

(d) where the application relates to a mutual fund falling within section 7(4), the licence or permission issued or given shall specify a day to be used as the designated day as regards that fund, being either the day nominated pursuant to that subsection or, if the Authority considers that in the particular circumstances that day is inappropriate, such other day as the Authority shall determine.

(2) Subject to section 5(3), it shall be a condition of every mutual fund licence and every mutual fund permission that the mutual fund to which the licence or permission relates shall neither issue nor offer bearer shares.

(3) If the mutual fund to which an application relates —

(a) is or will be a private fund or a professional fund, or
(b) issues or otherwise offers, or will issue or otherwise offer, fund interests which are quoted on a stock exchange, acceptable to the Authority,

then, notwithstanding that the application may not otherwise comply with the requirements of section 7 or 8, the Authority may issue a mutual fund licence or a mutual fund permission as regards the arrangement.

(4) Subject to subsection (5), the following provisions shall apply as regards a mutual fund licence or a mutual fund permission —

(a) subject to paragraphs (c), (d), and (e), the person who is to manage the relevant fund ("the fund’s manager"), the person who is to administer that fund ("the fund’s administrator") and the person who is to be either that fund’s trustee ("the trustee") or that fund’s custodian ("the custodian") shall each be specified in the licence or permission;

(b) the same person shall not be so specified as the fund’s manager and as its trustee or custodian;

(c) if the fund to which the licence or permission relates is a unit trust to which this Order applies, the manager of the unit trust shall be specified by name in the licence or permission as the manager of the fund;

(d) if the fund to which the licence or permission relates is or will be promoted, sponsored or established by a limited partnership, then —

(i) if the limited partnership has only one general partner, the holder for the time being of the office of general partner shall be specified by name in the licence or permission as being the person who is to be the manager of the fund; and

(ii) if the limited partnership has more than one general partner, at least two person each of whom holds for the time being the office of general partner shall be so specified in the licence or permission as being the persons who are to be the manager of the fund;

(e) if the fund to which the licence or permission relates is an investment company, the person or persons whom the Authority believes have the day to day control of the fund’s assets shall be specified by name in the licence or permission as being the person or persons who is or, where appropriate, are to be the manager of the fund.

(5) Where a mutual fund licence or a mutual fund permission is issued or given provisionally, then, for so long, as the limitation imposed as regards the licence or permission by section 9(4) is in force, compliance with such (if any) of the requirements of subsection (4) of this section as the Authority specifies when issuing or giving the licence or permission shall not be necessary.
(6) If, at a time when this section was in force, the condition described in subsection (2) is contravened, then, subject to the First Schedule, the Authority may revoke the mutual fund licence or mutual fund permission.

Operators’ licences and permissions.

11. (1) An application for a licence or permission to act as manager or administrator of a mutual fund shall be made to the Authority in the prescribed form and shall be accompanied by the prescribed fee and such information as the Authority may prescribe or otherwise may reasonably require.

(2) Subject to subsection (3), where an application is made under subsection (1), the Authority may issue or give the licence or permission sought if, having regard to the information received and to any other matters which the Authority regards as being relevant in the particular circumstances, the Authority considers that the person by or on whose behalf the application is made —

(a) is a fit and proper person; and

(i) has, or has available to him, to an adequate extent, the expertise, experience, services, resources or facilities each of which is of a kind which is generally conducive to the sponsorship, promotion and proper management or administration of mutual funds; or

(ii) is the holder of a current recognised authorisation construed in accordance with section 35.

(3) Where —

(a) an operator’s licence or an operator’s permission is issued or given to an individual person; and

(b) that licence or permission states that a direction for the purposes of this subsection has been given as regards it by the Authority,

the licence or permission shall operate to enable that person to promote, sponsor, establish, manage or administer a single mutual fund which is a private fund and which does not make provision for the establishment of sub-funds.

(4) A direction for the purposes of subsection (3) may only be given as regards an operator’s licence or permission if the Authority, having had regard to the nature and extent of the property to which the mutual fund relates, is satisfied that it is reasonable to do so.

(5) Where an application under subsection (1) is refused, the Authority shall give to the person by whom the application was made notice in writing of the refusal.
Effect of operators’ licences and permissions.

12. (1) Where the Authority allows an application for an operator’s licence or an operator’s permission, then, subject to section 11(3), the licence or permission shall for so long as it remains in force enable the holder of the licence or the person to whom permission is given to promote, sponsor, establish, manage or administer any mutual fund subject —

(a) as regards any particular mutual fund, to compliance with the conditions of the licence or permission and with all of the requirements of section 6 which apply to him in relation to it; and

(b) to ensuring as best he can compliance with the conditions attached to, or any other provision of, the mutual fund licence or permission.

(2) It shall be a condition of an operator’s licence or permission that, if it is proposed to charge, transfer, alienate or otherwise dispose of all or any of the property to which the mutual fund relates, the manager of the mutual fund shall comply with any prescribed conditions.

Trustee or custodian.

13. (1) A person shall not act as a trustee or custodian of a mutual fund unless —

(a) he is —

(i) the holder of a licence (a "custodial licence") issued for the purposes of this section by the Authority;

(ii) a person including any bank licensed under any written law to whom the Authority has given permission (a "custodial permission") for those purposes which has not been revoked;

(iii) the holder of a licence granted under section 9 of the Registered Agents and Trustees Licensing Order, 2000 (S 54/2000), unless it is a condition or term of such licence that no power is thereby conferred to act as a trustee or custodian of a mutual fund; or

(iv) the holder of an appropriate banking licence issued under any written law;

(b) he so acts in accordance with any condition attached to a mutual fund licence or permission; and

(c) as regards any particular mutual fund, he is specified as the fund’s trustee or the fund’s custodian in the fund’s mutual fund licence or its mutual fund permission.
(2) Where an application is made for a custodial licence or for a custodial permission, the application shall not be approved, unless, having regard to the information received either with the application or in response to a requirement made under section 27, or to any other matters which the Authority regards as being relevant in the particular circumstances, the Authority considers that the person by or on whose behalf the application is made —

(a) is a fit and proper person; and

(b) has, or has available to him, to an adequate extent, the expertise, experience, services, resources and facilities each of which is of a kind which is generally conducive to the proper management or administration of mutual funds or, where appropriate, the performance of the functions which, if the application is allowed, he will be authorised to undertake.

(3) Where an application for a custodial licence or a custodial permission is refused, the Authority shall give to the person who made the application notice in writing of the refusal and the notice shall state that an appeal may be made to the High Court against the refusal and shall specify the period within which any such appeal may be made.

(4) Notwithstanding the provisions of this Order, the Registered Agents and Trustees Licensing Order, 2000 (S 54/2000) and the International Trusts Order, 2000 (S 55/2000), the trustee of an Islamic Fund is not required to be licensed under the Registered Agents and Trustees Licensing Order, 2000 (S 54/2000) but shall be approved in writing by the Minister, and, in the case of an Islamic Fund which is a unit trust, shall be deemed to be an international trust for the purposes of the International Trusts Order, 2000 (S 55/2000).

(5) Any person who knowingly contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding $100,000.

Licences and permissions generally.

14. (1) No application for a licence or permission under any provision of this Part shall be regarded as properly made unless —

(a) it is accompanied by the prescribed fee; and

(b) it specifies an address to which communications from the Authority may be sent.

(2) Without prejudice to the generality of any power to require the provision of information or any other matters, the Authority may give directions as to the information or matters which are to accompany any such application as is referred to in subsection (1).

(3) The provisions of the First Schedule shall apply as regards the revocation of any licence or permission issued or given under this Order.
Conditions.

15. (1) Without prejudice to any condition attached by virtue of any of the preceding provisions of this Part, the Authority may attach conditions to any licence or permission issued, given or granted under this Order and may vary, suspend for a specified period or further suspend, or revoke such conditions (other than conditions attached pursuant to section 10(1)).

(2) Where —

(a) a licence or permission has been issued or given under this Order; and

(b) the Authority proposes to —

(i) attach one or more conditions or, as the case may be, one or more further conditions to the licence or permission; or

(ii) vary, suspend or further suspend or revoke any condition already attached to the licence or permission,

then, subject to subsection (6), each of the requirements specified in subsection (3) shall be complied with.

(3) The following are the requirements referred to in subsection (2) —

(a) the Authority shall give the appropriate person notice in writing of the proposal;

(b) the notice shall state that representations may be made to the Authority as regards the proposal by or on behalf of the appropriate person within the period specified in the notice (which period shall not be less than 30 days beginning from the date of the notice) or such longer period (if any) as the Authority may allow in the particular case; and

(c) the Authority shall neither implement the proposal nor implement it in a modified form until consideration has been given to any representations so made or before the expiry of the period for making such representations.

(4) Having considered any representations made as mentioned in subsection (3), the Authority may —

(a) implement the proposal to which the representations relate;

(b) implement that proposal in a modified form; or

(c) withdraw that proposal.
Subject to subsection (6), where the Authority exercises a power under subsection (1), the Authority shall give to the appropriate person notice in writing of the exercise of that power stating that an appeal may be made to the High Court against that exercise and specify the period within which such any appeal may be made.

Subsections (2) and (5) do not apply as regards —

(a) any condition attached, varied, suspended or revoked by the Authority allowing an application in that behalf; or

(b) any condition so attached, varied or revoked by the Authority pursuant to section 30(5)(d) or paragraph 4(1)(e) of the Second Schedule,

and subsections (4) and (5) do not apply as regards any condition attached, varied or revoked by the Authority pursuant to section 30(5)(d) or paragraph 4(1)(e) of the Second Schedule.

In this section "the appropriate person" means —

(a) in case the licence or permission in question is a mutual fund licence or a mutual fund permission, the manager of the registered fund to which the licence relates or the person as regards whom the permission was given; and

(b) in case the licence or permission in question is not a licence or permission referred to in paragraph (a), the holder of the licence or the person as regards whom the permission was given.

PART III
CONTROL AND SUPERVISION

Chapter 1
Appeals and Register

Appeals to the High Court.

16. (1) If the Authority —

(a) refuses an application for an operator's licence or permission;

(b) revokes any licence or permission issued or given under this Order; or

(c) attaches a condition to such a licence or permission, not being a condition referred in section 15(6),

then, subject to subsection (2), an appeal may be made to the High Court by or on behalf of the person concerned against the Authority’s decision.
(2) An appeal under this section shall be made within the period of 21 days from the date of the decision to which the appeal relates.

**Powers of High Court.**

17. In determining an appeal under section 16, the Court may —

(a) in a case where the appeal is against the refusal by the Authority to issue or grant a licence or permission under this Order, either confirm the refusal or issue or grant the licence or permission sought as if it were the Authority;

(b) in any other case, subject to the provisions of this Order, confirm or modify the decision to which the appeal relates or set aside that decision and in lieu thereof substitute another as if it were the Authority; and

(c) in any case, make such other order as it thinks fit.

**The Register.**

18. (1) The Authority shall —

(a) establish and maintain a Register for the purposes of this Order; and

(b) ensure that the requirements of subsection (3) are complied with.

(2) The Register shall be in such form as the Authority determines.

(3) Where a licence or any permission is issued or given under this Order, the following particulars shall be entered in the Register as regards the licence or permission —

(a) the provision of this Order pursuant to which it was issued or given;

(b) the name of the person to whom, and the date on which, it was so issued or given;

(c) the address specified pursuant to the requirements of section 14(1)(b) in the relevant application;

(d) if the licence or permission was issued or given provisionally, a note to that effect together with a note of when any application under section 9(6) as regards the licence or permission was allowed or, if appropriate, when the licence or permission ceased to be in force by virtue of section 9(2);

(e) if the licence or permission is a mutual fund licence or a mutual fund permission which relates to a public fund, particulars of the conditions subject to which the licence or permission was issued or given or any
condition attached to the licence or permission pursuant to section 30(5)(d) or paragraph 4(1)(e) of the Second Schedule;

(f) if the licence or permission is a mutual fund licence or a mutual fund permission, the currency in which the fund is or is intended to be denominated, together with the fund’s designated day (if any); and

(g) such other particulars as the Authority may determine.

(4) Where —

(a) a licence or permission is revoked by the Authority;

(b) the Authority varies, suspends for a specified period or further suspends, or revokes one or more conditions attached to a licence or permission;

(c) the Authority gives or withdraws a direction; or

(d) the Authority exercises a power conferred by section 30 or by paragraph 4 of the Second Schedule,

particulars thereof, together with particulars of the decision of the High Court on any appeal in relation thereto, shall be noted in the relevant entry in the Register.

(5) An application may be made to the Authority by or on behalf of a person whose name appears in the Register either to amend the address specified therein as regards that person or to substitute a new address therefor and where such an application is made, accompanied by the prescribed fee (if any) the Authority may —

(a) amend the Register in the manner sought by the applicant;

(b) amend the Register in such other manner as he considers appropriate in the particular circumstances; or

(c) refuse the application.

(6) Any member of the public may during the normal office hours of the Authority on payment of the prescribed fee prescribed therefor —

(a) inspect the Register;

(b) obtain either a copy of an entry therein or an extract from the Register; or

(7) A document purporting —

(a) to be a copy of an entry in or an extract from the Register; and
(b) to be signed by or on behalf of the Authority and certified as being a true copy of the entry or extract,

shall be admitted in evidence in criminal or civil proceedings before any court on its production without further proof, and in the absence of evidence to the contrary, the court shall presume —

(i) that the signature and certification is that of or on behalf of the Authority; and

(ii) that the document is a true and correct copy of the entry, extract or document,

and the document shall be prima facie evidence of all the matters contained therein.

Chapter 2

Accounts and Administration

Accounts, audits and reports.

19. (1) The manager of a registered fund shall ensure that, as regards the fund, proper accounts and records of its transactions are kept and shall within 3 months after the expiry of every financial year, or such longer period as the Authority may allow, cause a statement of accounts as regards the fund to be prepared; and every such statement shall include a balance sheet as on the last day of the financial year to which the statement relates.

(2) A statement of accounts referred to in subsection (1) shall give a true and fair view of the state of affairs of the registered fund to which it relates as at the end of the financial year to which the statement relates.

(3) A statement of accounts referred to in subsection (1) or (6) shall be audited by an approved auditor who shall make a written report thereon to the manager of the fund.

(4) The approved auditor by whom an audit under subsection (3) is to be carried out shall be appointed by the manager of the relevant registered fund.

(5) The manager of a registered fund shall within the period of 60 days beginning on the day of the receipt by him of the approved auditor’s report in respect of the fund’s accounts for a financial year, or such longer period as the Authority may allow, furnish to the Authority —

(a) a report on the affairs of the fund for that year;

(b) a copy of its audited statement of accounts for that year; and

(c) a copy of the approved auditor’s report for that year.
(6) The Authority may at any time require the manager of a registered fund, within a period specified in the requirement or such longer period as the Authority may allow —

(a) to cause to be prepared as regards the fund a statement of accounts of the kind specified in the requirement; and

(b) when it is audited pursuant to subsection (3), to furnish to the Authority a copy of that statement together with a copy of the approved auditor's report thereon.

(7) Where the requirements of subsection (3) are not complied with as regards a particular registered fund or the manager thereof fails to comply with a requirement imposed on him by subsection (4) or (5) or with a requirement under subsection (6), then, subject to the First Schedule, the Authority may —

(a) impose a financial penalty on the manager not exceeding $100,000; or

(b) revoke the manager's operator's licence or, as the case may be, his operator's permission,

and where a penalty is imposed under this Order, an amount equal to that of the penalty shall be recoverable by the Government as a civil debt due to it from the person on whom the penalty was imposed.

(8) As regards any particular registered fund, any reference in this section to a financial year shall each be construed as a reference to that fund's financial year.

Mutual fund's name.

20. (1) Where an application is made under section 7 and the name of the mutual fund to which the application relates ("the relevant fund") is —

(a) the same as, or in the Authority's opinion is likely to be confused with, that of a registered fund; or

(b) in the Authority's opinion, misleading in any other respect,

the Authority may give a direction as regards the relevant fund and any such direction shall be complied with before a mutual fund licence or mutual fund permission is issued or given as regards that fund.

(2) Where a registered fund is for the time being using as its name a name with a characteristic described in subsection (1)(a) or (b), the Authority may give a direction requiring —

(a) that use of the name of the fund be discontinued; and
that there shall be used instead either a version of the name altered in a manner specified in the direction or a completely different name so specified.

(3) A direction under subsection (1) or (2) shall be in writing and shall be given either to the manager or to the trustee or custodian of the registered fund.

(4) Where the Authority gives a direction under subsection (2) and the direction is not complied with, then, subject to the First Schedule, the Authority may, revoke the operator's licence or permission issued or given to the manager of the mutual fund to which the direction relates.

Amendment of registered fund's memorandum etc.

21. (1) Where as regards a registered fund it is proposed —

(a) to amend in any manner the memorandum of association, articles of association, partnership agreement, trust or other deed or other instrument under which the fund is incorporated, established or otherwise constituted;

(b) to amend the fund's prospectus; or

(c) to issue a new prospectus,

the manager of the fund shall furnish to the Authority particulars of the proposal in writing.

(2) As regards any proposal described in subsection (1), the requirement of that subsection shall be complied with as soon as practicable by the manager of the mutual fund, and in any event within the period of 30 days beginning on the day on which the proposal is circulated or otherwise published to the participants in the relevant registered fund.

(3) Where the manager of the mutual fund fails to comply with the requirements of subsection (1), then, subject to the First Schedule, the Authority may revoke his operator's licence or permission.

(4) Where particulars of a proposed amendment are furnished pursuant to subsection (1) and the Authority is of opinion that, were the proposal to be implemented, the interests of the participants or potential participants in the registered fund in question would be either no longer protected or no longer adequately protected, he may, within the period of 30 days beginning on the day on which he receives the particulars, by a notice in writing require the manager of the fund to do each of the following —

(a) to take such steps as are requisite to ensure that the articles of association, partnership agreement, trust or other deed or other instrument under which the registered fund is incorporated, established or otherwise constituted or, as the case may be, the proposed new prospectus amended in a manner specified in the notice; and
(b) within a period specified in the notice, being not less than 30 and not more than 90 days from the date of the notice, to furnish the Authority with a copy of the instrument or prospectus as so amended.

(5) Where —

(a) pursuant to subsection (1) particulars of a proposed amendment or of a new prospectus proposed to be issued are furnished to the Authority;

(b) the period specified in subsection (4) expires; and

(c) during that period no notice under subsection (4) is received by the person by whom the particulars were so furnished,

then on the expiry of that period the proposed amendment or, where appropriate, the proposed new prospectus to which the particulars relate shall be deemed to have been approved by the Authority.

Change of manager etc.

22. (1) Where as regards any registered fund a person ceases to be its manager, administrator or trustee or custodian, then —

(a) in the case where the cessation is that of the fund’s manager, then its trustee or, where appropriate, its custodian;

(b) in the case where the cessation is that of the fund’s administrator or its trustee or custodian, then the fund’s manager,

shall, within the period of 3 months beginning on the day of such cessation, notify the Authority in writing both of the cessation and of the name of the person who, has succeeded as its manager, administrator, trustee or custodian, as the case may be.

(2) Where —

(a) a cessation described in subsection (1) occurs and the requirements of that subsection are not complied with; or

(b) the Authority is notified pursuant to subsection (1) and is not satisfied that the person specified in the notice as having succeeded as the fund’s manager has qualifications, expertise and experience which are appropriate for its proper management and administration,

the Authority may, subject to the First Schedule revoke the fund’s mutual fund licence or, where appropriate, mutual fund permission.
(3) Where the Authority is notified pursuant to subsection (1), the Authority shall suitably amend the mutual fund licence or permission.

(4) Where the person specified in a notice to the Authority under this section is a body corporate, the Authority may attach to the mutual fund licence or permission a condition that at all times at least one of that body’s directors or, where appropriate, the body’s officers whose office is similar or analogous to that of a company director, shall be an individual who is ordinarily resident in Brunei Darussalam.

(5) In a case where two or more persons are specified in a mutual fund licence or permission as the manager of the fund, any reference in this section to a person ceasing to be the manager shall be construed as a reference to any one of those persons ceasing to hold that office or to have the status by virtue of which he was specified as one of the managers, and any reference to a person succeeding as the manager shall be construed accordingly.

Duty of manager etc. to inform Authority of certain matters.

23. (1) Where, in the course of managing, administering or otherwise acting as regards a registered fund, a person to whom this section applies —

(a) becomes aware of or has reason to believe that —

(i) any person has or may have committed a defalcation or a breach of trust in relation to the fund’s affairs, business or property;

(ii) a fraudulent activity is or may be being carried on as regards such affairs, business or property; or

(iii) there is or may be an attempt or a conspiracy by one or more persons to carry on such a fraudulent activity; or

(b) is of opinion that a matter exists which either adversely affects the financial position of the fund to a significant extent or is otherwise detrimental to the interests of the fund’s participants or the interests of its creditors,

he shall, as soon as practicable, inform the Authority of his knowledge, belief or opinion giving his reasons therefor and as regards any such defalcation, breach of trust, fraudulent activity, attempt or conspiracy, to the extent (if at all) that he is aware of them, the names of the person or persons involved or otherwise concerned.

(2) Where, in performing the duty imposed on him by subsection (1), a person to whom this section applies acts in good faith, no duty to which he is subject as regards a registered fund shall be regarded as having been contravened by reason only of his having so acted.
(3) Where a person fails or refuses to act as required in subsection (1), he shall be guilty of an offence and liable on conviction to a fine not exceeding $250,000, imprisonment for a term not exceeding 2 years or both.

(4) This section applies to any person who is the holder of a licence referred to in section 6(2).

**Duty of auditors to inform Authority.**

24. (1) Where, in the course of carrying out an audit of the accounts of a registered fund or those of the holder of a mutual fund licence, an approved auditor —

(a) becomes aware of or has reason to believe that —

(i) a registered fund is unable, or is unlikely to continue to be able, to meet its obligations as they fall due;

(ii) a registered fund is carrying on or attempting to carry on business or is winding-up its business voluntarily in a manner that is detrimental to the interests of its participants or to those of its creditors;

(iii) a registered fund is carrying on or attempting to carry on business without keeping any accounting records or accounting records which are sufficient to enable its accounts to be properly audited;

(iv) any person has or may have committed a defalcation or a breach of trust in relation to the fund’s affairs, business or property;

(v) a fraudulent activity is or may be being carried on as regards any such affairs, business or property; or

(vi) there is or may be an attempt or a conspiracy by one or more persons to carry on such a fraudulent activity; or

(b) is of opinion that a matter exists which either adversely affects the financial position of the fund to a significant extent or is otherwise detrimental to the interests of the fund’s participants or the interests of its creditors,

he shall, as soon as practicable, inform the Authority of his knowledge, belief or opinion giving his reasons therefor and, as regards any such defalcation, breach of trust, fraudulent activity, attempt or conspiracy, to the extent (if at all) that he is aware of them, the names of the person or persons involved or otherwise concerned.

(2) Where, in performing the duty imposed on him by subsection (1), an approved auditor acts in good faith, no duty to which he is subject as regards a registered fund shall be regarded as having been contravened by reason only of his having so acted.
(3) Where an approved auditor fails or refuses to act as required in subsection (1), he shall be guilty of an offence and liable on conviction to a fine not exceeding $250,000, imprisonment for a term not exceeding 2 years or both.

Further information.

25. (1) Where a report, copy statement or copy report is furnished to the Authority pursuant to section 19(5), the Authority may require the manager who furnished the report or copy to supply such further information as the Authority considers relevant in the circumstances.

(2) In addition to the power conferred by subsection (1), the Authority may by notice in writing require the manager, administrator, trustee or custodian of a registered fund to furnish such information regarding the fund or its property, management or administration as is reasonably necessary for the purposes of this Order and as is specified in the notice.

(3) If a person fails to comply with any requirements of a notice under subsection (2), then, subject to the First Schedule, the Authority may —

(a) impose a financial penalty on the manager or administrator, trustee or custodian (as the case may be) not exceeding $100,000; or

(b) revoke that person’s operator’s licence or permission or, as the case may be, custodial licence or permission and, where a penalty is imposed under this section, an amount equal to that of the penalty shall be recoverable by the Government as a civil debt due to it from the person on whom the penalty was imposed.

(4) A reference in this section to information are each to be construed as including a reference to documents.

Explanations.

26. (1) Where a person fails —

(a) to comply with a direction given or a requirement made under the preceding provisions of this Order;

(b) to afford, in accordance with section 27(1), to the Authority or any person acting on of the Authority, behalf the access specified in that section; or

(c) to produce to the Authority or any person acting on behalf of the Authority anything duly specified under that section,

then, without prejudice to the generality of section 25(2), the Authority may require the person concerned to furnish a written statement explaining the failure.
(2) Where a requirement is made under subsection (1) and the Authority is not satisfied with the explanation, or with any further explanation which the Authority may require, then, subject to the First Schedule, the Authority may —

(a) impose a financial penalty on the manager, administrator, trustee or custodian (as the case may be) not exceeding $100,000;

(b) revoke that person’s operator’s licence or permission or, as the case may be, custodial licence or permission and, where a penalty is imposed under this Order, an amount equal to that of the penalty shall be recoverable by the Government as a civil debt due to it from the person on whom the penalty was imposed; or

(c) revoke the licence or permission under this Order of the person of whom the requirement was made.

Access to documents etc.

27. (1) Subject to subsection (2), if requested to do so, the manager, administrator, trustee or custodian of a registered fund shall —

(a) afford the Authority and any person acting on behalf of the Authority reasonable access to all of the fund’s records, books, accounts, certificates and other documents which are in his possession or custody or otherwise under his control; and

(b) without prejudice to the generality of paragraph (a), produce to the Authority or any person acting on behalf of the Authority such of the fund’s records, books, accounts, certificates or other documents as are in the possession or custody, or under the control of, the manager, administrator, trustee or custodian or such of those records, books, accounts, certificates and other documents as are of a class or description, which the Authority or, as the case may be, the person acting on behalf of the Authority may reasonably specify.

(2) Any record, book, account, certificate or other document shall not be required to be produced under subsection (1) in a manner or at a time or place which would interfere with the proper conduct of the normal daily business of the registered fund.

(3) Where any record, book, account, certificate or other document is produced pursuant to a request under subsection (1), the person who made the request shall be entitled to inspect the document and make a copy or prepare an abstract of all or part of it.

(4) Where any record, account or other document referred to in subsection (1)(a) is recorded otherwise than in a legible form, then the manager, administrator, trustee or
custodian concerned shall make available to the person who wishes to inspect it pursuant to this section, a reproduction thereof which is in a legible form.

(5) Where a requirement is made under subsection (1) and the Authority is not satisfied with the explanation, or with any further explanation which the Authority may require, then, subject to the First Schedule, the Authority may —

(a) impose a financial penalty on the manager, administrator, trustee or custodian (as the case may be) not exceeding $100,000; or

(b) revoke that person’s operator's licence or permission or custodial licence or permission and, where a penalty is imposed under this section, an amount equal to that of the penalty shall be recoverable by the Government as a civil debt due it from the person on whom the penalty was imposed.

Chapter 3

Investigations etc.

Investigations.

28. (1) If, whether because of information received pursuant to the requirements of sections 21, 23(1), 24(1) or otherwise, it appears to the Authority that it is in the interests of the participants in a registered fund or in the public interest to do so, the Authority may institute an investigation under this section into such of the following matters as the Authority considers appropriate —

(a) the state or conduct of all or any of the affairs, business or property of the fund; and

(b) the state or conduct of such of the affairs, business or property of a manager, administrator, trustee or custodian of the fund as are relevant to the fund.

(2) For the purposes of an investigation under this section, the Authority shall appoint as an inspector a person whom the Authority considers to be suitably qualified to investigate and report to him on the state and conduct of the affairs, business and property specified by the Authority and, according as may be so specified, either as a whole or, as the case may be, in any particular respect.

(3) The Authority may, at any time after making an appointment under subsection (2), and before the inspector so appointed reports to him, direct that inspector to inquire into any further aspect of the affairs, business or property of the registered fund or former such fund, or, as the case may be, the person named in the direction.
(4) An inspector who is not a public officer shall be paid such remuneration and allowances and be appointed on such other terms and conditions as the Minister shall determine.

(5) On receipt of the report of an inspector, the Authority may do such one or more of the following —

(a) if he is of the opinion that it is in the public interest to do so, cause the whole or any part of the report to be published in such manner as he determines:

Provided that nothing in a report published under this paragraph shall —

(i) enable any particular participant in a registered fund or former such fund to which the report relates to be identified; and

(ii) reveal details of the affairs of any such participant without his consent;

(b) require the inspector to report further on any matter arising from the report;

(c) where the report relates to a registered fund and the High Court has jurisdiction to wind-up the fund, present a petition for that purpose to the court; and

(d) if it appears from the report that an offence may have been committed by any person, refer the report to the Attorney General,

and for the avoidance of doubt it is hereby declared that any such report to the Authority shall enjoy qualified privilege.

(6) Any reference in the preceding provisions of this section to a registered fund includes a reference to a former registered fund, but the Authority shall not make an appointment under subsection (2) as regards a former registered fund if that fund ceased to be a registered fund before the commencement of the period of 12 months beginning on the date of the institution of the investigation under subsection (1).

(7) Where —

(a) a report under this section is made as regards a registered fund or a former registered fund;

(b) proceedings in the High Court are instituted by one or more of the participants in the fund;

(c) the proceedings are issued against a manager, administrator, trustee or custodian of the fund; and
(d) having had regard to the report or any other evidence, it appears to the court that there was on the part of the defendant or, in case there are more than one, on the part of all or any of the defendants, an act or omission which —

(i) related to the fund’s affairs;

(ii) was such as was likely to cause all or any of the participants in the fund financial loss; and

(iii) in fact caused the plaintiff, or, in case there are more than one, all or any of the plaintiffs financial loss,

the court may award such damages against, or afford such other relief to, such of the parties to the proceedings as it may consider appropriate.

(8) Any person who —

(a) with intent to defeat the purposes of this section or to delay or obstruct the carrying out of an investigation under this section —

(i) conceals, destroys, mutilates or alters any record, book, account, certificate or any other document relating to a matter which is the subject of the investigation; or

(ii) sends, or causes to be sent, or conspires with another person to send, out of Brunei Darussalam any document or other thing mentioned in sub-paragraph (i); or

(b) knowingly furnishes to an inspector any information which is false or misleading in a material particular,

shall be guilty of an offence and liable on conviction to a fine not exceeding $200,000, imprisonment for a term not exceeding 2 years or both.

(9) In this section, "conduct" includes management or administration and, in relation to property, also includes mortgaging or otherwise charging the property and the creation of any other estate or interest in it.

(10) Any reference in the preceding provisions of this section to a manager, administrator trustee or custodian of, or to a participant in, a registered fund or former registered fund includes a reference to any person who has been but no longer is such a manager, administrator, trustee, custodian or participant.

(11) Part 1 of the Second Schedule shall apply to investigations held pursuant to this section.
Registered fund’s insolvency.

29. (1) Where the manager, administrator, trustee or custodian of a registered fund has reason to believe —

(a) that the fund is likely to become unable to meet its obligations as they fall due; or

(b) that the fund is insolvent,

he shall notify the Authority in writing of his belief.

(2) Where —

(a) the Authority receives a notification under subsection (1);

(b) a registered fund becomes unable to meet its obligations as they fall due; or

(c) the Authority is of opinion that —

(i) a registered fund is carrying on, is attempting to carry on or is voluntarily winding-up, its business in a manner prejudicial to the interests of its participants or its creditors;

(ii) that a registered fund is, or is likely to become, unable to meet its obligations as they fall due; or

(iii) as regards a mutual fund licence or a mutual fund permission, there has been a failure to comply with, or a contravention of, a condition attached to the licence or permission,

then, subject to section 31, the Authority shall give a direction under this section as regards that registered fund.

(3) A direction under this section shall remain in force until it is withdrawn by the Authority.

(4) Where a direction under this section is in force, an application may be made to the Authority to withdraw but the Authority shall not withdraw the direction unless the Authority is satisfied that as regards the registered fund to which it applies —

(a) the circumstances which caused the direction to be given no longer exist; and

(b) no other circumstances exist which would require the Authority to give such a direction as regards the fund.
(5) Where the Authority gives a direction under this section, the Authority shall give the manager, administrator, trustee or custodian of the fund notice in writing of the direction and the notice may require the person to whom it is addressed to circulate or otherwise distribute to the participants in that fund a written statement stating that the direction has been given and that representations may be made on behalf of such participants as regards the exercise by the Authority of any of the powers conferred on the Authority by Part 2 of the Second Schedule in relation to that fund and containing such other particulars (if any) as the Authority specifies.

(6) If any person fails to comply with any requirement of a notice given to him under subsection (5), then, subject to the First Schedule, the Authority may revoke the current licence or permission issued to or given as regards that person under this Order.

(7) Where a direction given under this section is in force, the provisions of Part 2 of the Second Schedule shall apply as regards that direction.

Insolvency of manager etc.

30. (1) Where the manager, administrator, trustee or custodian of a registered fund (in this section referred to as a "relevant person") has reason to believe —

(a) that he is or is likely to become unable to meet his obligations, as they fall due; or

(b) that he is otherwise insolvent,

he shall notify the Authority in writing of his belief.

(2) Where —

(a) the Authority receives a notification under subsection (1);

(b) a relevant person becomes unable to meet his obligations as they fall due; or

(c) the Authority is of opinion that —

(i) a relevant person is carrying on, is attempting to carry on or is voluntarily winding-up, his business in a manner prejudicial to the interests of his creditors or the participants in a registered fund or the fund’s creditors;

(ii) that a relevant person is, or is likely to become, unable to meet his obligations as they fall due; or
(iii) as regards a relevant person’s licence or permission under this Order, there has been a failure to comply with, or a contravention of, a condition attached to the licence or permission,

the Authority shall give a direction under this section as regards that person.

(3) A direction given under this section shall remain in force until it is withdrawn by the Authority.

(4) Where a direction under this section is in force, an application may be made to the Authority to withdraw a direction but the Authority may not withdraw the direction unless the Authority is satisfied that, as regards the person to whom the direction applies —

(a) the circumstances which caused the direction to be given no longer exist; and

(b) no other circumstances exist which would require the Authority to give such a direction as regards that person.

(5) If a direction given under this section is in force, then, subject to subsection (6), the Authority may, as regards the person to whom the direction relates, exercise such one or more of the following powers as may appear to him to be necessary —

(a) by notice in writing require that, until the notice is withdrawn, in so far as that person takes any action or does any act or thing in relation to the management or administration of the affairs, business or property of any registered fund, he shall do so only after the advice of an adviser appointed for the purposes of this paragraph by the Authority and named in the notice has been sought and obtained;

(b) by notice in writing require that, until the notice is withdrawn, in so far as that person takes any action or does any act or thing referred to in paragraph (a), he shall do so only under the supervision of a supervisor appointed for the purposes of this paragraph by the Authority and named in the notice;

(c) by notice in writing remove forthwith that person from his office as manager, administrator, trustee or custodian of the registered fund and appoint another person to that office instead;

(d) attach conditions, or where appropriate, additional conditions to that person’s licence or permission under this Order or revoke or vary conditions already so attached;

(e) subject to the First Schedule, revoke that licence or permission,

and the person appointed under paragraph (a) or (b) may be an individual, a partnership or a body corporate.
(6) A notice shall not be given under subsection (5)(a) or (b) as regards a person in respect of whom the High Court has made a winding-up order; and where a notice given under either of those paragraphs relates to a registered fund which is incorporated or otherwise established outside Brunei Darussalam the notice shall only apply to —

(a) actions, acts or other things which relate to the affairs and business of the fund which are carried on, managed or administered in or from Brunei Darussalam; and

(b) so much of the fund’s property as is —

(i) located in, managed or administered from Brunei Darussalam; or

(ii) an asset of the fund’s principal or other place of business in Brunei Darussalam.

(7) The remuneration and reasonable expenses of a person appointed pursuant to subsection (4)(a) or (b) shall be paid by the registered fund to which the notice concerned relates.

(8) References in this Order to a manager or to an administrator include, except where the context otherwise requires, references to a person appointed pursuant to subsection (5)(a).

(9) Any person who fails to comply with a notice or direction under this section shall be guilty of an offence and liable on conviction to a fine not exceeding $200,000, imprisonment for a term not exceeding 2 years or both.

(10) Nothing in any deed, agreement, articles or memorandum of association or other document shall operate to prevent the Authority exercising any power under subsection (2).

Winding-up order etc.

31. Where —

(a) circumstances exist as regards a registered fund which would require the Authority to give a direction under section 29 as regards the fund;

(b) the High Court has jurisdiction to wind up or dissolve the fund under any provisions of the written law; and

(c) after consultation with the Minister, it appears to the Authority that it is in the interest of the participants in the fund, the public interest or in both such interests that the fund should be wound up or dissolved by the High Court,

the Authority, in lieu of giving a direction under section 29 as regards that fund, may, on the ground that it is just and equitable that it be so wound up, petition the High Court to wind it up under the appropriate provisions of that written law.
PART IV

CODES OF PRACTICE, CONFIDENTIALITY, PERMITTED DISCLOSURE AND RECOGNISED JURISDICTIONS

Codes of Practice.

32. (1) The Authority may prepare and issue codes of practice regarding all or any of the following, the promotion, sponsorship, establishment, management and administration of mutual funds.

(2) The Authority may amend or revoke a code of practice issued under subsection (1).

(3) The Authority shall make arrangements to ensure that copies of any code of practice (and any amendments thereto) prepared and issued under subsection (1) are publicly available at such price as the Authority considers reasonable.

Confidentiality.

33. (1) Except as may be necessary for the implementation or administration of this Order, a person to whom this subsection applies —

(a) shall preserve and assist in preserving confidentiality with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of any function assigned by or carried out under this Order;

(b) shall not communicate any such matter to any person other than —

(i) the person to whom the matter relates;

(ii) the Minister;

(iii) the Authority or an officer of the Authority; and

(iv) a person (whether he is a public officer or not) who was assigned, appointed or employed to advise or otherwise assist the Minister or the Authority; and

(c) shall not suffer or permit another person, not being also a person to whom this subsection applies, to have access to any records which are in his possession or custody, or under his control or in the possession or under the control of any other person to whom this subsection applies, being in either case records created in the performance of a function assigned by this Order.

(2) Subsection (1) applies to any person who is or has been —
(a) the Minister, the Authority or a member of the Authority, or a public officer; or

(b) a person (whether he is a public officer or not) who was assigned, appointed or employed to advise or otherwise assist the Minister or the Authority.

(3) Subject to subsection (4)(b), if a court is satisfied that the public interest so requires, the court may require a person who receives any information, report, statement of account or other document pursuant to a provision of this Order —

(a) to produce or otherwise disclose the information or document;

(b) to divulge or communicate any other matter or thing coming to his notice in, or in connection with, the performance of a function assigned by this Order, and nothing in this section shall entitle any person to refuse to comply with such a requirement.

(4) Subsection (1) does not prohibit —

(a) the disclosure of information in the form of a summary which is framed so as to prevent the identity of, or any particulars relating to, the holder of a licence under this Order or any person to whom any permission under this Order relates being ascertained from the summary;

(b) the disclosure of any document, information or other matter or thing with a view to the institution of, or otherwise for the purposes of, criminal proceedings, whether under this Order or not, or in connection with any legal proceedings arising by reason of this Order;

(c) the disclosure of information which is for any reason already available to the public;

(d) disclosure to a person appointed to investigate the affairs of a company; and

(e) the disclosure of information in bankruptcy or insolvency proceedings in Brunei Darussalam.

(5) Nothing in this section shall be construed as prohibiting any person from waiving the protection it accords to his affairs, whether generally or in a particular respect or for a particular purpose; but no other person may rely on such a waiver unless it is in writing and signed by the person concerned.

(6) Any person who discloses information contrary to the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding $200,000, imprisonment for a term not exceeding 5 years or both.
Disclosure to other supervisory authorities.

34. (1) Notwithstanding section 33 but subject to subsection (4) of this section, the Authority may disclose information on the operation of a mutual fund to a designated supervisory authority for the purpose of its material supervisory functions.

(2) In subsection (1), the reference to a designated supervisory authority is a reference to that authority which, in a country or territory designated by the Minister for the purposes of this Order, exercises in that country or territory functions corresponding to those of the Authority under this Order and, in relation to such an authority, "material supervisory functions" means functions which so correspond.

(3) The Minister shall not designate any country or territory for the purposes of this Order unless he is satisfied that the supervisory authority there is subject to equivalent or analogous provisions as to reciprocity in cases where information is required by the Authority from the designated supervisory authority and to provisions as to confidentiality which are at least equivalent to those which apply to the Authority, whether under this Order or otherwise.

(4) In no circumstances shall the Authority provide any information under this section relating to the affairs of —

(a) any particular holder or former holder of a licence under this Order; or

(b) any person to whom a permission has been given under this Order, whether that permission is current or not.

Recognised authorisations.

35. If the Authority is satisfied —

(a) that there are in force in a particular country or territory outside Brunei Darussalam laws whose purposes and effect are either similar or generally similar or analogous to those of this Order;

(b) that under those laws, licences, permissions, authorisations or other permissions may be issued or given by an authority or other body established or recognised by those laws; and

(c) that those laws contain provisions whose purposes and effect are either similar, or are similar or analogous to a sufficient degree, to the provisions of this Order relating to the matters specified in paragraph (b),

the Authority may determine specified licences or, as may be appropriate, permissions, authorisations or other permissions so issued or given shall be recognised authorisations.
PART V

MISCELLANEOUS

Immunity etc.

36. (1) No liability shall be incurred by any person in respect of anything done, or omitted to be done by him in good faith in the performance or proposed performance of any function under this Order.

(2) A person who —

(a) performs a duty imposed on him by this Order; or

(b) complies with a requirement of, or made under, this Order or regulations under this Order,

shall not incur any legal liability by reason only of that performance or compliance.

(3) Nothing in this Order shall be construed as enabling the Authority to require the disclosure by an advocate and solicitor or by any legal practitioner in professional practice in a jurisdiction outside Brunei Darussalam of any privileged communication, whether oral or written, made to or by him in his professional capacity.

(4) For the purpose of determining whether a communication made to or by a legal practitioner in professional practice in a jurisdiction outside Brunei Darussalam is protected by subsection (3), the communication shall be treated as having been made to or by an advocate and solicitor practising in Brunei Darussalam.

Offences and penalties.

37. (1) A person who aids, counsels or procures the commission of an offence under this Order or who solicits or incites any other person to commit such an offence shall be guilty of an offence under this subsection and be liable on conviction to be punished therefor in the same manner as a person committing the offence to which the aiding, counselling, procurement, soliciting or incitement related.

(2) Any person who, whether by act or omission, contravenes or fails to comply with any provision of any regulations made under this Order shall be guilty of an offence.

(3) A person who —

(a) as regards an application for a licence or permission under this Order;

(b) in purported compliance with any obligation to give information to which he is subject by virtue of this Order,
gives any information or produces or supplies a document which he knows to be false in a
critical particular or recklessly gives any information or supplies or produces a document
which is so false shall be guilty of an offence.

(4) Any person who contravenes a condition attached to a licence or permission
issued or given under this Order shall be guilty of an offence.

(5) Any person who, for the purpose of obtaining, whether for himself or another, the
issue or grant of a licence or permission under this Order —

(a) makes any statement or gives any information which he knows to be false in
a material particular or recklessly gives any information which is so false; or

(b) produces or otherwise makes use of any book, record or other document
which to his knowledge contains any statement or information which he
knows to be false in a material particular,

shall be guilty of an offence.

(6) A person who interferes with or otherwise hinders the exercise by an inspector of
a power conferred on him by Part 1 of the Second Schedule shall be guilty of an offence.

(7) A person guilty of an offence under any provision of this section, other than
subsection (1), shall be liable on conviction to a fine not exceeding $200,000 and to
imprisonment for a term not exceeding 3 years.

Onus of proof, presumption.

38. (1) In any proceedings for an offence under this Order, it shall not be necessary to
negate by evidence the existence of any licence or permission issued or given under this
Order, and the onus of proving the existence of such licence or permission shall be on the
person seeking to avail himself of it.

(2) Where in proceedings for an offence under this Order —

(a) the court is satisfied that the defendant caused a prospectus to be issued; and

(b) having regard to the prospectus or other evidence, it appears to the court to
be probable that the prospectus relates or, where appropriate, related to a
mutual fund,

then, unless the court is satisfied to the contrary, it shall presume that the prospectus relates
or, where appropriate, related to a mutual fund.
Offences by bodies corporate.

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

(2) Where the affairs, business or property of a body corporate or person are managed by its members, subsection (1) applies in relation to the acts and omissions of a member of the body in the course of managing its affairs, business or property as if, were the body to have those offices, he were a director or other officer described in subsection (1) of the body corporate.

Giving of notice.

40. (1) Where notice is required by this Order, or any regulation made under this Order, to be served, given or sent to a person, it shall be addressed to him and shall be served, given or sent to him —

(a) by delivering it to him;

(b) by leaving it either at the address which appears for the time being in relation to him in the Register or at the address in Brunei Darussalam at which he ordinarily resides; or

(c) by sending it by post in a prepaid registered envelope addressed to him either at the address which so appears in the Register or at the address at which he ordinarily resides.

(2) Where a notice is sent by post in accordance with the requirements of subsection (1) and is returned undelivered, the notice may then be served, given or sent in such other manner as may be prescribed.

Annual and other fees.

41. (1) An annual fee of the prescribed amount shall be payable in respect of every licence or permission issued or given for the purposes of this Order.

(2) Annual fees of different amounts may be prescribed as regards licences or permissions of different classes or descriptions.

(3) Every prescribed annual fee shall be payable on the date the licence or permission is issued or given, and thereafter on the anniversary of the issue of the licence or the giving of the permission.
(4) Where an annual fee is not paid as required by subsection (3) and remains unpaid 60 days after its due date then, subject to the First Schedule, unless the Authority is satisfied that there are special circumstances that would render it unfair or inappropriate to do so, the Authority may —

(a) impose a financial penalty on the manager, administrator, trustee or custodian, not exceeding $100,000;

(b) revoke the person's operator's licence or permission or, custodial licence or permission; or

(c) revoke the licence or permission as regards which the annual fee is payable, and where a penalty is imposed under this section, an amount equal to that of the penalty shall be recoverable by the Government as a civil debt due to it from the person on whom the penalty was imposed.

(5) Where an annual fee remains unpaid as described in subsection (4), the Authority may by notice in writing require either the manager, trustee or custodian the registered fund to state in writing within a period specified in the notice the reason why the fee was not paid.

Tax and filing exemptions.

42. (1) No income tax, tax on capital gains or other tax shall be levied, withheld or collected in respect of any mutual fund, the holder of an operator's licence or the holder of a licence or permission under section 13, in respect of such a fund on or in respect of any dividends or earnings attributable to any unit share, partnership interest, debt or securities; or in the case of such a licensee on any fees or other earnings received in that capacity.

(2) No estate, inheritance, succession or similar tax shall be levied in respect of any mutual fund or fund interest or in respect of the transfer of any fund interest.

(3) Notwithstanding anything in the Stamp Act (Chapter 34), duty shall not be chargeable on any of the following —

(a) instruments relating to transfers of any property to or by a mutual fund;

(b) instruments relating to transactions in respect of any fund interest;

(c) instruments relating in any way to the assets or activities of a mutual fund.

(4) Expressions used in subsection (3) have the same meaning as in the Stamp Act (Chapter 34).

(5) No filing, return or financial information shall be required from a mutual fund in relation to any taxation, duty or other levy in respect of which relief is granted under this section.
Exemption from Order.

43. Notwithstanding anything contained in this Order or in any other written law relating to mutual funds, the Minister after consultation with the Authority may, in any case and on such terms and conditions as he thinks fit, exempt a mutual fund, in whole or in part, from any provision of this Order or of any such written law.

Transitional provision.

44. Where on the date of commencement of this Order a mutual fund had been established, domiciled, offered, traded, listed, managed or administered in or from within Brunei Darussalam, that fund may, notwithstanding the provisions of this Order, continue to do so for such period as the Minister, after consultation with the Authority, may determine in any particular case.

FIRST SCHEDULE

Revocation of Licences and Permissions

1. Subject to paragraph 2, the Authority shall not revoke a licence or permission issued or given under this Order without first affording to —

   (a) in case the licence or permission is a mutual fund licence or a mutual fund permission, the manager, trustee or custodian of the registered fund; and

   (b) in any other case, the holder of the licence or the person to whom the permission was given,

or to someone acting on his behalf, an opportunity of stating why the licence or permission should not be revoked.

2. Subject to paragraphs 3 and 4, where the Authority is of opinion that, having regard to the interests of the participants or potential participants in one or more registered funds or to the public interest or to both of those interests, the revocation of a licence or permission issued or given under this Order should be treated as a matter of urgency, he may revoke the licence or permission without affording the opportunity required by paragraph 1.

3. Where the Authority revokes a licence or permission in exercise of the power conferred by paragraph 2, the revocation shall have immediate effect.

4. Where the Authority revokes a licence or permission given or issued under this Order, it shall give to the person to whom the licence was issued or to whom the permission was given, notice in writing of the revocation and the notice shall —

   (a) state that an appeal may be brought to the High Court against the revocation and specify the period within which such appeal may be taken;
(b) state the reason for the revocation; and

(c) in case the power conferred by paragraph 3 is exercised in relation to the revocation, also state that such power has been exercised and specify the reason for such exercise.

5. (1) Where a licence or permission issued or given under this Order is revoked by the Authority, the holder of the licence or the person to whom the permission was given may, within the period of 21 days beginning on the date of the notice under paragraph 4 appeal to the High Court against the revocation.

(2) Where an appeal is made to the High Court under this paragraph, it may confirm, modify or set aside the decision of the Authority to which the appeal relates.

6. Where the Authority revokes a licence or permission issued or given under this Order, subject to paragraph 3 the revocation shall have effect —

(a) in case no appeal is made under this paragraph as regards it, on the expiration of the period during such an appeal may be made;

(b) in case such an appeal is taken and is disallowed, on the determination of the appeal; or

(c) in case such an appeal is made but is withdrawn, on the withdrawal.

SECOND SCHEDULE (Sections 28 and 29)

Investigations etc.

Part 1

Investigations under section 28 — Supplementary provisions

1. (1) Subject to sub-paragraph (4), an inspector may determine the manner in which an investigation held by him pursuant to section 28 is conducted.

(2) Subject to sub-paragraphs (4) and (5), where such an investigation is being conducted, it shall be the duty —

(a) of any person to whom this paragraph applies to attend before the inspector concerned when required by him to do so and to answer truthfully and to the best of his ability any questions which may be put to him by the inspector and which are relevant to the investigation; and

(b) of every person who has in his possession or under his control any record, book, account, certificate or other document of title or any other document relating to a matter which is the subject of the investigation to produce to the
inspector concerned such of those documents as the inspector may specify (whether by name or by reference to a particular class of description).

(3) Sub-paragraph (2) applies to —

(a) every manager, administrator, trustee, custodian, director, employee, or agent of a registered fund or former registered fund whose affairs, business or property is or are being investigated by virtue of section 28(1)(a);

(b) any other person whose affairs, business or property is or are being investigated by virtue of section 28(1)(b); and

(c) every employee or agent of a person referred to in paragraph (b) and, where such a person is a body corporate, every director of that body.

(4) An inspector may not require the disclosure by an advocate and solicitor or by any legal practitioner in professional practice in a jurisdiction outside Brunei Darussalam of any privileged communication, whether oral or written, made to or by him in his professional capacity.

(5) For the purpose of determining whether a communication made to or by a legal practitioner in professional practice in a jurisdiction outside Brunei Darussalam is protected by sub-paragraph (4), the communication shall be treated as having been made to or by an advocate and solicitor practising in Brunei Darussalam.

(6) Anything said by any person in answer to a question put by an inspector pursuant to sub-paragraph (2) shall be inadmissible in any legal proceedings other than criminal proceedings brought under this Order.

2. Any person who —

(1) without reasonable excuse fails to produce anything which it is his duty to produce under paragraph 1;

(2) without reasonable excuse fails to attend before an inspector when required to do so under that paragraph; or

(3) fails to answer to the best of his ability any question which is duly put to him by an inspector pursuant to that paragraph,

shall be guilty of an offence and liable on conviction to a fine not exceeding $10,000 and to imprisonment for a term not exceeding 3 years.

3. (1) The reference in paragraph 1(3) to a manager, administrator, trustee, custodian, director, employee or agent of a registered fund or former registered fund includes a reference to a person who was but no longer is such a manager, administrator, trustee, custodian, director, employee or agent.
(2) In this Part, "agent", in relation to a registered fund or former registered fund whose affairs, business or property is or are investigated pursuant to section 28, includes any person who either is for the time being, or was at any material time, its banker, auditor, advocate and solicitor or other professional adviser.

(3) Any reference in paragraph 1(3)(c) to a body corporate includes a reference to a body corporate incorporated, established or otherwise constituted outside Brunei Darussalam.

Part 2

Direction under section 29 — Authority’s consequential powers

4. (1) Where a direction under section 29 is for the time being in force, the Authority may, as regards the registered fund to which the direction relates, exercise such one or more of the following powers as may appear to the Authority to be necessary —

(a) by notice in writing require the manager of the fund forthwith to take any action or to do any act or thing whatsoever in relation to the fund’s affairs, business or property (including a requirement imposing specified restrictions on conducting the business of the fund) as the Authority considers necessary in the circumstances and specifies in the notice;

(b) by notice in writing require that, until the notice is withdrawn, the manager, trustee or custodian of the fund shall seek advice on the conduct and management of its affairs, business and property from an adviser appointed by the Authority ("an appointed adviser") and named in the notice;

(c) by notice in writing require that, until the notice is withdrawn, the conduct and management of all or such of the affairs, business and property of the fund as are specified in the notice shall be supervised by a person appointed for the purposes of this paragraph by the Authority ("an appointed supervisor") and named in the notice;

(d) by notice in writing remove forthwith from office the manager of the fund and require the fund’s trustee or custodian to nominate in writing, within a period specified in the notice, a person for appointment by the Authority to be the fund’s manager instead (which appointment the Authority is hereby authorised to make);

(e) attach additional conditions to the fund's mutual fund licence or permission or revoke or vary any conditions already so attached;

(f) subject to the First Schedule, revoke the licence or permission mentioned in sub-paragraph (e),
and for the avoidance of doubt, if the Authority may appoint, as an appointed adviser or an appointed supervisor, a company, a partnership or two or more individuals.

(2) The Authority shall not give notice under sub-paragraph (1)(b) or (c) in respect of a registered fund in relation to which the High Court has made a winding-up order.

(3) The Authority may vary a notice given under sub-paragraph (1)(c) as regards the affairs, business or property specified in the notice, but the variation of such a notice shall not affect the validity of anything done before the variation.

(4) Where a notice given under sub-paragraph (1)(c) (whether varied or not) relates to a registered fund which is incorporated or otherwise established outside Brunei Darussalam, the notice shall only apply to —

(a) so much of the affairs and business of the fund as are carried on, or managed or administered, in or from Brunei Darussalam; and

(b) so much of the fund’s property as is located in, or managed from, Brunei Darussalam; or is an asset of the fund’s principal or other place of business in Brunei Darussalam.

(5) If a trustee or custodian fails to comply with the requirements of a notice under sub-paragraph (1)(d), the Authority may appoint a person to fill the office in question without regard to the trustee or custodian.

(6) The remuneration and reasonable expenses of an appointed adviser or an appointed supervisor shall be paid out of moneys at the disposal of the registered fund.

(7) A person who fails to comply with a notice under sub-paragraph (1)(a) or (b) shall be guilty of an offence and liable on conviction to a fine not exceeding $100,000 and to imprisonment for a term not exceeding one year.

Made this 5th. day of Syawal, 1421 Hijriah corresponding to the 1st. day of January, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
MUTUAL FUNDS ORDER, 2001

NOTIFICATION UNDER SECTION 1(1)

In exercise of the power conferred by section 1(1), the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby appoints the 1st. January, 2001 as the date on which the Mutual Funds Order, 2001 shall commence.

Dated this 24th. day of Syawal, 1421 Hijriah corresponding to the 20th. day of January, 2001.

DATO PADUKA HAJI YAKUB BIN ABU BAKAR
Permanent Secretary,
Ministry of Finance,
Brunei Darussalam.
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

PHARMACISTS REGISTRATION ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

1. Citation, commencement and long title.
2. Interpretation.
3. Establishment and constitution of Board.
4. Meetings of Board.
5. Registrar of Pharmacists.
6. Register of pharmacists.
7. Persons eligible for registration.
8. Application for registration.
10. Restriction on use of certain titles.
11. Entry of higher qualifications.
12. Publication of register and presumptions.
15. Annual certificate.
16. Removal of name from register.
17. Powers of Board to cancel annual certificate and remove name from register.
18. Restoration.
19. Appeal against removal from register or refusal to register.
20. Appointment and powers of Inspectors.


22. Amendment of Schedule.

23. Fraudulent registration.

24. Offences.

25. Rules.

**SCHEDULE — Fees**
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

PHARMACISTS REGISTRATION ORDER, 2001

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

Citation, commencement and long title.

1. (1) This Order may be cited as the Pharmacists Registration Order, 2001 and shall commence on a date to be appointed by the Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan by notification in the Gazette.

(2) The long title of this Order is "An Order to provide for the registration of pharmacists and for purposes connected therewith".

Interpretation.

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

"annual certificate" means the certificate referred to in subsection (1) of section 15;

"Board" means the Pharmacy Board established under section 3;

"Chairman" means the person appointed as Chairman of the Board;

"Minister" means the Minister of Health;

"register" means the register of pharmacists maintained in pursuance of section 6;

"registered pharmacist" means a person whose name has been registered in the register;

"Registrar" means the Registrar of Pharmacists referred to in section 5.

Establishment and constitution of Board.

3. (1) For the purposes of this Order, there is hereby established a Pharmacy Board which shall consist of —
(a) the Director of Pharmaceutical Services ex officio, who shall be the Chairman;

(b) not less than 4 other members to be appointed by the Minister, being persons eligible to apply for registration under this Order, at least one of whom shall be in private service.

(2) The period of appointment of members, other than the Chairman, shall be 3 years, but such members shall be eligible for re-appointment.

(3) Notwithstanding subsection (2), the Minister may, at any time, in his discretion, suspend or terminate the appointment of any member of the Board, other than the Chairman, and may appoint another person in his place or in the place of any member who retires, dies, vacates his office, or who, for the time being, is unable to act or who is absent from 3 consecutive meetings of the Board without such excuse as may seem reasonable to the Minister; and every person so appointed shall hold office for the residue of the term for which his predecessor was appointed.

(4) All acts done by the Board shall, notwithstanding any vacancy in the Board or that it is afterwards discovered that there was a defect in the appointment of any person purporting to be a member thereof, be valid as if no such vacancy or defect had existed.

Meetings of Board.

4. (1) In the absence of the Chairman from any meeting of the Board, the members present shall elect from amongst themselves a person to be the chairman for that meeting.

(2) The chairman of a meeting shall have an original vote and also a casting vote.

(3) The Board shall meet at such places and times as the Chairman may appoint, and at a meeting 3 members shall form a quorum.

(4) No business shall be transacted at a meeting unless a quorum is present.

(5) Subject to the provisions of this Order, the Board may determine its own procedure.

(6) The Board shall cause proper records of its proceedings to be kept.

Registrar of Pharmacists.

5. The Director of Pharmaceutical Services shall be the Registrar of Pharmacists, who shall be responsible for the maintenance and custody of the register and the performance of such other duties in connection therewith as may be necessary.
Register of pharmacists.

6. For the purposes of this Order, a register of pharmacists shall be in such form as the Board may determine and shall contain the names and addresses, and such other particulars, if any, as the Board may determine, of all persons who are registered therein.

Persons eligible for registration.

7. Subject to this Order, the following persons shall be entitled to be registered under this Order —

   (a) any person employed as a pharmacist by the Government at the date of commencement of this Order;

   (b) any other person who holds any qualification granted in respect of pharmacy —

      (i) which is recognised as entitling him to register with the Royal Pharmaceutical Society of Great Britain or who is the holder of such other qualification in pharmacy as the Board may declare, by notification in the Gazette, to be an approved qualification for the purpose of this section;

      (ii) who has complied with such conditions as the Board may determine; and

      (iii) who has satisfied the Board at an examination in forensic pharmacy that he is eligible to be registered under this Order.

Application for registration.

8. (1) Any person eligible for registration under this Order may apply to the Board for registration. Every such application shall be made in such form and manner and accompanied by such documents, photographs and particulars, as the Board may determine.

   (2) When such person has complied with the requirements of subsection (1) and has paid the fee as prescribed in the Schedule, the Chairman shall, subject to subsection (2) of section 9, enter his name in the register.

   (3) The Board may refuse to enter in the register the name of any person who, in the opinion of the Board —

      (a) is not of good character and reputation; or

      (b) is unable to carry out the duties of a pharmacist effectively in Brunei Darussalam.

   (4) No person shall be registered unless he has attained the age of 21 years.
Issue of certificates of registration.

9. (1) Where a person has had his name entered in the register pursuant to subsection (2) of section 8, the Board shall issue to him a certificate of registration in such form as it may determine.

(2) Where a person has had his name entered in the register subject to any restrictions and conditions, such restrictions and conditions shall be endorsed on his certificate of registration and the certificate so endorsed shall have effect subject to such restrictions and conditions.

(3) In respect of the year in which the certificate of registration is issued, that certificate shall be deemed to be the annual certificate issued under section 15 and the provisions of this Order relating to annual certificates shall apply to it.

Restriction on use of certain titles.

10. (1) No person shall, unless he is registered, take or use the name or title of pharmaceutical chemist, pharmaceutist, druggist, chemist, pharmacist, apothecary or any other word in any language having the same or similar meaning or being to the like intent, or take or use in connection with the sale of goods by retail the name or title of dispensing chemist or any other name, title, emblem or description implying that he or any person employed by him is registered or that he or such other person is entitled to be registered.

(2) A person who acts in contravention of subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding $1,000 and to a further fine of $100 for every day during which the offence continues after conviction.

Entry of higher qualifications.

11. Every person registered under this Order who has obtained any higher pharmaceutical qualification than the qualification in respect of which he has been registered shall be entitled to have such higher qualification inserted in the register in substitution for or in addition to the qualification previously registered, without payment of any further fee.

Publication of register and presumptions.

12. (1) The Registrar shall publish in the Gazette, as soon as practicable after 1st January of each year and on such other occasions as he may consider necessary, a list containing the names, addresses, qualifications and dates of qualifications of all registered pharmacists.

(2) In any proceedings —

(a) the publication of a list under subsection (1) shall be prima facie evidence that the persons whose names appear therein are registered pharmacists;
(b) an annual certificate issued in pursuance of section 15 shall be admissible as prima facie evidence that the person named therein as a registered pharmacist is a registered pharmacist; and

(c) a certificate under the hand of the Registrar that the name of a person has been entered or removed from the register shall be conclusive evidence that the person is or is not registered under this Order, as the case may be.

Changes of particulars in register.

13. The Registrar shall insert in the register any change which may come to his knowledge in the name, address or other particulars of any registered pharmacist.

Retention of name in register.

14. (1) Every registered pharmacist who desires to be retained on the register shall, before the 30th November of the preceding year and on payment of the fee as prescribed in the Schedule, make application in such form as the Board may determine for such retention.

(2) A registered pharmacist who makes an application and payment pursuant to subsection (1) shall have his name retained in the register.

(3) A person who fails to make an application pursuant to subsection (1) but who subsequently does so and pays the prescribed fee referred to in that subsection and such additional fee, if any, as may be prescribed in the Schedule shall, subject to section 17, be entitled to have his name retained in the register during that year.

Annual certificate.

15. (1) Upon making an application and on payment of the prescribed fee pursuant to section 14, the applicant shall, subject to this Order, be entitled to a certificate certifying that he is registered under this Order.

(2) The annual certificate shall be in such form as the Board may determine.

(3) Subject to subsection (4), the annual certificate shall be issued by the Registrar and shall be in force from the date of issue to the end of the year.

(4) If the name of a person, to whom an annual certificate has been issued under this section, is removed from the register under section 16 or 17, the annual certificate shall cease to be valid.
Removal of name from register.

16. (1) The Registrar shall remove from the register the name and other particulars of a registered pharmacist who —

(a) has died;

(b) has failed to make an application for the retention of his name on the register before the expiry of the year in which the name is —

(i) registered under subsection (2) of section 8;

(ii) retained in the register under subsection (2) of section 14; or

(iii) restored to the register under subsection (1) of section 18;

(c) has failed to notify the Registrar of a change in his business address or has not supplied to him an address in Brunei Darussalam at which he can be found; or

(d) has been registered through an error as to his qualification for registration.

(2) For the purposes of paragraph (c) of subsection (1), a person failing to acknowledge within 3 months of the date of despatch, the receipt of a registered letter addressed to him at the last address supplied by him to the Chairman, shall be deemed not to have supplied the Registrar with an address under that subsection.

Powers of Board to cancel annual certificate and remove name from register.

17. (1) Subject to this section, the Board may direct that an annual certificate be cancelled and the name and other particulars of a registered pharmacist be removed from the register if —

(a) he has been convicted of an offence involving fraud or dishonesty;

(b) he has been convicted of an offence under this Order;

(c) his registration has been obtained by fraud or misrepresentation;

(d) his qualification for registration under section 7 has been withdrawn or cancelled by the authority through which it was acquired or by which it was awarded;
(e) he has been found guilty of an improper act or conduct as, after due inquiry by the Board, renders him, in the opinion of the Board, unfit to be a pharmacist; or

(f) it appears to the Board that he is unable to carry out the duties of a pharmacist effectively in Brunei Darussalam.

(2) No direction shall be given under subsection (1) unless the Board has given the registered pharmacist to whom the direction relates an opportunity of being heard either personally or by counsel.

(3) A direction under subsection (1) shall not take effect until the expiration of one month from the date on which the direction has been communicated to the registered pharmacist to whom the direction relates or, where an appeal against the direction has been made to the Minister under section 19, until the appeal has been determined or withdrawn.

(4) Where a direction under subsection (1) takes effect, the Registrar shall make such alteration in the register as is necessary to give effect to the direction.

Restoration.

18. (1) Where the name of a person has been removed from the register under paragraph (c) of subsection (1) of section 16, the Board shall on receipt of the required information, restore the name to the register upon application in such form as the Board may determine and on payment of the fee as prescribed in the Schedule.

(2) Where a name removed from the register under paragraph (b) or (c) of subsection (1) of section 16 has been restored, such restoration shall, if the Board so directs, have effect from the date of the removal of the name.

Appeal against removal from register or refusal to register.

19. Any person aggrieved by the removal of his name from the register, or by any refusal or failure to enter his name in the register, or by any refusal to issue to him an annual certificate, or by the cancellation of his annual certificate, may appeal to the Minister whose decision shall be final.

Appointment and powers of Inspectors.

20. (1) The Minister may appoint such number of persons to be Inspectors as he may consider necessary for the purposes of this Order.

(2) When an Inspector has reasonable cause to believe that any offence under this Order has been or is being committed on any premises or in connection with any business carried on in any premises, he may, at all reasonable times, enter upon such premises and
may search and examine such premises and may inspect, remove and detain any books, documents or other articles found therein which in the opinion of such Inspector may furnish evidence of the commission of an offence against this Order and may require any person conducting or managing any business of keeping, retailing, dispensing or compounding any poison, any substance or product specified in the First Schedule to the Misuse of Drugs Act (Chapter 27) or any other therapeutic substance to produce for his inspection any certificate issued to such person or his employer under this Order.

(3) Any person who obstructs or impedes an Inspector in the performance of his duties under this Order is guilty of an offence.

Exemption.

21. A registered pharmacist in public office shall be exempted from payment of any fee as prescribed pursuant to this Order.

Amendment of Schedule.

22. The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may by order published in the Gazette amend the Schedule.

Fraudulent registration.

23. A person who, in an application for registration under this Order, makes, produces or causes to be made or produced, any false or fraudulent representation, certificate or declaration, either verbally or in writing, and any person who knowingly aids or assists therein is guilty of an offence and liable on conviction to a fine not exceeding $1,000, imprisonment for a term not exceeding one year or both.

Offences.

24. Any person who contravenes or fails to comply with any provision of this Order or any rule made thereunder for which no special penalty is provided is guilty of an offence and liable on conviction to a fine not exceeding $1,000, imprisonment for a term not exceeding one year or both.

Rules.

25. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules to carry out generally the objects and purposes of this Order.
SCHEDULE sections 8, 14 and 18

Fees

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration fee</td>
<td>$200</td>
</tr>
<tr>
<td>Retention fee</td>
<td>$100</td>
</tr>
<tr>
<td>Restoration fee</td>
<td>$150</td>
</tr>
</tbody>
</table>

Made this 21st. day of Zulkaedah, 1421 Hijriah corresponding to the 15th. day of February, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
Pursuant to section 12(2) of the Currency Act (Chapter 32), it is hereby notified for general information that the denominations and characteristics of the Silver (ingot) Proof and Cupronikel Proof coins to be issued by Brunei Currency Board on 19th. February, 2001 are as shown hereunder —

**PROOF COINS**

<table>
<thead>
<tr>
<th>DENOMINATION</th>
<th>COMPOSITION</th>
<th>WEIGHT</th>
<th>DIAMETER</th>
<th>THICKNESS</th>
<th>DESIGN OF OBVERSE</th>
<th>DESIGN OF REVERSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>$20</td>
<td>Silver 999</td>
<td>62.20 gm</td>
<td>65 mm X 31 mm</td>
<td>3.00 mm</td>
<td>The portrait of His Majesty The Sultan Haji Hassanal Bolkiah Mu’izzaddin Waddaulah Sultan and Yang Di-Pertuan of Brunei Darussalam. Negara Brunei Darussalam’s APEC 2000 Logo.</td>
<td>APEC Logo</td>
</tr>
<tr>
<td>$2</td>
<td>Cupronickel</td>
<td>9.80 gm</td>
<td>27.30 mm</td>
<td>1.90 mm</td>
<td>The portrait of His Majesty The Sultan Haji Hassanal Bolkiah Mu’izzaddin Waddaulah Sultan and Yang Di-Pertuan of Brunei Darussalam. Negara Brunei Darussalam’s APEC 2000 Logo.</td>
<td>Negara Brunei Darussalam’s APEC 2000 Logo</td>
</tr>
</tbody>
</table>

Date: 19th. February, 2001

DATO SERI PADUKA AWANG HAJI SELAMAT BIN HAJI MUNAP
for Chairman,
Brunei Currency Board.
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

SECURITIES ORDER, 2001

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Citation, commencement and long title.
2. Interpretation.
3. Associated persons.
4. Interest in securities.

PART II

EXCHANGES

5. Licensing, establishment etc. of markets.
6. Power of Minister to establish exchanges.
10. Dealing in securities.
11. Register of members.
12. Minister and Authority to be notified of amendment to rules and power of Authority to amend rules.
13. Exchange to provide assistance to the Authority.
14. Power to give directions concerning the observance or enforcement of rules or listing requirements of an exchange.

15. Power of the Authority to issue directives to an exchange.

PART III

LICENCES


17. Dealer's representative's licence.

18. Investment adviser's licence.

19. Investment representative's licence.

20. Application for licence or renewal.

21. Authority to grant and renew dealer's licence in certain circumstances.

22. Authority to grant or renew investment adviser's licence in certain circumstances.

23. Authority to grant or renew representative's licence in certain circumstances.

24. Power of Authority to enquire into share transactions.

25. Power of Authority to impose conditions or restrictions.

26. False statements.

27. Deposit to be lodged in respect of dealer's licence.

28. Period of licence.

29. Notification of change in particulars.

30. Register of licence holders.

31. Power of Authority to revoke or suspend licence etc.

32. Appeals.
PART IV

RECORDS

33. Application of this Part.

34. Register of securities.

35. Notice of particulars to Authority.

36. Defence to prosecution.

37. Production of register.

38. Particulars of financial journalists.

39. Authority may supply copy of the extract of register.

PART V

CONDUCT OF SECURITIES BUSINESS

40. Certain representations prohibited.

41. Issue of contract notes.

42. Certain persons to disclose certain interests in securities.

43. Dealings as principal.

44. Short selling.

PART VI

ACCOUNTS AND AUDIT

45. Application of this Part.

46. Accounts to be kept by dealers.

47. Certain monies received by dealers to be paid into a trust account.

48. Purposes for which monies may be withdrawn from trust account.

49. Monies in trust accounts not available for payment of debts etc.
50. Claims and liens not effected.

51. Dealer to appoint auditor.

52. Dealer to lodge auditor's report.

53. Auditor to send report to exchange in certain cases.

54. Reports of auditor to be forwarded to exchange in certain cases.

55. Power of Authority to appoint independent auditor etc.

56. Power of Authority to appoint independent auditor etc. upon application of client.

57. Independent auditor etc. to report to Authority.

58. Powers of independent auditor etc.

59. Prohibition against communication of certain matters by independent auditors etc. and employees.

60. Books, accounts and records to be produced upon demand.

61. Penalty for destroying, concealing or altering records or sending records or other property out of Brunei Darussalam.

62. Rights of committee to impose obligations etc. on members not affected by this Part.

PART VII

FIDELITY FUNDS

63. Establishment of fidelity fund.

64. Power of committee to enter into contract of insurance.

65. Application of insurance monies.

PART VIII

TRADING IN SECURITIES

66. False trading and market-rigging transactions.

67. Stock market manipulations.
68. False or misleading statements etc.
69. Fraudulently inducing persons to deal in securities.
70. Use of manipulative and deceptive devices.
71. Dissemination of information about illegal transactions.
72. Dealings by officers in securities.
73. Prohibition on abuse of information obtained in official capacity.
74. Penalty.
75. Dealer to give priority to client's order.
76. Dealings by employees of holders of licences.

PART IX
ENFORCEMENT AND INVESTIGATION

77. Interpretation and application of this Part.
78. Inspection of books and records of licensee and others.
79. Power of Authority to require production of books.
80. Offences.
81. Privileges.
82. Disclosure to the Authority.
83. Investigation of certain matters, assistance to designated supervisory authority.
84. Power of court to make certain orders.

PART X
GENERAL

85. Restrictions on use of title "broker", "stockbroker" or "dealer".
86. Copy of an entry in the dealer's record as *prima facie* evidence of such entry.
87. Offences by bodies of persons and by employees and agents.

88. General penalty.

89. Compounding of offences.

90. Convicted persons liable to pay compensation.

91. Prosecution of offences.

92. Indemnity.

93. Regulations.

94. Saving.
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

SECURITIES ORDER, 2001

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

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Securities Order, 2001 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the Gazette.

(2) The long title of this Order is "An Order to make provision with respect to financial exchanges, dealers and other persons providing advice in respect of, managing or dealing in securities, for certain offences relating to securities, and for other purposes connected therewith".

Interpretation.

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

"agent", in relation to a dealer, includes a person who is or has at any time been a banker of the dealer;

"auditor" means an approved auditor within the meaning of the International Business Companies Order, 2000 (S 56/2000);

"Authority" means such person or persons as is appointed to be the Authority by His Majesty the Sultan and Yang Di-Pertuan for the purposes of this Order;

"body corporate" means a body corporate wherever incorporated, registered or established;

"business", in relation to a dealer, means the business of dealing in securities;

"committee", in relation to an exchange, means the persons in whom the management of an exchange is vested;

"communication" includes electronic or similar communication or messages;
"dealer" includes a person who carries on the business of dealing in securities conducted between a buyer and a seller in a market, or who makes a market, on his own account and as an agent, or as an agent only, whether or not he carries on any other business, but does not include an exempt dealer;

"dealer's representative" means a person, by whatever name described, in the direct employment of, or acting for, or by arrangement with, a dealer, not being an exempt dealer, who performs for that dealer any of the functions of a dealer, other than work ordinarily performed by an accountant, clerk or cashier, whether his remuneration is by way of salary, wages, commission or otherwise; and, where the dealer is a body corporate, includes any director, member or officer of the body corporate who performs for the dealer any of these functions, whether or not his remuneration is as aforesaid;

"dealing in securities" means, whether as principal or agent, making or offering to make to any person, or inducing or attempting to induce any person to enter into or to offer to enter into —

(a) any agreement for or with a view to acquiring, disposing of, subscribing for, or underwriting securities; or

(b) any agreement the purpose or avowed purpose of which is to secure a profit or avoid a loss to any of the parties from the yield of securities or by reference to fluctuations in the value of securities;

"director" has the same meaning as in the International Business Companies Order, 2000 (S 56/2000);

"exchange" means, where the context so admits, an exchange licensed or established by the Minister pursuant to section 6;

"executive officer" means an officer who takes part in the management of a company;

"exempt dealer" means —

(a) a person who carries on the business of dealing in securities only for his own account;

(b) insofar as a mutual fund is concerned, any person holding an operator's authorisation within the meaning of section 6(2) of the Mutual Funds Order, 2001 dealing in securities associated with a mutual fund approved under the Mutual Funds Order, 2001;

(c) any public corporation or other public person or body constituted in Brunei Darussalam under any written law; or
such other person or class of persons as the Minister may declare to be an exempt dealer if the main business carried on by such person or class of persons is a business other than the dealing in securities, and if the dealing in securities is effected —

(i) by way of making or offering to make with any person an agreement for or with a view to the underwriting of securities;

(ii) by way of making an invitation to persons to subscribe for securities or to purchase securities on the first sale thereof;

(iii) by way of issuing any document which is or is deemed to be a prospectus within the meaning of the Companies Act, (Chapter 39), the International Business Companies Order, 2000 (S 56/2000), the International Limited Partnerships Order, 2000 (S 45/2000) or the Mutual Funds Order, 2001; or

(iv) by such other way as the Minister may from time to time provide in writing;

"investment adviser" includes a person who in or from within Brunei Darussalam carries on the business of advising others concerning securities or of investment or portfolio management or who as part of a regular business issues or promulgates analyses or reports concerning securities, but the expression does not include —

(a) a licensed bank as defined in the Banking Act (Chapter 95);

(b) an Islamic bank as defined in the Islamic Banking Act, (Chapter 168);

(c) a bank appropriately licensed under the International Banking Order, 2000 (S 53/2000);

(d) a company or society registered or licensed under any written law relating to the regulation of insurance;

(e) a company appropriately licensed under the Registered Agents and Trustees Licensing Order, 2000 (S 54/2000);

(f) a dealer or exempt dealer whose carrying on of that business is solely incidental to the conduct of his business of dealing in securities;

(g) a person who is the proprietor of a local newspaper registered under the Local Newspapers Act (Chapter 105) or the holder of a broadcasting licence granted under the Broadcasting Act (Chapter 180) where —

(i) that person receives no commission or other consideration for issuing or promulgating analyses or reports; and
(ii) the advice is given and the analyses and reports are issued or promulgated solely as incidental to the conduct of that person's business aforesaid;

"investment representative" means a person, by whatever name described, in the direct employment of, or acting for, or by arrangement with, an investment adviser, not being a dealer or exempt dealer, who performs for that investment adviser any of the functions of an investment adviser, other than work ordinarily performed by an accountant, clerk or cashier, whether his remuneration is by way of salary, wages, commission or otherwise; and, where the investment adviser is a body corporate, includes any director, member or officer of the body corporate who is not the holder of an investment adviser's licence and who performs for such body corporate any of those functions, whether or not his remuneration is as aforesaid;

"licence" means —

(a) a dealer's licence;

(b) an investment adviser's licence; or

(c) a representative's licence,

under Part III;

"listing requirements", in relation to a person or body which maintains or provides, or proposes to maintain or provide, an exchange, means the rules governing or relating to —

(a) the admission to the official list of any such person or body corporate, government, unincorporated body or any other person for the purpose of the quotation (whether price-driven, order-driven or otherwise) or information to be made available in relation to securities on or by the exchange, or made available by a body corporate, government, unincorporated body or any other person or the removal from that official list and for other purposes; or

(b) the constitution, activities or conduct of any body corporate, government, unincorporated body and any other person admitted to that list,

whether those rules —

(i) are made by the body corporate or are contained in any of the constituent documents of the body; or

(ii) are made by another person and adopted by the body corporate;
"market" means any financial market or other place at which, or a facility by means of which —

(a) offers to sell, purchases or exchanges of securities are regularly made or accepted;

(b) offers or invitations that are intended, or may reasonably be expected, to result, whether directly or indirectly, in the making or acceptance of offers to sell, purchase or exchange securities, are regularly made;

(c) information concerning the prices at which or the consideration for which, particular persons, or particular class of persons, propose, or may reasonably be expected to sell, purchase or exchange securities is regularly provided;

"member" means a person who carries on the business of dealing in securities and is recognised as a member by an exchange;

"Minister" means the Minister of Finance;

"mutual funds" shall have the same meaning as is ascribed thereto in the Mutual Funds Order, 2001;

"officer", in relation to a body corporate includes —

(a) any director, secretary or employee of the body corporate;

(b) a receiver and manager of any part of the undertaking of the body corporate appointed under a power contained in any instrument; and

(c) any liquidator of a company appointed in a voluntary winding-up, but does not include —

(i) any receiver who is not also a manager;

(ii) any receiver and manager appointed by the Court; and

(iii) any liquidator appointed by the Court or by the creditors;

"Registrar" means the Registrar of Companies appointed under the Companies Act (Chapter 39) and, where the context so requires, means the Registrar of International Business Companies or the Registrar of International Limited Partnerships, and includes any other officer who has been authorised to act on behalf of the Registrar, the Registrar of International Business Companies or the Registrar of International Limited Partnerships;

"relevant authority" means —
(a) in relation to a member which is a body corporate, the exchange by which the body corporate is recognised; and

(b) in relation to any other person, (or in the absence of such an exchange), the Authority;

"representative" means a dealer's representative or an investment adviser's representative;

"rules", in relation to a market, means the rules governing the conduct of that market or the members thereof by whatever name called and wherever contained and includes rules contained in constituent documents of the market;

"securities" includes debentures, stocks and shares in a public company or corporation, bonds, depositary receipts, financial instruments, loan stock, bills, notes or other debt instrument of any government or of any body, whether corporate or unincorporate, and includes any right or option in respect thereof and any interest in mutual funds, futures contracts and any medium of investment in a market and without limitation includes instruments derived from direct dealings in securities, currencies and commodities, and any renewal or variation of any securities;

"trust account" means a trust account established under section 47.

(2) The Minister may, subject to any terms and conditions he sees fit to impose in any particular case, make written provision that all or any of the provisions of this Order —

(a) shall not have effect in relation to any specified person or to any person who is a member of a specified class of persons;

(b) shall not have effect in relation to the representative of any persons referred to in paragraph (a); or

(c) shall have effect in relation to any person referred to in paragraph (a) or (b) to such extent and subject to such terms and conditions as are determined by the Minister pursuant to this subsection.

Associated persons.

3. (1) A reference in this Order to a person associated with another person shall be construed as a reference to —

(a) where that other person is a body corporate —

(i) a director or secretary of the body corporate;

(ii) a body corporate that is related to that other person; and
(iii) a director or secretary of such a related body corporate;

(b) where the matter to which the reference relates is the extent of a power to exercise, or to control the exercise of, the voting power attached to voting shares in a body corporate, a person with whom the other person has, or proposes to enter into, an agreement, arrangement, understanding or undertaking, whether formal or informal and whether express or implied —

(i) by reason of which either of those persons may exercise, directly or indirectly, control the exercise of, or substantially influence the exercise of, any voting power attached to a share in that body corporate;

(ii) with a view to controlling or influencing the composition of the board of directors, or the conduct of affairs, of the body corporate; or

(iii) under which either of those persons may acquire from the other of them shares in the body corporate or may be required to dispose of such shares in accordance with the directions of the other of them;

(c) any person in concert with whom the other person is acting, or proposes to act, in relation to the matter to which the reference relates;

(d) where the matter to which the reference relates is a matter other than the extent of a power to exercise, or to control the exercise of, the voting power attached to voting shares in a body corporate —

(i) a trustee of a trust in relation to which the other person benefits or is capable of benefiting otherwise than by reason of transactions entered into in the ordinary course of business in connection with the lending of money;

(ii) a person who is a director of a body corporate that carries on a business of dealing in securities and of which the other person is also a director; or

(iii) subject to subsection (2), a person who is a director of a body corporate of which the other person is a director, not being a body corporate that carries on a business of dealing in securities;

(e) a person with whom that other person is, by virtue of any regulation that may be introduced, to be regarded as associated in respect of the matter to which the reference relates;

(f) a person with whom that other person is, or proposes to become, associated, whether formally or informally, in any other way in respect of the matter to which the reference relates; or
(g) where that other person has entered into, or proposes to enter into, a transaction, or has done, or proposes to do, any other act or thing, with a view to becoming associated with any person mentioned in any of the preceding paragraphs, that last-mentioned person.

(2) Where, in proceedings under this Order, it is alleged that a person referred to in sub-paragraph (iii) of paragraph (d) of subsection (1) was associated with another person at a particular time, that person shall be deemed not to have been so associated in relation to a matter to which the proceedings relate unless the person alleging the association proves that the first-mentioned person at that time knew or ought reasonably to have known the material particulars of that matter.

(3) A person shall not be taken to be associated with another person by virtue of paragraph (b), (c), (e) or (f) of subsection (1) by reason only that one of those persons furnishes advice to, or acts on behalf of, the other person in a professional capacity.

(4) For the purposes of sub-paragraph (ii) of paragraph (a) of subsection (1), a body corporate is related to another person, being a body corporate, if that first-mentioned body corporate is controlled by or is a subsidiary of —

(a) that other body corporate;

(b) that other body corporate and one or more bodies corporate each of which is controlled by or is a subsidiary of that other body corporate; or

(c) 2 or more bodies corporate each of which is controlled by or is a subsidiary of that other body corporate.

Interest in securities.

4. (1) Where any property held in trust consists of or includes securities in which a person knows or has reasonable grounds for believing that he has an interest, he shall be deemed for the purposes of this Order to have an interest in those securities.

(2) A right does not constitute an interest in a security where —

(a) a right, being a right or an interest of the nature of ownership or a share in ownership, was issued or offered to the public for subscription or purchase;

(b) the public was invited to subscribe for or purchase such a right, and the right was so subscribed for or purchased; or

(c) such a right is held by a management or underwriting company and was issued for the purpose of an offer to the public within the meaning of the Companies Act (Chapter 39) or the International Business Companies Order, 2000 (S 56/2000).
(3) A person shall be deemed to have an interest in a security where a body corporate has an interest in a security and —

(a) the body corporate is, or its directors are accustomed or are under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person in relation to that security;

(b) that person has a controlling interest in the body corporate; or

(c) that person, or the associates of that person, or that person and the associates of that person hold not less than 25% of the votes attached to the voting shares in the body corporate.

(4) For the purposes of paragraph (c) of subsection (3), a person is an associate of another person if that first-mentioned person is —

(a) a body corporate which, by virtue of any written law is deemed to be related to that other person, or a parent, subsidiary, related or associated company;

(b) a person in accordance with whose directions, instructions or wishes that other person is accustomed or is under an obligation, whether formal or informal, to act in relation to the security;

(c) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that other person in relation to the security;

(d) a body corporate which is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that other person in relation to the security; or

(e) a body corporate in accordance with the directions, instructions or wishes of which, or the directors of which, that other person is accustomed or under an obligation, whether formal or informal, to act in relation to the security.

(5) A person shall be deemed to have an interest in any one or more of the following circumstances where he —

(a) has entered into a contract to purchase a security;

(b) has the right, otherwise than by reason of having an interest under a trust, to have a security transferred to himself or to his order, whether the right is exercisable presently or in the future and whether on the fulfilment of any condition or not;
(c) has the right to acquire a security or an interest in a security, under an option, whether the right is exercisable presently or in the future and whether on the fulfilment of any condition or not; or

(d) is entitled, otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of members of a body corporate or of a class of its members, to exercise or to control the exercise of a right attached to a security, not being a security of which he is the registered holder.

(6) A person shall be deemed to have an interest in a security if that security is held jointly with another person.

(7) For the purpose of determining whether a person has an interest in a security, it is immaterial that the interest cannot be related to a particular security.

(8) Subject to subsection (9) there shall be disregarded —

(a) an interest in a security if the interest is that of a person who holds the security as bare trustee;

(b) an interest in a security of a person whose ordinary business includes the lending of money, if he holds the interest only by way of security for the purpose of a transaction entered into in the ordinary course of business in connection with the lending of money;

(c) an interest of a person in a security being an interest held by him by reason of his holding a prescribed office; and

(d) a prescribed interest in a security being an interest of such person, or of the persons included in such class of persons, as is prescribed.

(9) An interest in a security shall not be disregarded by reason of —

(a) its remoteness;

(b) the manner in which it arose; or

(c) the fact that the exercise of a right conferred by the interest is, or is capable of being made, subject to any restraint or restriction.
PART II

EXCHANGES

Licensing, establishment etc. of markets.

5. (1) A person shall not, except as permitted pursuant to this Order or any other written law, establish or maintain, or assist in establishing or maintaining or hold himself out as providing or maintaining a market that is not the market of an exchange.

(2) A person who contravenes or fails to comply with the provisions of subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding $1,000,000, imprisonment for a term not exceeding 10 years or both.

Power of Minister to establish exchanges.

6. (1) The Minister may licence, establish or cause to be established within Brunei Darussalam a body or bodies corporate to be exchanges.

(2) An application for a licence or for the renewal of a licence to establish or maintain an exchange shall be made to the Minister in the prescribed form and manner and shall be accompanied by such fee as may be prescribed.

By-laws of an exchange.

7. The Authority may, with the approval of the Minister, prescribe a code of conduct as may be expedient or necessary for the purpose of carrying out the provisions and matters connected with an exchange.

Rules of an exchange.

8. An exchange shall, with the approval of the Authority, make rules which provide for —

(a) the conditions of entry and admission into membership and for the regulation generally of the conduct of trading members in connection with the business of an exchange;

(b) the financial, accounting, record-keeping, disclosure and capital adequacy requirements applicable to trading members;

(c) the conditions under which securities may be listed for trading in a securities market to be operated by an exchange;

(d) the conditions governing dealings in securities by members;

(e) the class or classes of securities that may be dealt in by members or listed;
(f) confidentiality with respect to information relating to the affairs of an exchange and of any member in connection with the business of an exchange;

(g) the resolution of disputes arising out of or in connection with any exchange;

(h) the suspension of trading in and the de-listing of any security;

(i) the establishment and maintenance of a fidelity fund to be administered by a committee on behalf of an exchange and for the levying of contributions by members in order to meet such costs, claims and expenses as the committee may consider appropriate;

(j) the carrying on of the business of an exchange with due regard to the interests of the public;

(k) a fair and independent market for the listing and trading of securities;

(l) such other matters as an exchange considers necessary or desirable for its proper and efficient regulation, management and control.

Committee of an exchange.

9. The affairs of an exchange shall be managed by a committee consisting of not less than 5 individuals who possess relevant experience in financial, commercial or legal matters, of whom the chairman and one other person (who may in either case be public officers) shall be appointed by the Minister and the other members shall be appointed by the Authority or in such other manner as the Minister may direct.

Dealing in securities.

10. (1) No person other than a member of an exchange shall engage in or hold himself out as engaging in the business of dealing in securities on an exchange.

(2) Any person who contravenes this section is guilty of an offence and shall be liable on conviction to a fine not exceeding $200,000, imprisonment for a term not exceeding 5 years or both.

Register of members.

11. (1) The secretary shall keep a register of the trading members and shall enter therein the names and addresses of the trading members and the date upon which each was admitted and ceased to be a trading member.

(2) The register of trading members shall be made available for inspection at the registered office of an exchange during business hours.
(3) Any person may require a copy of the register or any part thereof on payment of such fee as may be prescribed.

(4) Any payment under subsection (3) shall be made to the exchange.

Minister and Authority to be notified of amendment to rules and power of Authority to amend rules.

12. (1) Where an amendment is made to the rules of an exchange, the committee of that exchange shall give written notice thereof to the Minister and the Authority.

(2) If a notice in accordance with the provisions of subsection (1) is not given within 21 days after an amendment has been made, that amendment shall cease to have force and effect.

(3) The Authority may, after consultation with the Minister within 21 days after receipt of the notice under subsection (1), give notice to the exchange that it disallows the whole or part of the amendment, and thereupon such whole or part shall cease to have force and effect.

(4) Notwithstanding the provisions of any other written law, the Authority may at any time, after consultation with the Minister, amend the rules of an exchange by written notice specifying the amendments and the dates such amendments shall have force and effect.

(5) Any notices under this section may be served personally or by post.

Exchange to provide assistance to the Authority.

13. (1) An exchange shall provide such assistance to the Authority as the Authority reasonably requires for the performance of the Authority's functions and duties.

(2) Where an exchange reprimands, fines, suspends, expels or otherwise takes disciplinary action against a member, it shall within 7 days inform the Authority in writing of the name of the member, the reasons for and the nature of the action taken, the amount of any fine and the period of any suspension.

(3) The Authority may review any disciplinary action taken by an exchange and may affirm or set aside the decision after giving the member and the exchange an opportunity to be heard.

(4) Nothing in this section shall preclude the Authority, in any case where an exchange fails to act against a member from suspending, expelling or otherwise disciplining him, but before doing so the Authority shall consult the Minister and give the member and the exchange an opportunity to be heard.

(5) The Authority is entitled at all reasonable times to full and free access for any of the purpose of this Order to the trading floor.
(6) Any person who refuses or fails, without lawful excuse, to allow the Authority or any agent appointed in writing access in accordance with subsection (5) to the trading floor of the market of an exchange is guilty of an offence and liable on conviction to a fine not exceeding $100,000, imprisonment for a term not exceeding 3 years or both.

(7) In this section, "trading floor", in relation to an exchange, means any place or facility (including an electronic facility or internet or medium) where the records thereof are maintained or provided by an exchange for the sale, purchase or exchange of securities by members of that exchange, or by members and other persons.

**Power to give directions concerning the observance or enforcement of rules or listing requirements of an exchange.**

14. (1) Where any person who is under an obligation to comply with, observe, enforce or give effect to any rule or listing requirement of an exchange fails to do so, the exchange may, after giving to that person an opportunity of being heard, give directions to that person concerning the compliance with, observance or enforcement of, or the giving effect to, that rule or listing requirement, and may further impose a penalty not exceeding $100,000 in addition to or in lieu of the penalties provided in the listing requirements.

(2) Where securities of, or made available by, a body corporate are listed for quotation on the market of an exchange, that body corporate shall, for the purposes of subsection (1), be under an obligation to comply with, observe and give effect to the listing requirements of that exchange.

**Power of the Authority to issue directives to an exchange.**

15. (1) The Authority may, where it appears to be in the interests of Brunei Darussalam, issue directives to an exchange —

(a) with respect to trading on or through the facilities of that exchange or with respect to any security listed on that exchange;

(b) with respect to the manner in which that exchange carries on its business, including the manner of reporting off-market purchases; and

(c) with respect to any other matter which the Authority considers necessary for the effective administration of this Order,

and such exchange shall forthwith comply with that directive.

(2) An exchange which, without reasonable excuse, fails or refuses to comply with a directive issued under subsection (1), is guilty of an offence and liable on conviction to a fine not exceeding $100,000 and to a further fine not exceeding $10,000 for every day during which such non-compliance continues after conviction.
(3) An exchange aggrieved by any directive of the Authority under subsection (1) may appeal to the Minister within 30 days of the date of the Authority's directive.

(4) In any appeal under subsection (3), the decision of the Minister shall be final.

PART III

LICENCES

Dealer's licence.

16. (1) Except as permitted pursuant to this Order, a person shall not carry on the business of a dealer or hold himself out as carrying on such a business unless he is the holder of a dealer's licence granted under this Part.

(2) Subsection (1) does not apply to an exempt dealer.

Dealer's representative's licence.

17. A person shall not act as a dealer's representative, who in this Part is referred to as the "representative", unless he is the holder of a dealer's representative's licence granted under this Part.

Investment adviser's licence.

18. (1) Except as permitted pursuant to this Order, a person shall not act as an investment adviser or hold himself out to be an investment adviser unless he is the holder of an investment adviser's licence granted under this Part.

(2) Subsection (1) does not apply to the holder of a dealer's licence.

Investment representative's licence.

19. A person shall not act as a investment representative, who in this Part is referred to as the "representative", unless he is the holder of an investment representative's licence under this Part.

Application for licence or renewal.

20. (1) An application for a licence under this Part or for the renewal of a licence shall be made to the Authority in the prescribed form and manner and shall be accompanied by the prescribed fee and, in the case of an application for the renewal of a licence, shall be made not later than 30 days before the expiry of the licence.
(2) Notwithstanding subsection (1), where an application for the renewal of a licence is made less than 30 days but before the expiry date of the licence, the Authority may for any special reason accept such application for consideration.

(3) The Authority may require an applicant to supply him with such further information as it considers necessary in relation to the application.

(4) The Authority shall not refuse to grant or to renew a licence without first giving the applicant an opportunity of being heard.

**Authority to grant and renew dealer's licence in certain circumstances.**

21. The Authority shall only grant or renew a dealer's licence to a body corporate if —

(a) after consideration of the character of the directors and the secretary and of the financial position of the body corporate; and

(b) after consideration of the interests of Brunei Darussalam,

the Authority is of the opinion that the body corporate is a fit and proper person to hold the licence applied for.

**Authority to grant or renew investment adviser's licence in certain circumstances.**

22. The Authority shall only grant or renew an investment adviser's licence if —

(a) after consideration —

(i) where the applicant is an individual, of the character and financial position of the applicant; or

(ii) where the applicant is a body corporate, of the character of the directors and the secretary and of the financial position of the body corporate; and

(b) after consideration of the interests of Brunei Darussalam,

the Authority is of the opinion that the applicant is a fit and proper person to hold the licence applied for.

**Authority to grant or renew representative's licence in certain circumstances.**

23. (1) The Authority shall only grant or renew a representative's licence if after consideration of the matters mentioned in the application it is of the opinion that the applicant is a fit and proper person to hold the licence applied for.
(2) The holder of a representative's licence may make application to the Authority in the prescribed form and manner for a variation of the name or address of the holder of a dealer's licence or of an investment adviser's licence on whose behalf he may act.

(3) Where an application is duly made under subsection (2), the Authority may, if it is of the opinion that the applicant is a fit and proper person to act on behalf of the holder of a dealer's licence or an investment adviser's licence, named in the application, vary the licence by varying the name or address mentioned in the licence.

Power of Authority to enquire into share transactions.

24. (1) In deciding whether an applicant for a licence or for the renewal thereof is a fit and proper person to hold a licence under this Order, the Authority may enquire into any transaction involving the purchase or sale of securities entered into by that person, whether directly or indirectly, during the period of 12 months immediately preceding the application for the licence or renewal, referred to in this section as the "relevant period", to ascertain if that person has in any such transaction used dishonest, unfair or unethical devices or trading practices, whether or not such devices or trading practices constitute an offence under this Order.

(2) For the purposes of subsection (1), the Authority may, in such form and within such time as it may specify, by notice in writing require an applicant for a licence or the renewal thereof to submit detailed information of any transaction involving the purchase or sale of securities during the relevant period, irrespective of whether the relevant period falls before or after the date of commencement of this Order.

(3) Any person who fails or refuses to submit information to the Authority within the time specified in the notice referred to in subsection (2) or who gives false or misleading information is, in addition to any other penalty that may be imposed under this Order, liable in the case of an application for renewal of a licence to have his licence revoked under section 26, and in the case of a first application for a licence, liable to have his application rejected.

Power of Authority to impose conditions or restrictions.

25. (1) The Authority may grant or renew a licence subject to such terms and conditions as it thinks fit.

(2) Any person who fails to comply with any term and condition of his licence is guilty of an offence.

False statements.

26. Any person who in connection with an application for a licence or for the renewal of a licence wilfully makes a statement that is false or misleading in a material particular knowing it to be false or misleading, or who wilfully omits to state any matter or thing without which the application is misleading in a material respect, is guilty of an offence and liable on
Deposition to be lodged in respect of dealer’s licence.

27. (1) Except in the case of a dealer who is a member, the Authority shall not grant or renew a dealer’s licence unless there is lodged with the Authority a deposit in the sum of not less than $100,000 or such greater sum as the Authority may direct to be lodged in respect of any particular licence.

(2) A deposit required by subsection (1) shall be in cash or in such other form as the Authority may in any particular case allow.

(3) The money deposited by virtue of subsection (2) shall be available to pay any penalty imposed under this Order or any other written law or provided for by the rules of an exchange, and shall also be available to pay any damages that may be awarded against the dealer in respect of any matter governed by this Order.

(4) After the expiration of one year from the expiry or other termination of the dealers licence, or of his becoming a member of an exchange, the Authority shall repay such balance to the dealer or other person entitled:

Provided that the Authority may, in any particular case, at its discretion retain such amount as may be required to satisfy the provisions of subsection (3).

Period of licence.

28. (1) Subject to subsection (2), a licence shall expire one year after the date of issue thereof.

(2) A licence that has been renewed in accordance with the provisions of this Part shall continue in force for a period of one year next succeeding the date upon which but for its renewal it would have expired.

Notification of change in particulars.

29. Where —

(a) the holder of a dealer’s licence ceases to carry on the business or to hold himself out as carrying on the business to which the licence relates;

(b) the holder of an investment adviser’s licence ceases to act as, or to hold himself out to be, an investment adviser;
the holder of a representative's licence ceases to be a representative of the dealer or investment adviser in relation to whom the representative's licence was granted, and the licence has not been varied under section 18(3); or

(d) a change occurs in any material particulars of which are required by section 25 to be entered in the register of licence holders in relation to the holder of a licence,

the holder of the licence shall, not later than 14 days after the occurrence of that event give to the Authority in the prescribed form particulars in writing of that event.

Register of licence holders.

30. The Authority shall keep a register of licence holders specifying in relation to each holder of a dealer's or investment adviser's licence —

(a) his name;

(b) where the holder is a body corporate, the names of the directors and the secretary;

(c) the address of the principal place of business at which he carries on the business in respect of which the licence is held; and

(d) where the business is carried on under a name or style other than the name of the holder of the licence, the name or style under which the business is carried on.

Power of Authority to revoke or suspend licence etc.

31. (1) A licence shall be deemed to be revoked, in the case of —

(a) an individual, if he dies;

(b) a body corporate, if it has been wound up.

(2) The Authority may revoke a licence —

(a) in the case of a licensee being an individual —

(i) if a levy of execution in respect of him has not been satisfied;

(ii) if he ceases to carry on the business for which he was licensed;

(iii) if he has been adjudged bankrupt in Brunei Darussalam or elsewhere;

(iv) if in the case of a representative, the licence of the dealer or investment adviser, in relation to whom the licence was granted, is revoked.
(v) if the Authority has reason to believe that the licensed individual has not performed his duties efficiently, honestly or fairly;

(vi) if he is convicted of an offence involving fraud or dishonesty punishable by imprisonment for a term of not less than 3 months; or

(vii) if he contravenes or fails to comply with any term or condition applicable in respect of the licence or with any other provision of this Order;

(b) in the case of a licensee being a body corporate —

(i) if it is being wound up;

(ii) if a levy of execution in respect of it has not been satisfied;

(iii) if a receiver, or receiver and manager, has been appointed, whether by the Court or creditors, in respect of its property;

(iv) if it has entered into any composition or arrangement with its creditors;

(v) if it ceases to carry on the business for which it was licensed;

(vi) if the Authority has reason to believe that any of its directors or employees has not performed his duties efficiently, honestly or fairly; or

(vii) if it contravenes or fails to comply with any term or condition applicable in respect of the licence or with any other provision of this Order.

Appeals.

32. (1) A person aggrieved by any decision of the Authority under this Part, other than section 31, may appeal to the Minister, and a person aggrieved by any decision of the Authority under section 31 may appeal to the High Court, so long as the appeal is made within 30 days of the Authority’s decision.

(2) In any appeal under this section the decision of the Minister or the High Court, as the case may be, shall be final and shall be given effect to by the Authority.
PART IV
RECORDS

Application of this Part.

33. (1) This Part applies to a person who is —

(a) a dealer;

(b) a dealer's representative;

(c) an investment adviser;

(d) an investment representative;

(e) a person in the direct employment of, or acting for or on arrangement with, a dealer and who performs for that dealer any of the functions of a dealer or investment adviser, other than work ordinarily performed by an accountant, clerk or cashier, whether his remuneration is by way of salary, wages or commission or otherwise;

(f) a financial journalist; or

(g) an authorised depository agent approved by the Authority.

(2) In paragraph (f) of subsection (1), "financial journalist" means a person who contributes advice concerning securities or prepares analyses or reports concerning securities for publication in a newspaper or periodical, or by other medium including without limitation broadcasting and electronic media.

(3) In this Part, a reference to securities is a reference to securities of a public company and to securities which are quoted or dealt on an exchange.

Register of securities.

34. (1) A person to whom this Part applies shall maintain a register in the prescribed form of the securities in which he has an interest.

(2) The register required to be kept under this Part shall be kept at such place in Brunei Darussalam as he nominates in his application for a licence.

(3) Particulars of the securities in which a person to whom this Part applies has an interest and particulars of his interest in those securities shall be entered in the register within 7 days of the acquisition of the interest.
(4) Where there is a change, not being a prescribed change, in the interest or interests of a person to whom this Part applies in any securities, he shall enter in the register full particulars of that change including the date of the change and the circumstances by reason of which it has occurred. The entry shall be made within 7 days after the date of the change.

(5) For the purposes of this subsection, where a person acquires or disposes of securities there shall be deemed to be a change in the interest or interests of that person.

(6) Any person who contravenes any provision of this section is guilty of an offence.

Notice of particulars to Authority.

35. (1) A person to whom this Part applies shall give notice to the Authority in the prescribed form containing such particulars as the Authority may require.

(2) The notice shall be given —

(a) in the case of a person who is required by this Order to hold a licence, when he applies for the licence; or

(b) in the case of any other person, if that person becomes a person to whom this Part applies, within 14 days from the date of his becoming such a person.

(3) The notice shall be given notwithstanding that the person has ceased to be a person to whom this Part applies before the expiration of the period referred to in subsection (2).

(4) A person who ceases to be a person to whom this Part applies shall give notice to the Authority of his so ceasing within 14 days of his so ceasing.

(5) Any person who fails or neglects to give any notice as required by this section is guilty of an offence.

Defence to prosecution.

36. (1) It is a defence to a prosecution for contravening or failing to comply with any provisions of section 29 or 30, if the defendant proves that his failure was due to his not being aware of any fact or occurrence, the existence of which was necessary to constitute the offence, and that —

(a) he was not so aware on the date of the summons;

(b) he became so aware less than 14 days before the date of the summons; or

(c) he became so aware not less than 14 days before the date of the summons and complied with the relevant section within 14 days after becoming so aware.
(2) For the purpose of subsection (1), a person, in the absence of proof to the contrary, shall conclusively be presumed to have been aware of a fact or occurrence at a particular time of which an employee or agent of that person, being an employee or agent having duties or acting in relation to his employer's or principal's interest in the securities concerned, was aware at that time.

Production of register.

37. (1) The Authority may require any person to whom this Part applies to produce for inspection the register required to be kept pursuant to section 34 and the Authority may make copies of or make extracts from the register.

(2) A person who fails to produce a register for inspection or fails to allow the Authority to make copies of or to make extracts from the register is guilty of an offence.

Particulars of financial journalists.

38. (1) The Authority may by notice in writing require the proprietor or publisher of a newspaper or periodical and the holder of a broadcasting licence granted under the Broadcasting Act (Chapter 180) to supply the Authority with the name and address of the financial journalist (as defined in subsection (2) of section 28) who has contributed any advice or prepared any analysis or report that has been published in a newspaper or periodical owned or published by that proprietor or publisher, or with the names and addresses of all the financial journalists (as so defined) who have contributed any such advice or prepared any such analysis or report, within the period specified in the notice.

(2) Any person who wilfully fails to comply with a notice under subsection (1) is guilty of an offence.

Authority may supply copy of the extract of register.

39. The Authority may upon payment of the prescribed fee supply to any person who can demonstrate to the Authority a cogent reason for acquiring the same copy of the extract of the register obtained pursuant to subsection (1) of section 32.

PART V

CONDUCT OF SECURITIES BUSINESS

Certain representations prohibited.

40. (1) A person who is the holder of a licence shall not represent or imply, or knowingly permit to be represented or implied in any manner, to any person that his ability or qualifications have in any respect been approved by the Authority.
(2) A statement that a person is the holder of a licence is not a contravention of this section.

**Issue of contract notes.**

**41.** (1) A dealer shall, in respect of a transaction of sale or purchase of securities, as soon as is practicable, give a contract note however concluded and recorded in any manner permitted pursuant to this Order that complies with subsection (2) to —

(a) where the transaction took place in the ordinary course of business at an exchange and the dealer entered into the transaction otherwise than as principal, the person for whom the dealer entered into the transaction;

(b) where the transaction did not take place in the ordinary course of business at an exchange and the dealer entered into the transaction otherwise than as principal, the person for whom the dealer entered into the transaction and the person with whom the dealer entered into the transaction;

(c) where the transaction did not take place in the ordinary course of business at an exchange and the dealer entered into the transaction as principal, the person with whom the dealer entered into the transaction.

(2) A contract note given by a dealer under subsection (1) shall include —

(a) the name or style under which the dealer carries on his business as a dealer and the address of the principal place at which he so carries on that business;

(b) where the dealer is dealing as principal with a person who is not the holder of a dealer's licence, a statement that he is so dealing;

(c) the name and address of the person to whom the dealer gives the contract note;

(d) the day on which the transaction took place and, if the transaction did not take place in the ordinary course of business at an exchange, a statement to that effect;

(e) the number, or amount and description, of the securities that are the subject of the contract;

(f) the price per unit of the securities;

(g) the amount of the consideration;

(h) the rate and amount of commission and other fee (if any) charged;
(i) the amounts of and levies or imposts payable in connection with the contract; and

(j) if an amount is to be added to or deducted from the settlement amount in respect of the right to a benefit purchased or sold together with the securities, the first-mentioned amount and the nature of the benefit.

(3) A dealer shall not include in a contract note given under subsection (1) as the name of the person with or for whom he has entered into the transaction, a name that he knows, or could reasonably be expected to know, is not the name by which that person is ordinarily known.

(4) A reference in this section to a dealer dealing, or entering into a transaction, as principal includes a reference to a person —

(a) dealing or entering into a transaction on behalf of a person associated with him;

(b) dealing in securities on behalf of a body corporate in which he has a controlling interest; or

(c) where he carries on business as a dealer on behalf of a body corporate in which his interest and the interests of the directors together constitute a controlling interest.

(5) For the purposes of this section —

(a) a dealer who is a member of an exchange shall not be taken to have entered into a transaction as principal by reason only that the transaction was entered into with another dealer who is a member of an exchange; and

(b) a transaction takes place in the ordinary course of business at a stock market if it takes place in prescribed circumstances or is a prescribed transaction for the purposes of this section.

(6) Notwithstanding the provisions of section 3, a person is not associated with another person for the purposes of this section by reason only that he is a director of a body corporate of which that other person is also a director, whether or not the body corporate carries on the business of dealing in securities.

Certain persons to disclose certain interests in securities.

42. (1) Where a person who is a dealer, investment adviser, dealer’s representative or investment representative sends circulars or other similar written communications in which he makes a recommendation, whether expressly or by implication, with respect to securities or a class of securities, that person shall cause to be included in each circular or other communication, in type not less legible than that used in the remainder of the circular or other
communication, a concise statement of the nature of any relevant interest in, or any interest in the acquisition or disposal of, those securities or securities included in that class that he or any person associated with him has at the date on which he last sends the circular or other communication. Any person who contravenes this subsection is guilty of an offence.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that, at the time at which the circular or other communication was sent, he was not aware and could not reasonably be expected to have been aware —

(a) that he had a relevant interest in, or any interest in the acquisition or disposal of, those securities or securities included in that class; or

(b) that the person associated with him had a relevant interest in, or an interest in the acquisition or disposal of, those securities or securities included in that class.

(3) For the purposes of subsections (1) and (2) —

(a) an interest of a person in the disposal of securities includes any financial benefit or advantage that will, or is likely to, accrue directly or indirectly to that person upon or arising out of the disposal of those securities;

(b) without limiting the generality of the foregoing, a person who has entered into an underwriting agreement in respect of any securities shall be deemed to have an interest in the acquisition or disposal of those securities; and

(c) notwithstanding the provisions of section 3, a person is not associated with another person in relation to the sending of a circular or other communication or the making of a recommendation by reason only that he is a director of a body corporate of which that other person is also a director, whether or not that body corporate carries on the business of dealing in securities, unless that person and that other person are acting jointly, or otherwise acting together or under or in accordance with an arrangement made between them, in relation to the sending of the circular or communication or the making of the recommendation.

(4) Where —

(a) a person has subscribed for or purchased securities for the purpose of offering all or any of them to the public for purchase; and

(b) that person offers any of those securities for purchase,

that person shall not make a recommendation, whether orally or in writing and whether expressly or by implication, with respect to the securities offered for purchase unless he has informed each person to whom the recommendation is made that he acquired the securities for that purpose.
(5) Where —

(a) securities have been offered for subscription or purchase; and

(b) a person has subscribed for or purchased or is or will or may be required to subscribe for or purchase, any of those securities under an underwriting agreement by reason that some or all of the securities have not been subscribed for or purchased,

that person shall, during the period of 90 days after the close of the offer, make an offer to sell those securities, otherwise than in the ordinary course of trading on a stock market, or make any recommendation with respect to those securities unless the offer or recommendation contains or is accompanied by a statement to the effect that the offer or recommendation relates to securities that he has acquired, or is or will or may be required to acquire under an underwriting agreement by reason that some or all of the securities have not been subscribed for or purchased.

(6) A person who is a dealer, investment adviser, dealer's representative or investment representative shall not send to any person a circular or other communication or written offer or recommendation to which subsection (1), (4) or (5) apply unless the circular or other communication or the offer or recommendation —

(a) where that person is an individual, is signed by him;

(b) where that person is an individual who carries on business in partnership, is signed by a partner in the partnership in his own name or in the name of the partnership;

(c) where that person is an individual and is a dealer who carries on business in a body corporate, is signed by a director, an executive officer or the secretary of the body corporate; or

(d) where that person is a body corporate, is signed by a director, an executive officer or the secretary of the body corporate.

(7) When a person who is a dealer, investment adviser, dealer's representative or investment representative sends to any person a circular or other communication or a written offer or recommendation to which subsection (1), (4) or (5) apply, that first-mentioned person shall —

(a) where he is a member, or an employee of a body corporate that is a member, or a body corporate that is a member, of an exchange, thereupon serve a copy of the circular or other communication or of the offer or recommendation on that exchange; or

(b) in any other case, thereupon lodge a copy of the circular or other communication or of the offer or recommendation on the Authority.
(8) The Authority or an exchange on which a copy of a circular or other communication or of a written offer or recommendation is served under subsection (7) shall preserve that copy for the period of 7 years next after the day on which it receives the copy.

(9) A copy or recommendation served by a person on an exchange or on the Authority in accordance with subsection (7) shall be a copy that is signed —

(a) where that person is an individual, by that person;

(b) where that person is an individual who carries on business in partnership, by a partner in the partnership in his own name or in the name of the partnership;

(c) where that person is an individual and is a dealer who carries on business in a body corporate, by a director, an executive officer or the secretary of the body corporate; or

(d) where that person is a body corporate, by a director, an executive officer or the secretary of the body corporate.

(10) A reference in this section to an offer of securities shall be construed as including a reference to a statement, however expressed, that is not an offer but which expressly or impliedly invites the person to whom it is made to offer to acquire securities.

(11) For the purposes of this section, a circular or other communication or a written offer or recommendation sent to a person shall —

(a) where it is signed by a person in partnership, be deemed to have been sent by each of the partners in the partnership;

(b) where it is signed by a director, an executive officer or the secretary of a body corporate, be deemed to have been sent by the body corporate.

(12) Any person who contravenes or fails to comply with any provisions of this section is guilty of an offence and liable on conviction to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.

Dealings as principal.

43. (1) Subject to subsection (4), a dealer shall not, as principal, deal in any securities with a person who is not a dealer unless he first informs that person with whom he is entering into the transaction as principal and not as agent.

(2) A reference in this section to a dealer dealing or entering into a transaction as principal includes a reference to a person —
(a) dealing or entering into a transaction on behalf of a person associated with him;

(b) dealing in securities on behalf of a body corporate in which he has a controlling interest; and

(c) where he carries on business as a dealer on behalf of a body corporate in which his interest and the interests of his directors together constitute a controlling interest.

(3) A dealer who, as principal, enters into a transaction of the sale or purchase of securities with a person who is not a dealer shall state in the contract note that he is acting in the transaction as principal and not as agent.

(4) Subsection (1) does not apply in relation to a transaction entered into by a dealer who is a member of an exchange and who specialises in transactions relating to odd lots of securities, being a transaction of sale or purchase of an odd lot of securities.

(5) Where a dealer fails to comply with subsection (1) or (3) in respect of a contract for the sale of securities by him, the purchaser of the securities may, if he has not disposed of them, rescind the contract by a notice of rescission in writing given to the dealer not later than 14 days after the receipt of the contract note and, where the dealer fails to comply with subsection (1) or (3) in respect of a contract for the purchase of securities by him, the seller of the securities may, in like manner, rescind the contract.

(6) Nothing in subsection (5) affects any right that any person has apart from that subsection.

(7) A person who contravenes or fails to comply with the provisions of this section is guilty of an offence and liable on conviction to a fine not exceeding $500,000, or to imprisonment for a term not exceeding 5 years or both.

**Short selling.**

44. The Minister may prescribe and an exchange shall make provision in the rules provided for in section 8, such provisions as in either case may be considered necessary to govern the practice known as short selling, including the penalties which may be imposed in case of the breach of any such regulation or rule, and in the case of prescribed penalties, up to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.
PART VI

ACCOUNTS AND AUDIT

Application of this Part.

45. This Part applies to and in relation to the business of a dealer within the meaning of this Order, whether or not that business is carried on in or from within Brunei Darussalam.

Accounts to be kept by dealers.

46. (1) A dealer shall keep or cause to be kept such records as will sufficiently explain the transactions and financial position of his business and enable true and fair profit and loss accounts and balance-sheets to be prepared and shall cause those records to be kept in such a manner as to enable them to be conveniently and properly audited in accordance with generally accepted accounting principles.

(2) If accounting and other records are kept by a dealer at a place outside Brunei Darussalam, the dealer shall cause to be sent to and kept at a place in Brunei Darussalam such statements and returns with respect to the business dealt with in those records as will enable true and fair profit and loss accounts and balance-sheets to be prepared.

(3) Without affecting the generality of subsection (1), a dealer shall keep or cause to be kept in manner acceptable to the Authority the following accounts and records —

(a) a Bought and Sold Book recording the name of the buyer and the seller of every security bought or sold by the dealer in the course of his business;

(b) a Scrip Receipt Book containing copies of acknowledgements of receipt of securities received by the dealer from clients for sale or safe custody and clearly showing the name or names in which the particular securities are registered;

(c) a Cash Book containing entries of all amounts paid or received by the dealer in the course of his business;

(d) a journal;

(e) a ledger or ledgers showing all transactions —

(i) with clients of the dealer;

(ii) with other dealers; and

(iii) in respect of national or private accounts;
(f) a General Scrip Register recording the receipt and disposal by the dealer of all securities other than those dealt with in the Safe Custody Scrip Register;

(g) a Safe Custody Scrip Register recording all securities held by the dealer for safe custody; and

(h) an Underwriting Register recording all underwriting and sub-underwriting transactions entered into by the dealer.

(4) Every entry in the Safe Custody Scrip Register and in the Underwriting Register kept by a dealer shall be dated and initialled by the person making the entry.

(5) For the purposes of this section any account or record required to be kept by a dealer may be kept either by making entries in a bound book or by recording it in such other manner as may be approved by the Authority.

(6) Where any account or record required by this section to be kept is not kept by making entries in a bound book but by some other means, the dealer shall take reasonable precautions for guarding against falsification and for facilitating discovery of any falsification.

Certain monies received by dealers to be paid into a trust account.

47. (1) A dealer shall establish and keep in a bank or banks in Brunei Darussalam one or more trust accounts designated and evidenced as such, into which he shall pay —

(a) all amounts, less any brokerage and other proper charges, that are received from or on account of any person, other than a dealer, for the purchase of securities and that are not attributable to securities delivered to the dealer before or within 5 bank trading days after receipt of those amounts; and

(b) all amounts, less any brokerage and other proper charges, that are received for or on account of any person, other than a dealer, from the sale of securities and that are not paid to that person or as that person directs within 5 bank trading days after receipt of such amounts.

(2) For the purpose of paragraph (b) of subsection (1), any cheque issued for the purpose of payment to a person which is not collected by that person or as directed by that person within 5 bank trading days after the date such cheque is issued shall be credited into the trust account.

(3) A dealer who —

(a) contravenes or fails to comply with any provision of this section is guilty of an offence and liable on conviction to a fine not exceeding $200,000, imprisonment for a term not exceeding 2 years or both; or
with intent to defraud, contravenes or fails to comply with any provision of this section is guilty of an offence and liable on conviction to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.

Purposes for which monies may be withdrawn from trust account.

48. A dealer shall not withdraw any monies from a trust account except for the purpose of making payment —

(a) to the person entitled thereto;

(b) to an exchange in accordance with the provisions of any regulations that may be made under subsection (2) of section 93; or

(c) that is otherwise authorised by law.

Monies in trust accounts not available for payment of debts etc.

49. Save as otherwise provided in this Part, monies held in a trust account shall not be available for payment of the debts of an investment adviser or be liable to be paid or taken in execution under an order or process of any court.

Claims and liens not affected.

50. Nothing in this Part shall be construed as taking away or affecting any lawful claim or lien which any person has against or upon any monies held in a trust account or against or upon any monies received for the purchase of securities or from the sale of securities before such monies are paid into a trust account.

Dealer to appoint auditor.

51. A dealer shall appoint an auditor to audit his accounts, and where for any reason the auditor ceases to hold that office the dealer shall within 14 days thereafter appoint another auditor.

Dealer to lodge auditor's report.

52. (1) A dealer shall within 6 months of the end of his financial year lodge with the exchange an auditor's report containing such information as the Authority may reasonably require.

(2) If a dealer fails to comply with the provisions of subsection (1), the exchange shall forthwith report the matter to the Authority.
(3) Notwithstanding subsection (1), the Authority may, on application by the dealer, for any special reason, extend the period of 6 months referred to in that subsection.

**Auditor to send report to exchange in certain cases.**

53. (1) Where in the performance of his duties as auditor for a dealer, an auditor becomes aware of any matter which in his opinion may adversely affect the financial position of the dealer to a material extent or which constitutes a breach of section 46, 47 or 48, he shall within 7 days thereof send a report in writing on such matter to the exchange and a copy thereof to the dealer.

(2) A copy of the report referred to in subsection (1) shall, if the member is a body corporate, also be sent to the Registrar.

**Reports of auditor to be forwarded to exchange in certain cases.**

54. (1) If after consideration of an auditor's report furnished under section 53, the exchange is not satisfied —

(a) that the financial position of the dealer in respect of whom the report is made is such as to enable him to meet all his commitments as a dealer; and

(b) that the dealer has complied with the requirements of this Order,

the exchange shall, and for any other reason which it thinks proper it may, forward the report to the Authority with any further report thereon which it thinks proper to make.

(2) It shall be a defence to any proceedings in defamation in respect of any statement made in any such report of an auditor or in any such further report of a relevant authority if the defendant satisfies the court that the statement was made *bona fide* and without malice.

**Power of Authority to appoint independent auditor etc.**

55. (1) Where the Authority has received —

(a) a report under subsection (2) of section 52 from the exchange; or

(b) a report forwarded to the Authority pursuant to subsection (1) of section 54 by the exchange,

the Authority may, if the Authority is satisfied that it is in the interests of the dealer concerned, the dealer's clients or the general public to do so, appoint in writing an independent auditor or such other person or body of persons as the Authority may decide to examine, audit and report either generally or in relation to any particular matter, on the books, accounts and records of and the securities held by that dealer.
(2) Where the Authority is of the opinion that the whole or any part of the costs and expenses of an independent auditor, person or body of persons appointed by the Authority under this section should be borne by the dealer or relevant authority concerned, the Authority may, by order in writing, direct such dealer or relevant authority to pay a specified amount, being the whole or part of such costs and expenses within the time and in the manner specified.

(3) Where a dealer or the relevant authority has failed to comply with an order of the Authority under subsection (2), the amount specified in the order may be sued for and recovered by the Authority as a debt due to the Authority.

Power of Authority to appoint independent auditor etc. upon application of client.

56. (1) Upon receipt of an application in writing from a person who alleges that a dealer has failed to account to him in respect of any monies or securities held or received by that dealer for or on his behalf, the Authority may appoint in writing an independent auditor or such other person or body of persons as the Authority may decide to examine, audit and report, either generally or in relation to any particular matter, on the books, accounts and records of and the securities held by that dealer.

(2) Every application under subsection (1) shall state —

(a) particulars of the circumstances under which the dealer received the monies or securities in respect of which he is alleged to have failed to account;

(b) particulars of those monies or securities and of the transactions of the applicant and the dealer relating thereto; and

(c) such other particulars as the Authority may require.

(3) Every statement in any such application shall be verified by a statutory declaration made by the applicant and shall, if made bona fide and without malice, be privileged.

(4) The Authority shall not appoint an independent auditor, person or body of persons under subsection (1) unless the Authority is satisfied —

(a) that the applicant has good reason for making the application; and

(b) that it is expedient in the interests of the dealer, the applicant or of the public that the books, accounts and records of and the securities held by the dealer should be examined, audited and reported upon.

Independent auditor etc. to report to Authority.

57. An independent auditor, person or body of persons appointed under section 50 or 51 shall, upon the conclusion of the examination and audit in respect of which such auditor, person or body was appointed, make a report thereon to the Authority.
Powers of independent auditor etc.

58. An independent auditor, person or body of persons appointed under section 50 or 51 to examine and audit the books accounts and records of and the securities held by a dealer may, for the purpose of carrying out such examination and audit —

(a) examine on oath any director, executive officer or the secretary of the dealer and any of the dealer's employees and agents and any other auditor appointed under this Order, in relation to those books, accounts, records of whatsoever nature relating to those securities;

(b) employ such persons as he or they consider necessary; and

(c) in writing authorise any person employed by him or them to do, in relation to such examination and audit, any act or thing that he or they could do in the capacity as auditor, except to examine any person on oath and to exercise the powers conferred by this paragraph.

Prohibition against communication of certain matters by independent auditors etc. and employees.

59. Except for the purpose of carrying into effect the provisions of this Order, or so far as may be required for the purpose of any proceedings, civil or criminal, an independent auditor, person or body of persons, or an individual member of that body of persons, appointed by the Authority under section 50 or 51 and any employee of any such independent auditor, person or body of persons shall not communicate any matter, which may come to his or their knowledge in the performance of his or their duties as such independent auditor, person, body of persons or employee to any person other than the Authority or to any other person specified by the Authority and, in the case of an employee, to any person other than the auditor by whom he is employed.

Books, accounts and records to be produced upon demand.

60. (1) Upon request by an independent auditor, person or body of persons appointed by the Authority under section 55 or 56 or by a person who produces written authority given under paragraph (c) of section 58 —

(a) a dealer and any of its directors, executive officers or secretary, employees or agents shall produce any books, accounts and records of and any securities held by the dealer relating to his business; and

(b) an auditor appointed by a dealer shall produce any books, accounts and records held by him relating to the business of the dealer.

(2) A dealer and any of its directors, executive officers, secretary, employees or agents and any auditor appointed by the dealer shall answer all questions relevant to an examination and audit which are put to him by the independent auditor, person or body of
persons or by a person who produces written authority given under paragraph (c) of section 58.

(3) Any person who contravenes or fails to comply with the provisions of subsection (1) or (2) is guilty of an offence and liable on conviction to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.

Penalty for destroying, concealing or altering records or sending records or other property out of Brunei Darussalam.

61. (1) Any person who, with intent to defeat the purposes of this Part or with intent to prevent, delay or obstruct the carrying out of any examination and audit under this Part —

(a) destroys, conceals or alters any book, account, record including any electronic or other permitted record or document relating to the business of a dealer; or

(b) sends or attempts to send or conspires with any other person to send out of Brunei Darussalam any such book, account, record, including any electronic or other permitted record or document, or any property of any description belonging to or in the possession of or under the control of a dealer,

is guilty of an offence and liable on conviction to a fine not exceeding $1,000,000, imprisonment for a term not exceeding 10 years or both.

(2) If in a prosecution for an offence under subsection (1) it is proved that the person charged —

(a) destroyed, concealed or altered any book, account, record or document referred to in subsection (1); or

(b) sent or attempted to send or conspired to send out of Brunei Darussalam any such book, account, record or document or any property referred to in subsection (1),

the onus of proving that in so doing he did not act with intent to defeat the purposes of this Part or with intent to prevent, delay or obstruct the carrying out of any examination and audit under this Part shall lie on him.

Rights of committee to impose obligations etc. on members not affected by this Part.

62. The provisions of this Part shall not prevent the committee of an exchange imposing on the members of that exchange any further obligations or requirements which the committee thinks fit with respect to —

(a) the audit of accounts;
(b) the information to be furnished in reports from auditors; and

(c) the keeping of accounts, books and records.

PART VII

FIDELITY FUNDS

Establishment of fidelity fund.

63. (1) The Minister may by order published in the Gazette require that an exchange shall establish and keep such fidelity fund as he may determine to be administered by the committee on behalf of that exchange.

(2) The assets of a fidelity fund shall be the property of the exchange but shall be separate from all other property and shall be held in trust for the purposes set out in this Part.

Power of committee to enter into contract of insurance.

64. (1) An exchange may enter into any contract with any person or body of persons, corporate or unincorporated, carrying on fidelity insurance business in Brunei Darussalam whereby the stock exchange will be insured or indemnified to the extent and in the manner provided by such contract against liability in respect of claims under this Part.

(2) Any such contract may be entered into in relation to members of the exchange generally, or in relation to any particular member or members of an exchange named therein, or in relation to members of an exchange generally with the exclusion of any particular member of the exchange or members named therein.

(3) An action shall not lie against an exchange or against any member or employee of an exchange, or the committee, or against any member of a management sub-committee for injury alleged to have been suffered by any member of the exchange by reason of the publication in good faith of a statement that any contract entered into under this section does or does not apply to him.

Application of insurance monies.

65. A claimant against a fidelity fund established and kept under section 63 shall not have any right of action against any person or body or persons with whom a contract of insurance or indemnity is made under this Part in respect of such contract, or have any right or claim with respect to any monies paid by the insurer in accordance with any such contract.
PART VIII

TRADING IN SECURITIES

False trading and market-rigging transactions.

66. (1) A person shall not create, or cause to be created, or do anything that is calculated to create a false or misleading appearance of active trading in any securities on a stock market in Brunei Darussalam or a false or misleading appearance with respect to the market for, or the price of, any such securities.

(2) A person shall not, by means of the purchase or sale of any securities that do not involve a change in the beneficial ownership of those securities, or by any fictitious transactions or devices, maintain, inflate, depress, or cause fluctuations in, the market price of any securities.

(3) Without affecting the generality of subsection (1), a person who —

(a) effects, takes part in, is concerned in or carries out, either directly or indirectly, any transaction of sale or purchase of any securities, being a transaction that does not involve any change in the beneficial ownership of those securities;

(b) makes or causes to be made an offer to sell any securities at a specified price where he has made or caused to be made or proposes to make or to cause to be made, or knows that any person associated with him has made or caused to be made or proposes to be made or to cause to be made an offer to purchase the same number, or substantially the same number, of securities at a price that is substantially the same as the first-mentioned price; or

(c) makes or causes to be made an offer to purchase any securities at a specified price where he has made or caused to be made or proposes to make or to cause to be made, or knows that any person associated with him has made or caused to be made or proposes to make or to cause to be made an offer to sell the same number, or substantially the same number, of securities at a price that is substantially the same as the first-mentioned price,

shall be deemed to have created a false or misleading appearance of active trading in securities on a stock market.

(4) In a prosecution of a person for an act referred to in subsection (3), it is a defence if the defendant establishes that the purpose or purposes for which he did the act was not, or did not include, the purpose of creating a false or misleading appearance of active trading in securities on a market.

(5) A purchase or sale of securities does not involve a change in the beneficial ownership for the purposes of this section if a person who had an interest in the securities
before the purchase or sale, or a person associated with the first-mentioned person in relation to those securities, has an interest in the securities after the purchase or sale.

(6) In a prosecution for a contravention against subsection (2) in relation to a purchase or sale of securities that did not involve a change in the beneficial ownership of those securities, it is a defence if the defendant establishes that the purpose or purposes for which he purchased or sold the securities was not, or did not include, the purpose of creating a false or misleading appearance with respect to the market for, or the price of, those securities.

(7) The reference in paragraph (a) of subsection (3) to a transaction of sale or purchase of securities includes —

(a) a reference to the making of an offer to sell or purchase securities; and

(b) a reference to the making of an invitation, however expressed, that expressly or impliedly invites a person to offer to sell or purchase securities.

Stock market manipulations.

67. (1) A person shall not effect, take part in, be concerned in or carry out, either directly or indirectly, 2 or more transactions in any securities, being transactions that have, or are likely to have, the effect of raising the price of those securities on a stock market in Brunei Darussalam, with intent to induce other persons to purchase or subscribe for securities of that or of a related body corporate.

(2) A person shall not effect, take part in, be concerned in or carry out, either directly or indirectly, 2 or more transactions in any securities, being transactions that have, or are likely to have, the effect of lowering the price of those securities on a market in Brunei Darussalam, with intent to induce other persons to sell securities of that or of a related body corporate.

(3) A person shall not effect, take part in, be concerned in or carry out, either directly or indirectly, 2 or more transactions in securities of a corporation, being transactions that have or are likely to have, the effect of maintaining or stabilising the price of those securities on a market in Brunei Darussalam with intent to induce other persons to sell, purchase or subscribe for securities of that or of a related body corporate.

(4) A reference in this section to a transaction, in relation to securities of a body corporate, includes —

(a) a reference to the making of an offer to sell or purchase such securities; and

(b) a reference to the making of an invitation, however expressed, that expressly or impliedly invites a person to offer to sell or purchase such securities.
False or misleading statements etc.

68. A person shall not make a statement, or disseminate information, that is false or misleading in any material particular and likely to induce the sale or purchase of securities by other persons, or likely to have the effect of raising, lowering, maintaining or stabilising the market price of securities if, when he makes that statement or disseminates that information —

(a) he does not care whether the statement or information is true or false; or

(b) he knows or ought reasonably to have known that the statement or information is false or misleading in any material particular.

Fraudulently inducing persons to deal in securities.

69. A person shall not —

(a) by making or publishing any statement, promise or forecast that he knows to be misleading, false or deceptive;

(b) by any dishonest concealment of material facts;

(c) by the reckless making or publishing, dishonestly or otherwise, of any statement, promise or forecast that is misleading, false or deceptive; or

(d) by recording or storing in, or by means of, any mechanical, electronic or other device, information that he knows to be misleading, false or deceptive in any material particular,

induce or attempt to induce a person to buy, sell or otherwise deal in any securities.

Use of manipulative and deceptive devices.

70. No person shall directly or indirectly in connection with the purchase or sale of any securities —

(a) use any device, scheme or artifice to defraud;

(b) engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person; or

(c) make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made in the light of the circumstances under which they were made, not misleading.
Dissemination of information about illegal transactions.

71. No person shall circulate or disseminate, or authorise or be concerned in the circulation or dissemination of, any statement or information to the effect that the price of any securities of a body corporate will or is likely to rise or fall or be maintained by reason of any transaction entered into or other act or thing done in relation to those securities of that body corporate, or of a body corporate that is related to it in contravention of section 66, 67, 68, 69 or 70 if —

(a) that person, or any person associated with him, has entered into any such transaction or done any such act or thing; or

(b) that person has received, or expects to receive directly or indirectly, any consideration or benefit for circulating or disseminating, or authorising or being concerned in the circulation or dissemination of, that statement or information.

Dealings by officers in securities.

72. (1) Any officer, agent or employee of a body corporate and any officer of an exchange who, or in relation to a dealing in securities of that body corporate by himself or any other person, makes improper use to gain, directly or indirectly, any advantage for himself or any other person of specific confidential information acquired by virtue of his position as such officer, agent or employee or officer of the exchange which, if generally known, might reasonably be expected to materially affect the price of the subject-matter of the dealing on an exchange shall, in addition to any penalty imposed under section 74, be liable to any person for the loss suffered by that person by reason of the payment to him of a consideration in respect of the securities greater or lesser, as the case may be, than the consideration that would have been reasonable if the information had been generally known at the time of the dealing.

(2) An officer, agent or employee of a body corporate and an officer of an exchange shall not be liable under subsection (1) to any person for any loss suffered by that person if that person knew or ought reasonably to have known of the information referred to in subsection (1) before entering into the transaction relating to the dealing in the securities.

(3) An action for the recovery of any loss referred to in subsection (1) shall not be commenced after the expiration of 2 years after the date of the completion of the dealing in securities in respect of which the loss was suffered.

(4) In this section —

"agent" includes a banker, advocate and solicitor, auditor, accountant or stockbroker and any person who is or at any time in the preceeding 6 months has been knowingly connected with a body corporate and has information which —

(a) he holds by virtue of being connected with it;
(b) it would be reasonable to expect a person so connected and in the position by virtue of which he is so connected not to disclose except for the proper performance of the functions attaching to that position; and

(c) he knows is unpublished price-sensitive information in relation to the securities of the corporation;

"officer" includes a person who at any time within the preceding 12 months was an officer of the body corporate.

(5) This section shall be extended to apply to an officer, agent or employee of a body corporate and any officer of an exchange who makes improper use to gain, directly or indirectly, an advantage for himself or any other person, by means of specific confidential information acquired by virtue of his position as such officer, agent or employee of the body corporate or officer of the exchange, regarding —

(a) the possibility of a take-over offer or bid being made to another body corporate by the body corporate to which he belongs; or

(b) the possibility of the body corporate entering into a substantial commercial transaction with another body corporate,

to deal in the securities of that body corporate in the expectation that, if this information becomes generally known, the price of the securities of that other body corporate on an exchange might be materially affected.

Prohibition on abuse of information obtained in official capacity.

73. Any person, who, in relation to dealing in securities of a body corporate, has any information which if generally known might reasonably be expected to materially affect the price of the subject-matter of the dealing on an exchange and which —

(a) he holds by virtue of his official capacity or former official capacity;

(b) it would be reasonable to expect a person in his official capacity or former official capacity not to disclose, except for the proper performance of the functions attaching to that official capacity; and

(c) he knows is unpublished price-sensitive information in relation to those securities,

shall not make improper use of such information to gain, directly or indirectly, an advantage for himself or for any other person and any person who contravenes or fails to comply with the provisions of this section is guilty of an offence.
Penalty.

74. A person who contravenes or fails to comply with section 66, 67, 68, 69, 70, 71, 72 or 73 is guilty of an offence and liable on conviction to a fine of not less than $200,000 and to imprisonment for a term not exceeding 5 years.

Dealer to give priority to client’s order.

75. (1) A dealer shall not, except as permitted by subsection (2), enter into, as principal or on behalf of any person associated with him, any transaction for the purchase or sale of securities that are permitted to be traded on the stock market of an exchange if a client of the dealer who is not associated with him has instructed him to purchase or sell, respectively, securities of the same class and the dealer has not complied with the instruction.

(2) Subsection (1) does not apply in relation to the entering into a transaction by a dealer as principal or on behalf of a person associated with him if —

(a) the instructions from the client of the dealer required the purchase or sale of securities on behalf of the client to be effected only on specified conditions relating to the price at which the securities were to be purchased or sold, and the dealer has been unable to purchase or sell the securities by reason of those conditions; or

(b) the transaction is entered into in prescribed circumstances.

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

Dealings by employees of holders of licences.

76. (1) A dealer or an investment adviser and any employee of either such person shall not, as principals, jointly purchase or subscribe for, or agree to purchase or subscribe for, any securities.

(2) A dealer or an investment adviser shall not give credit to any such employee or to any person who, to his knowledge, is associated with such employee if —

(a) credit is given for the purpose of enabling or assisting the person to whom it is given to purchase or subscribe for any securities; or

(b) the person giving the credit knows or has reason to believe that it will be used for the purpose of purchasing or subscribing for securities.

(3) A person who is an employee of a body corporate that is a member shall not, as principal, purchase or agree to purchase any securities or rights or interests in securities unless the body corporate acts as his agent in respect of the transaction.
A person who contravenes or fails to comply with this section is guilty of an offence and liable on conviction to a fine not exceeding $200,000, imprisonment for a term not exceeding 3 years or both.

PART IX
ENFORCEMENT AND INVESTIGATION

Interpretation and application of this Part.

77. (1) This Part does not authorise any investigation into the business of a bank licensed under the Banking Act (Chapter 95) or the International Banking Order, 2000 (S 53/2000) or of a finance company as defined in the Finance Companies Act (Chapter 89), unless specifically provided for in this Part.

(2) In this Part, “books” includes any register or other record of information and any accounts or accounting records, however compiled, recorded or stored, and also includes any document.

Inspection of books and records of licensee and others.

78. (1) For the purpose of ascertaining whether the holder of a licence has complied with the provisions of this Order and any conditions or restrictions subject to which the licence was granted or renewed, the Authority may inspect and make copies of or take extracts from —

(a) any document, record or matter required by or under this Order or the conditions of the licence to be kept by the holder of that licence; and

(b) the books of a dealer, insofar as they relate to the business of the holder of that licence.

(2) The holder of a licence under this Order, and any of the servants or agents of that person, shall on being required by the Authority so to do, produce any document, record or matter referred to in subsection (1).

Power of Authority to require production of books.

79. (1) The Authority may in writing —

(a) give a direction to —

(i) an exchange;

(ii) any member of the committee of an exchange;
(iii) any person who is or has been, either alone or together with another person or any other persons, a dealer or an investment adviser, or is or has been a dealer's representative or an investment representative;

(iv) any nominee controlled by a person referred to in sub-paragraph (iii), or jointly controlled by two or more persons at least one of whom is a person referred to in that sub-paragraph; or

(v) any person who is or has been an officer or employee of, or an agent, advocate and solicitor, auditor or other person acting in any capacity for or on behalf of, an exchange or a person referred to in sub-paragraph (ii), (iii) or (iv),

requiring the production, to the Authority of any books as is specified, being a book relating to —

(A) the business or affairs of an exchange;

(B) any dealing in securities;

(C) any advice concerning securities of the issuing or publication of a report or analysis concerning securities;

(D) the character or financial position of, or any business carried on by, a person referred to in sub-paragraph (iii) or (iv); or

(E) an audit of, or any report of an auditor concerning, a dealing in securities or any accounts or records of a dealer or of an investment adviser; or

(b) give a direction to any person requiring the production to the Registrar of any book relating to matters mentioned in any of sub-paragraph (A) to (E) of paragraph (a) that are in the custody or under the control of that person:

Provided that the book shall not be required to be produced at any time or place as interferes with the proper conduct of the normal business of that person.

(2) A reference in subsection (1) to a dealing in securities or to a business carried on by a person includes a reference to a dealing in securities by a person as a trustee and to a business carried on by a person as trustee, as the case may be.

(3) Where the Authority requires the production of any book under this section and a person has a lien on that book, the production of the book does not prejudice the lien.

(4) Where the Authority exercises a power under this section to require another person to produce any book —

(a) if the book is produced, the Authority —
(i) may take possession of the book and make copies of, or take extracts from, the book;

(ii) may require that other person or any person who was a party to the compilation of the book to make a statement providing an explanation of any matter in the book;

(iii) may retain possession of the book for as long as the Authority may consider necessary; and

(iv) shall permit that other person, upon giving reasonable notice and specifications of the book, to have access to such any which is in the possession of the Registrar; or

(b) if the book is not produced, the Authority may require that other person —

(i) to state, to the best of his knowledge and belief, where the book may be found; and

(ii) to identify the person who, to the best of his knowledge and belief, last had custody of the book and to state, to the best of his knowledge and belief, where that last-mentioned person may be found.

(5) A power conferred by this section to make a requirement of a person extends, if that person is a body corporate, including a body corporate that is in the course of being wound up, or was a body corporate, being a body corporate that has been dissolved, to making that requirement of any person who is or has been an officer of that body corporate.

(6) Whenever it appears to any magistrate, upon written information on oath and after any enquiry he may think necessary, that there are reasonable grounds for suspecting that there are on particular premises any book the production of which has been required by virtue of this section, and which has not been produced in compliance with that requirement, he may issue a warrant authorising the Authority 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 those premises; and

(b) to take possession of, or secure against interference, any book that appear to be a book the production of which was so required.

(7) The powers conferred under subsection (6) are in addition to, and not in derogation of, any other powers conferred by any other written law.

(8) In this section, "premises" includes any structure, building, aircraft, vehicle, vessel and place.
Offences.

80. (1) A person who refuses or fails to comply with any requirement made under section 78 or 79 is guilty of an offence and liable on conviction to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.

(2) A person who, in purported compliance with a requirement made under section 78 or 79, furnishes information or makes a statement that is false or misleading in any material particular is guilty of an offence and liable on conviction to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.

(3) Any person who obstructs or hinders the Authority or any other person in the exercise of any power under section 78 or 79 is guilty of an offence and is liable on conviction to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.

Privileges.

81. (1) Where —

(a) the Authority makes a requirement under section 79 of an advocate and solicitor in respect of any book; and

(b) the book contains a privileged communication made by or on behalf of or to the advocate and solicitor in his capacity as an advocate and solicitor,

he is entitled to refuse to comply with the requirement unless the person to whom or by or on behalf of whom the communication was made or, if the person is a body corporate that is under receivership or is in the course of being wound up, the receiver or the liquidator, as the case may be, agrees to him complying with the requirement, he shall forthwith furnish in writing to the Authority the name and address of the person to whom or by whom the communication was made.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.

Disclosure to the Authority.

82. (1) The Authority may require any dealer to disclose to him, in relation to any acquisition or disposal of securities, any information including the name of the person from or through whom or on whose behalf the securities were acquired or to or through whom or on whose behalf the securities were disposed of and the nature of the instructions given to the dealer in respect of that acquisition or disposal.

(2) The Authority may require any person who has acquired or disposed of securities to disclose to him whether he acquired or disposed of those securities, as the case may be, as
trustee for or on behalf of another person, and if he acquired or disposed of those securities as trustee for or on behalf of another person, to disclose the name of that other person and the nature of any instructions given to that first-mentioned person in respect of the acquisition or disposal.

(3) The Authority may require an exchange to disclose, in relation to any acquisition or disposal of securities on the stock market of that exchange, the names of the members of that exchange who acted in that acquisition or disposal.

(4) A person who refuses or fails to comply with a requirement of the Authority under subsection (1), (2) or (3) is guilty of an offence and liable on conviction to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.

Investigation of certain matters, assistance to designated supervisory authority.

83. (1) Where the Authority has reason to suspect that a person has committed an offence under any provision of this Order or has been guilty of fraud or of any offence against any other written law relating to the dealing in securities, the Authority may make such investigation considered expedient for the due administration of this Order.

(2) The Authority may exercise any of the powers conferred by this Part for the purpose of assisting a designated supervisory authority in the performance of any its material supervisory function.

(3) Any reference in this Part is a designated supervisory authority is a reference to that authority which, in a country or territory designated by the Minister for the purposes of this Order, exercises in that country or territory functions corresponding to those of the Authority under this Order and, in relation to such an authority, "material supervisory functions" means functions which so correspond.

(4) The Minister shall not designate any country or territory for the purposes of this Order unless he is satisfied that the supervisory authority there is subject to provisions of confidentiality which are at least equivalent to those which apply to the Authority, whether under this Order or otherwise.

(5) Any reference in this Part to a person, dealer or an exchange, which is a body corporate, includes a reference to —

(a) any institution which has been a licensee under Part III;

(b) any person who is or was an associate, director, manager, officer or a controller of a licensee or former licensee;

(c) any undertaking which is a parent or subsidiary undertaking of a licensee or former licensee; and

(d) any undertaking with which a licensee or former licensee is closely linked.
84. (1) Where —

(a) on the application of the Authority, it appears to the High Court that a person has committed an offence under this Order or under any other written law of Brunei Darussalam relating to the dealing in securities, or has contravened the conditions or restrictions of a licence or the rules or listing requirements of an exchange or is about to do an act with respect to dealing in securities that, if done, would be such an offence or contravention; or

(b) on the application of an exchange, it appears to the High Court that a person has contravened the rules or listing requirements of an exchange,

the High Court may, without prejudice to any orders it would be entitled to make otherwise than pursuant to this section, make any one or more of the following orders —

(i) in the case of persistent or continuing breaches of this Order or of any other written law relating to the dealing in securities, of the conditions or restrictions of a licence, or of the rules or listing requirements of an exchange, an order restraining a person from carrying on the business of dealing in securities, acting as an investment adviser or as a dealer's representative or investment representative, or from holding himself out as so carrying on business or so acting;

(ii) an order restraining any person from acquiring, disposing of or otherwise dealing with any securities that are specified in the order;

(iii) an order appointing a receiver of the property of a dealer or of property that is held by a dealer for or on behalf of another person, whether on trust or otherwise;

(iv) an order declaring a contract relating to securities to be void or voidable;

(v) for the purpose of securing compliance with any other order under this section, an order directing any person to do or refrain from doing any specified act;

(vi) any ancillary order in consequence of the making of an order under any of the preceding provisions of this subsection.

(2) The High Court may, before making an order under subsection (1), direct that notice of the application be given to such persons as it thinks fit or direct that notice of the application be published in such manner as it thinks fit, or both.

(3) A person appointed by order under subsection (1) as the receiver of the property of a dealer —
(a) may require that dealer to deliver to him any property of which he has been appointed receiver or to give to him all information concerning that property that may reasonably be required;

(b) may acquire and take possession of any property of which he has been appointed receiver;

(c) may deal with any property that he has acquired or of which he has taken possession in any manner in which the dealer might lawfully have dealt with the property; and

(d) has such other powers in respect of the property as the High Court specifies in the order.

(4) In sub-paragraph (iii) of subsection (1) and in subsection (3), "property", in relation to a dealer, includes monies, securities, and documents of title to securities or other property entrusted to or received on behalf of any other person by the dealer or another person in the course of or in connection with the business of dealing in securities carried on by the dealer.

(5) A person who contravenes or fails to comply with —

(a) any order under subsection (1) that is applicable to him; or

(b) any requirement of a receiver appointed by order of the High Court under subsection (1),

is guilty of an offence and liable on conviction to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.

(6) Subsection (5) does not affect the powers of the High Court in relation to the punishment of contempt of court.

(7) The High Court may rescind, vary or discharge an order made under this section or suspend the operation of such an order.

PART X

GENERAL

Restrictions on use of title "broker", "stockbroker" or "dealer".

85. A person who is not a dealer within the meaning of this Order shall not take or use or by inference adopt the name or title of broker, stockbroker or dealer or take or use or have attached to or exhibited at any place any name, title or description implying or tending to the belief that he is a dealer.
Copy of an entry in the dealer’s record as \textit{prima facie} evidence of such entry.

\textbf{86.} (1) Subject to this Order, a copy of an entry in the accounting or other records of a dealer shall in all legal proceedings be received as \textit{prima facie} evidence of such entry and of the matters, transactions and accounts therein recorded.

(2) A copy of an entry in the accounting or other records of a dealer shall not be received in evidence under this Order unless it is first proved that those records were, at the time of the making of the entry, the ordinary records of the dealer and that the entry was made in the usual course of business and that the records are in the custody or control of the dealer.

(3) Such proof as is required under subsection (2) may be given by the dealer or any employee of the dealer and may be given orally or by an affidavit or statutory declaration.

(4) A copy of an entry in the accounting or other records of a dealer shall not be received in evidence under this Order unless it is further proved that the copy has been examined with the original entry and is correct.

(5) Such proof as is required under subsection (4) may be given by any person who has examined the copy with the original entry, and may be given orally or by an affidavit or statutory declaration.

Offences by bodies of persons and by employees and agents.

\textbf{87.} (1) Where an offence against this Order or any regulations made thereunder has been committed by a body corporate, any person who at the time of the commission of the offence was a director, an executive officer or the secretary of the body corporate or was purporting to act in any such capacity, is deemed to have also committed that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person is liable under this Order to any punishment for any act, omission, neglect or default, he shall be liable to the same punishment for every such act, omission, neglect or default of any employee or agent, or of the employee of such agent, provided that such act, omission, neglect or default was committed by such employee in the course of his employment, or by such agent when acting on behalf of such person or by the employee of such agent when acting in the course of his employment in such circumstances that had such act, omission, neglect or default been committed by the agent, his principal would be liable under this section.

General penalty.

\textbf{88.} Any person who contravenes or fails to comply with any provision of the Order or any regulations made thereunder is guilty of an offence and, where no penalty is expressly
provided, shall be liable on conviction to a fine not exceeding $500,000, imprisonment for a term not exceeding 5 years or both.

Compounding of offences.

89. (1) The Authority may compound any offence committed by any person under Part II, III, IV or VI by making a written offer to such person to compound the offence if he pays to the Authority such sum of money within such period as may be specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the sum of money specified in the offer has not been paid within the period specified in the offer or any extension of it which the Authority may grant, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer is made.

(3) Where an offence has been compounded under subsection (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound is made.

Convicted persons liable to pay compensation.

90. A person convicted of an offence under Part VIII shall pay such compensation as may be determined by the court to any person who has purchased or sold any securities at a price affected by the act or transaction the subject of the offence, for the damage suffered by him as a result of that purchase or sale.

Prosecution of offences.

91. No prosecution for any offence under this Order shall be instituted except with the consent in writing of the Public Prosecutor.

Indemnity.

92. No person shall be liable to be sued in any court for any act or matter done or ordered to be done or omitted to be done by him in good faith and in the intended exercise of any power or performance of any duty, conferred or imposed on him by or under this Order or any regulations made thereunder.

Regulations.

93. (1) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may make regulations for the purpose of carrying out and giving full effect to the provisions of this Order and for its due application and administration.
In particular, and without prejudice to the generality of the foregoing power, such regulations may make provision for —

(a) prescribing forms to be used for the purposes of this Order;

(b) prescribing fees to be paid in respect of any matter or thing required for the purposes of this Order;

(c) regulating the publication of advertisements offering the services of dealers in securities or offering securities for purchase or sale and the form and content of such advertisements;

(d) the preparation by dealers of balance-sheets and profit and loss accounts, and the form and content thereof;

(e) the issue, retention and content of a contract note or electronic dealing;

(f) the dealing in securities for his own account directly or indirectly by a member or by any person who provides information relating to securities to members of the public or who may have access to information relating to such securities which is not publicised;

(g) regulating or prohibiting the sale of any security by a person who does not own that security;

(h) prohibiting the use of any manipulative or deceptive devices and contrivances in connection with the purchase or sale of securities;

(i) permitting any person, or any person licensed as a bank under any written law, to make a secondary market in securities of a nature or class prescribed by the Minister and issued by the Government or any statutory corporation constituted under any written law;

(j) all matters and things relating to the issue of securities or the valuation of assets by persons listed on an exchange;

(k) all matters and things required or authorised by this Order to be prescribed or provided or which are necessary or convenient to be prescribed or provided; and

(l) all matters and things relating to a fidelity fund established and kept under section 63, including the imposition of any levies or charges.

Saving.

94. Notwithstanding anything in this Order, any person who immediately before the date of commencement of this Order was lawfully carrying on any business or activity for which a
licence would be required under Part III shall be entitled to continue to do so without a licence under this Order for a period of 6 months beginning with that date.

Made this 5th. day of Zulhijah, 1421 Hijriah corresponding to the 1st. day of March, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3) and 5)

APPROPRIATION FROM DEVELOPMENT FUND ORDER, 2000

WHEREAS His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam by a Proclamation of Emergency dated the 20th. day of May, 2000 has declared a state of emergency in the whole State;

AND WHEREAS it is provided by subsection (3) of section 83 of the Constitution of Brunei Darussalam, that when a Proclamation of Emergency has been made and for so long as such Proclamation is in force, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam may make any Orders whatsoever which he considers desirable in the public interest;

AND WHEREAS it is provided by subsection (5) of section 83 of the Constitution of Brunei Darussalam, that such powers shall include the power to make such financial provisions as may be necessary during the period of the emergency including provision for the public service;

NOW, THEREFORE, in the exercise of the powers conferred on him by subsections (3) and (5) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam has made the following Order —

Citation and commencement.

1. This Order may be cited as the Appropriation from Development Fund Order, 2000 and shall commence on 1st. January, 2001.

Issue and appropriation.

2. (1) The issue of the sum not exceeding $550,400,000.00 from the Development Fund is hereby authorised.

(2) The said sum is appropriated for the purposes specified in the Schedule.
## SCHEDULE

<table>
<thead>
<tr>
<th>Head</th>
<th>Title</th>
<th>Amount Appropriated</th>
</tr>
</thead>
<tbody>
<tr>
<td>701</td>
<td>Agriculture</td>
<td>$2,200,000.00</td>
</tr>
<tr>
<td>702</td>
<td>Forestry</td>
<td>$7,936,000.00</td>
</tr>
<tr>
<td>703</td>
<td>Fisheries</td>
<td>$8,100,000.00</td>
</tr>
<tr>
<td>704</td>
<td>Industrial Development</td>
<td>$22,309,000.00</td>
</tr>
<tr>
<td>705</td>
<td>Commerce and Entrepreneur Development</td>
<td>$4,000,000.00</td>
</tr>
<tr>
<td>706</td>
<td>Education</td>
<td>$27,565,000.00</td>
</tr>
<tr>
<td>707</td>
<td>Roads</td>
<td>$60,841,000.00</td>
</tr>
<tr>
<td>708</td>
<td>Civil Aviation</td>
<td>$15,665,000.00</td>
</tr>
<tr>
<td>709</td>
<td>Marine and Ports</td>
<td>$8,510,000.00</td>
</tr>
<tr>
<td>710</td>
<td>Electricity</td>
<td>$100,131,000.00</td>
</tr>
<tr>
<td>711</td>
<td>Telecommunications</td>
<td>$24,668,000.00</td>
</tr>
<tr>
<td>712</td>
<td>Radio Television Brunei</td>
<td>$314,000.00</td>
</tr>
<tr>
<td>713</td>
<td>Postal Services</td>
<td>$850,000.00</td>
</tr>
<tr>
<td>714</td>
<td>Government Housing</td>
<td>$8,400,000.00</td>
</tr>
<tr>
<td>715</td>
<td>Medical and Health</td>
<td>$15,677,000.00</td>
</tr>
<tr>
<td>716</td>
<td>Sanitation</td>
<td>$3,050,000.00</td>
</tr>
<tr>
<td>717</td>
<td>Water Supplies</td>
<td>$21,421,000.00</td>
</tr>
<tr>
<td>718</td>
<td>Public Utilities and Environmental Projects</td>
<td>$3,431,000.00</td>
</tr>
<tr>
<td>719</td>
<td>Public Buildings</td>
<td>$46,010,000.00</td>
</tr>
<tr>
<td>720</td>
<td>State Housing</td>
<td>$87,471,000.00</td>
</tr>
<tr>
<td>721</td>
<td>Religious Affairs</td>
<td>$3,462,000.00</td>
</tr>
</tbody>
</table>
### SCHEDULE (Continued)

<table>
<thead>
<tr>
<th>Head</th>
<th>Title</th>
<th>Amount Appropriated</th>
</tr>
</thead>
<tbody>
<tr>
<td>722</td>
<td>Feasibility Studies</td>
<td>$1,290,000.00</td>
</tr>
<tr>
<td>723</td>
<td>RBAF Tutong</td>
<td>$0</td>
</tr>
<tr>
<td>724</td>
<td>RBAF Berakas</td>
<td>$0</td>
</tr>
<tr>
<td>725</td>
<td>RBAF Bolkiah</td>
<td>$2,000,000.00</td>
</tr>
<tr>
<td>726</td>
<td>RBAF Penanjong</td>
<td>$2,000,000.00</td>
</tr>
<tr>
<td>727</td>
<td>RBAF Muara</td>
<td>$3,000,000.00</td>
</tr>
<tr>
<td>728</td>
<td>RBAF Miscellaneous Projects</td>
<td>$11,000,000.00</td>
</tr>
<tr>
<td>729</td>
<td>RBAF Binturan</td>
<td>$0</td>
</tr>
<tr>
<td>730</td>
<td>Police</td>
<td>$9,740,000.00</td>
</tr>
<tr>
<td>731</td>
<td>Irrigation</td>
<td>$4,150,000.00</td>
</tr>
<tr>
<td>732</td>
<td>Contingency Reserve</td>
<td>$45,209,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>$550,400,000.00</strong></td>
</tr>
</tbody>
</table>

Made this 3rd. day of Syawal, 1421 Hijriah corresponding to the 30th. day of December, 2000 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
SECURITIES ORDER, 2001

ARRANGEMENT OF REGULATIONS

Regulation

PART I

PRELIMINARY

1. Citation and commencement.

2. Procedure where none laid down.

PART II

FEES

3. Fees.

PART III

FORMS

4. Forms.

5. Particulars prescribed by forms.

6. Directions in forms.

PART IV

GENERAL PROVISIONS RELATING TO FORMS AND OTHER DOCUMENTS

7. General requirements for documents lodged with Authority.

8. Verification of documents.

9. Agents’ authorities to be lodged.
10. Signature of documents lodged with Authority.

11. Changes to documents and information.

12. Time for lodging documents.

13. Affidavits and statutory declarations.

FIRST SCHEDULE — FEES

SECOND SCHEDULE — FORMS AND MISCELLANEOUS PROVISIONS
SECURITIES ORDER, 2001

SECURITIES (FEES, FORMS AND MISCELLANEOUS PROVISIONS) REGULATIONS, 2001

In exercise of the power conferred by section 93 of the Securities Order, 2001, the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

PART 1

PRELIMINARY

Citation and commencement.

1. These Regulations may be cited as the Securities (Fees, Forms and Miscellaneous Provisions) Regulations, 2001 and shall commence on the day appointed for the commencement of the Securities Order, 2001.

Procedure where none laid down.

2. In the event that any act or step is required or permitted to be done or taken under the Order and no form is prescribed or procedure laid down for the purpose either in the Order or any regulation made thereunder, application may be made to the Authority for directions as to the manner in which the act or step may be done or taken, and any act or step done or taken in accordance which his directions shall be a valid performance of such act or step.

PART II

FEES

Fees.

3. (1) The fees set out in the third column of the First Schedule are prescribed as the fees applicable to the items respectively set out in the second column of the First Schedule.

(2) The amount of any fees or other payments howsoever arising, under Part II of the Order may be prescribed or otherwise determined by the Minister in writing.

(3) A person licensed under Part III of the Order continues to be liable for all fees and penalties payable under the Order, notwithstanding that the licence has lapsed, been suspended or withdrawn, and all those fees have priority over all other claims against the assets of such a person or body of persons. The Authority may refuse to take any action under the Order for which a fee is prescribed until all fees have been paid.
PART III

FORMS

Forms.

4. (1) The forms set out in the Second Schedule are prescribed as the forms to be used for the purposes of the Order.

(2) Unless the Authority specifically so requires, strict compliance with a prescribed form is not required and substantial compliance is sufficient.

Particulars prescribed by forms.

5. Where a prescribed form requires completion by insertion or by an attachment referred to in the form, the content of those insertions and attachments are prescribed as the particulars or other matters required under the provisions of the Order for the purposes for which the form is prescribed.

Directions in forms.

6. Subject to regulation 4(2), a prescribed form shall be completed in accordance with such directions as are specified in the form.

PART IV

GENERAL PROVISIONS RELATING TO FORMS AND OTHER DOCUMENTS

General requirements for documents lodged with Authority.

7. (1) A document to be lodged with the Authority shall where applicable —

   (a) be on paper of medium weight, good quality and of international sheet A4 size;

   (b) be clearly printed or otherwise produced in a manner that is permanent, and may with the Authority’s consent be a facsimile or electronically reproduced.

(2) The prescribed fee payable to the Authority in respect of the lodgment of a document with the Authority shall be paid at the time the document is lodged.
(3) Where a fee is payable for or in respect of the lodgment of any document with the Authority and the document is submitted for lodgment without payment of the fee, the document is deemed not to have been lodged until the fee has been paid.

Verification of documents.

8. (1) For the purposes of the Order, any document relating to any person subject to the Order which requires verification shall be verified —

(a) by an appropriate official in the country or territory or part thereof in which that document originates;

(b) by a notary public; or

(c) by a director, manager, executive officer, partner, trustee or secretary of the person in question,

as the Authority may consider appropriate and acceptable.

Agents' authorities to be lodged.

9. Where a document signed by an agent of a person referred to in regulation 8(c) authorised in writing, the authority or a verified copy of the authority shall be annexed to the copy of the document lodged with the Authority.

Signature of documents lodged with Authority.

10. Except as otherwise provided in the Order or these Regulations, a document to be lodged with the Authority under the Order or these Regulations shall be signed or authenticated in manner provided under any written law relating to signature or authentication of that document or otherwise as the Authority may in any case permit.

Changes to documents and information.

11. Where any of the following changes or alterations arise or occur —

(a) a change or changes to any document or information filed or supplied to the Authority; or

(b) a change or changes in the appointment of any director, secretary, officer, partner, manager, administrator, custodian, trustee or registered agent, or any person holding or exercising the functions of any office or position analogous to any of the foregoing,
in addition to any other requirement under the Order or any other written law, each such change or alteration, duly verified, shall be supplied to the Authority within the time prescribed in regulation 12.

Time for lodging documents.

12. Where a document is required by the Order to be lodged with the Authority, and no time period within which the document is to be lodged is prescribed, the document shall be lodged within one month or, in the case of a document required to be lodged by a foreign company, within such further period as the Authority may in special circumstances allow after the happening of the event to which the document relates.

Affidavits and statutory declarations.

13. (1) Except as otherwise provided in the Order or these Regulations, an affidavit or statutory declaration sworn or declared for the purposes of the Order or these Regulations shall —

   (a) on behalf of a body corporate be made by a director or a secretary; or

   (b) where applicable, an officer of the registered agent which is appointed as agent.

(2) Where an affidavit or a statutory declaration by the Order or these Regulations purports to be sworn or declared at a place outside Brunei Darussalam, the affidavit or statutory declaration shall be sufficient for the purposes of the Order and these Regulations if it purports to be sworn or declared in accordance with the requirements of the law of that place.

FIRST SCHEDULE
(regulation 3)

FEES
(Payable in United States dollars)

<table>
<thead>
<tr>
<th>SECTION</th>
<th>ITEM</th>
<th>FEE (United States dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20(1)</td>
<td>Application fee in respect of a Dealer’s Licence</td>
<td>$5,000</td>
</tr>
<tr>
<td>20(1)</td>
<td>Annual renewal fee in respect of a Dealer’s Licence</td>
<td>$4,000</td>
</tr>
<tr>
<td>20(1)</td>
<td>Application fee in respect of an Investment Adviser’s Licence</td>
<td>$4,000</td>
</tr>
</tbody>
</table>
## SECOND SCHEDULE

### FORM 1

**SECTORS ORDER, 2001**

[Section 6(2)]

**APPLICATION FOR A LICENCE TO ESTABLISH AN EXCHANGE**

Application is made for a licence under section 6(2) of the Securities Order, 2001 and the following particulars are supplied in respect thereof —

1. **Particulars of the Applicant’s Parent Company.**

   1.1 Name of Parent Company.
   1.2 Date of Incorporation.
   1.3 Place of Incorporation.
   1.4 Registered Office.
   1.5 Principal Business Address.
   1.6 Tel. No.
   1.7 Fax No.
   1.8 E-mail Contact.

<table>
<thead>
<tr>
<th>SECTION</th>
<th>ITEM</th>
<th>FEE (United States dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20(1)</td>
<td>Annual renewal fee in respect of an Investment Adviser’s Licence</td>
<td>$3,000</td>
</tr>
<tr>
<td>20(1)</td>
<td>Application fee in respect of a Representative’s Licence</td>
<td>$4,000</td>
</tr>
<tr>
<td>20(1)</td>
<td>Annual renewal fee in respect of a Representative’s Licence</td>
<td>$2,000</td>
</tr>
<tr>
<td>39</td>
<td>Upon the issue by the Authority of a copy or extract of a document, per A4 sheet</td>
<td>$1</td>
</tr>
</tbody>
</table>
1.9 Website.

2. **Particulars of Applicant (Brunei Darussalam Subsidiary).**

2.1 Name of Applicant.
2.2 Date of Incorporation.
2.3 Place of Incorporation.
2.4 Registered Address and Agent.
2.5 Bank Account.
2.6 Auditors.
2.7 Nature of Business.

3. **Particulars of all Directors of the Applicant Company.**

3.1 Name.
3.2 Nationality.
3.3 Passport No.
3.4 Address.
3.5 Occupation.

4. **Particulars of all Shareholders of the Applicant Company.**

4.1 Name of Shareholder.
4.2 Date of Appointment.
4.3 Percentage of Control held.

5. **Particulars of all Directors of the Parent Company.**

5.1 Name.
5.2 Date of Appointment.
5.3 Passport No.
5.4 Occupation.

6. **Particulars of all Shareholders of the Parent Company.**

6.1 Name of Shareholder.

6.2 Address.

6.3 Date of Acquisition of such shares.

6.4 No. of Share(s) held.

6.5 Percentage of Control held.

7. **Key appointments of Parent Company.**

7.1 Title.

7.2 Name.

7.3 Date of Appointment.

7.4 Passport No.

8. **Particulars of Share Capital of Parent Company.**

8.1 Registered Share Capital.

8.2 Ordinary Shares.

8.3 Preference Shares.

8.4 Amount of Issued and Paid-Up Capital.

9. **Financial Status of Parent Company.**

10. **Fit and Proper Status.**

10.1 Has the applicant, its shareholder, or its related company or person, including shareholders of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. ever, in Brunei Darussalam or elsewhere, been expelled, suspended, censured or fined, or been refused membership by any stock or futures exchange? If so, please give details.
10.2 Has the applicant, its shareholder or its related company or person, including shareholders of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. ever, in Brunei Darussalam or elsewhere, been refused, suspended or cancelled, a licence certificate or other permission to deal with the public in securities, commodities or commodity future contracts? If so, please give details.

10.3 Has the applicant, its shareholder or its related company or person, including shareholders of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. ever, in Brunei Darussalam or elsewhere, been a party to an arrangement with its creditors or entered into any form of composition with its creditors? If so, please give details.

10.4 Has the applicant, its shareholder or its related company or person, including shareholders of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. ever, in Brunei Darussalam or elsewhere, been petitioned for winding-up? If so, please give details and advise whether or not is still pending or how it was disposed of.

10.5 Has a receiver, ever been appointed by the court or by a debenture holder to manage the applicant’s, its shareholder’s, or its related company’s or person’s, including shareholders of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company’s etc. affairs? If so, please give details and advise whether or not the receiver is still in possession of the assets concerned.
10.6 Has the applicant, its shareholder or its related company or person, including shareholders of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. ever, been convicted of any offence, other than a traffic offence, in Brunei Darussalam or elsewhere?

10.7 Has any judgment ever been entered against the applicant, its shareholder, or its related company or person, including shareholders of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. in any civil proceedings, in Brunei Darussalam or elsewhere?

10.8 Is the applicant, its shareholder, or its related company or person, including shareholders of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. currently the subject of a charge or indictment alleging any offence, other than a traffic offence, in Brunei Darussalam or elsewhere?

10.9 Is the applicant, its shareholder, or its related company or person, including shareholders of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. currently a party to any civil proceedings in Brunei Darussalam or elsewhere? If so, please give details.
10.10 Please give particulars of any unsatisfied judgments outstanding against the applicant, its shareholder, or its related company or person, including shareholders of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. if any.

10.11 Has the applicant, its shareholder, or its related company or person, including shareholder of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. ever been enjoined by order, judgment or decree or any court or regulatory body or Government agency, in Brunei Darussalam or elsewhere, from acting in any capacity or engaging in any activity? If so, please give details.

10.12 Has the applicant, its shareholder, or its related company or person, including shareholder of the ultimate holding company, ultimate holding company, holding company, associated company and subsidiary company etc. ever been the subject of any disciplinary action [other than those disclosed in the above answer] by any regulatory body or Government agency, in Brunei Darussalam or elsewhere? If so, please give details.

10.13 Is the applicant or a company of which it is a director or a firm of which it is a partner being investigated by any regulatory body or Government agency, in Brunei Darussalam or elsewhere, in engaging in any improper activity? If so, please give details.
11. **Data of the Contact Person of this Application**

11.1 Name.

11.2 Name of Company.

11.3 Company Address.

11.4 Tel. No.

**FORM OF DECLARATION**

I being a proposed Director of ......................... on .............................. hereby certify that I have read and understood the provisions of the Securities Order, 2001 and all regulations and circulars issued there under.

We certify that the information given in the application is complete and accurate to the best of our knowledge. We undertake to inform the Authority of any changes material to the application which arise while the Authority is considering the application. We further undertake that, in the event that we are granted the licence for which is hereby sought, we will notify the Authority of any material changes to or affecting the completeness or accuracy of, the application above as soon as possible.

Dated this .............................. day of .............................., 20........

Name :

Position:

Signature:

---

Lodged in the office of the Authority in Brunei Darussalam by —  
For Registry’s Use

Name:  
Date of Registration:

Address:  
Receipt No.:

Telephone No.:  
Checked by:

Fax No.:  

1011
SECOND SCHEDULE

FORM 2

SECURITIES ORDER, 2001
[section 16(1)]

APPLICATION FOR DEALER'S LICENCE

Application is made for a licence under section 16(1) of the Securities Order, 2001 and the following particulars are supplied in respect thereof —

1. Applicant.
   1.1 Name of applicant.
   1.2 Address in Brunei Darussalam of the applicant.
   1.3 Address of principal office, if incorporated outside Brunei Darussalam.
   1.4 Date and place of Incorporation.
   1.5 A detailed statement of the nature of activities to be conducted and the applicant’s experience.

2. Group Structures.
   2.1 Subsidiary companies: names and registered office address and names of their registered agents.
   2.2 Statement of capital of any other company held, directly or through a subsidiary, as an asset of the applicant.

3. Financial Information.
   3.1 Authorised and Paid-Up Capital.
   3.2 Annual accounts of the applicant and of its holding company, if applicable, for the preceding 3 years and when available, being duly audited and certified by an independent auditor.

4. Shareholders.
   4.1 A list of all the shareholders of the applicant, providing the following information —
4.1.1 Full name.

4.1.2 Nationality.

4.1.3 Private Address.

4.1.4 Number of shares held.

4.1.5 Date of acquisition of such shares.

5. Directors.

This is applicable to Directors resident in Brunei Darussalam, or to be resident in Brunei Darussalam, or directly responsible for Brunei Darussalam operations.

5.1 A list of all directors of the applicant, providing the following information —

5.1.1 Full name.

5.1.2 Private Address.

5.1.3 Address in Brunei Darussalam.

5.1.4 Date of Birth.

5.1.5 Place of Birth.

5.1.6 Gender.

5.1.7 Nationality.

5.1.8 NRIC No. or Passport No.

5.1.9 Qualifications attained.

5.1.10 Working experience.

5.1.11 Any directorships held now and during the last 10 years, including details of the employer and dates of the employment.

The following Part is to be completed by the applicant and all the proposed directors of the applicant —

1. Have you at any time been licensed or registered in any place under any law which requires licensing or registration in relation to securities? If so, give particulars (including details of contact persons at relevant authorities).
2. Have you, or any body corporate with which you are or have been associated, at any time been charged with and/or convicted of any offence including an expunged offence (other than an offence in connection with the use or ownership of a motor vehicle)? If so, give particulars of the court by which you or the body corporate were convicted, the offence charged and the penalty imposed and the date of conviction.

3. Have you at any time held a licence relating to securities or providing investment advice, which has been cancelled, withdrawn or suspended under any law either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars (including details of contact persons at relevant authorities).

4. Have you been censured, disciplined, warned as to future conduct or publicly criticised by, or made the subject of a court order at the instigation of, any regulatory authority or professional body to which you belong or belonged or have you ever held a licence subject to conditions? If so, give particulars (including details of contact persons at relevant authorities).

5. Has the applicant been the subject of an investigation by, or at the instigation of, a governmental, professional or other regulatory body? If so, give particulars (including details of contact persons at relevant authorities).
6. Have you been dismissed from any office or employment or barred from entry to any profession or occupation? If so, give particulars.

…………………………………………………………………………………………...

7. Have you been adjudicated bankrupt by a court or at any time suspended payment to your creditors or entered into an arrangement with your creditors? If so, give particulars.

…………………………………………………………………………………………...

…………………………………………………………………………………………...

8. Have you failed to satisfy any debt adjudged due and payable by you as a judgment-debtor under an order of a court? If so, give particulars.

…………………………………………………………………………………………...

…………………………………………………………………………………………...

9. Have you, in connection with any security been adjudged by a civil court liable for any fraud, misfeasance or other misconduct by you towards such security? If so, give particulars.

…………………………………………………………………………………………...

…………………………………………………………………………………………...

10. Has any organisation with which you were associated as a Dealer, Investment Adviser, Representative or any similar position been compulsory wound-up or made any compromise or arrangement with its creditors or ceased trading, in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars.

…………………………………………………………………………………………...

…………………………………………………………………………………………...

11. In carrying out your duties will you be acting on the direction or instructions of any other person? If so, give particulars.

…………………………………………………………………………………………...

…………………………………………………………………………………………...

12. Do you, in your private capacity, or does any close relative or associate (either individual or corporate), undertake or intend to undertake business with the, applicant? If so, give particulars.

…………………………………………………………………………………………...

1015
13. Do you, in your private capacity, or does any close relative or associate (either individual or corporate) hold any (present or future) beneficial interest in the voting power of the applicant, or hold any voting power? If so, give particulars.

……………………………………………………………………………………….......

14. Are you engaged in, or do you expect to be engaged in, any litigation or matter of dispute with any authority, including taxation authorities? If so, give particulars.

……………………………………………………………………………………….......

……………………………………………………………………………………….......

FORM OF DECLARATION

I, being a proposed Director of ………………………………………………...........................

……………………………………… on ………………………………………….... hereby

 certify that I have read and understood the provisions of the Securities Order, 2001 and all

 regulations and circulars issued thereunder.

I certify that the information given in the application is complete and accurate to the best of

my knowledge, information and belief and that there are no other facts relevant to this

application of which the Authority should be aware.

I undertake to inform the Authority of any changes material to the application which arise

while the Authority is considering the application. I further undertake that, in the event that

the licence or any renewal thereof which is hereby sought is granted, I will notify the

Authority of any material changes to or affecting the completeness or accuracy of, the

application above as soon as possible, but in any event no later than 14 days from the day that

the changes come to my attention, where a time limit has not been prescribed.

Dated this .................................. day of .................................., 20.......

Name :

Position:

Signature:
APPLICATION FOR INVESTMENT ADVISER’S LICENCE

Application is made for a licence under section 18(1) of the Securities Order, 2001 and the following particulars are supplied in respect thereof —

1. Applicant.
   1.1 Name of applicant.
   1.2 Address in Brunei Darussalam of the applicant.
   1.3 Address of principal office, if incorporated outside Brunei Darussalam.
   1.4 Date and place of Incorporation.
   1.5 A detailed statement of the nature of activities to be conducted and the applicant’s experience.

2. Financial Information.
   2.1 If applicant is a body corporate, the authorised and Paid-Up Capital.
   2.2 Annual accounts of the applicant and of its holding company, if applicable, for the preceding 3 years where available, being duly audited and certified by an independent auditor.

3. Shareholders.
   3.1 If applicant is a body corporate, a list of all the shareholders of the applicant, providing the following information —
3.1.1 Full Name.
3.1.2 Nationality.
3.1.3 Private Address.
3.1.4 Number of shares held.
3.1.5 Date of acquisition of such shares.

4. Directors.

This is applicable to Directors resident in Brunei Darussalam, or to be resident in Brunei Darussalam, or directly responsible for Brunei Darussalam operations.

4.1 A list of all directors of the applicant, providing the following information —

4.1.1 Full Name.
4.1.2 Private Address.
4.1.3 Address in Brunei Darussalam.
4.1.4 Date of Birth.
4.1.5 Place of Birth.
4.1.6 Gender.
4.1.7 Nationality.
4.1.8 NRIC No. or Passport No.
4.1.9 Qualifications attained.
4.1.10 Working experience.
4.1.11 Any directorships held now and during the last 10 years, including details of the employer and dates of the employment.

The following Part is to be completed by the applicant and all the proposed directors of the applicant —

1. Have you at any time been licensed or registered in any place under any law which requires licensing or registration in relation to securities? If so, give particulars (including details of contact persons at relevant authorities).
2. Have you, or any body corporate with which you are or have been associated, at any time been charged with and/or convicted of any offence including an expunged offence (other than an offence in connection with the use or ownership of a motor vehicle)? If so, give particulars of the court by which you or the body corporate were convicted, the offence charged and the penalty imposed and the date of conviction.

3. Have you at any time held a licence relating to securities or providing investment advice, which has been cancelled, withdrawn or suspended under any law either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars (including details of contact persons at relevant authorities).

4. Have you been censured, disciplined, warned as to future conduct or publicly criticised by, or made the subject of a court order at the instigation of, any regulatory authority or professional body to which you belong or belonged or have you ever held a licence subject to conditions? If so, give particulars (including details of contact persons at relevant authorities).

5. Has the applicant been the subject of an investigation by, or at the instigation of, a governmental, professional or other regulatory body? If so, give particulars (including details of contact persons at relevant authorities).
6. Have you been dismissed from any office or employment or barred from entry to any profession or occupation? If so, give particulars.

……………………………………………………………………………………………

7. Have you been adjudicated bankrupt by a court or at any time suspended payment to your creditors or entered into an arrangement with your creditors? If so, give particulars.

……………………………………………………………………………………………

……………………………………………………………………………………………

8. Have you failed to satisfy any debt adjudged due and payable by you as a judgment-debtor under an order of a court? If so, give particulars.

……………………………………………………………………………………………

……………………………………………………………………………………………

9. Have you, in connection with any security been adjudged by a civil court liable for any fraud, misfeasance or other misconduct by you towards such a security? If so, give particulars.

……………………………………………………………………………………………

……………………………………………………………………………………………

10. Has any organisation with which you were associated as a Dealer, Investment Adviser, Representative or any similar position been compulsory wound-up or made any compromise or arrangement with its creditors or ceased trading, in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars.

……………………………………………………………………………………………

……………………………………………………………………………………………

11. In carrying out your duties will you be acting on the direction or instructions of any other person? If so, give particulars.

……………………………………………………………………………………………

12. Do you, in your private capacity, or does any close relative or associate (either individual or corporate), undertake or intend to undertake business with the applicant? If so, give particulars.

……………………………………………………………………………………………

1020
13. Do you, in your private capacity, or does any close relative or associate (either individual or corporate) hold any (present or future) beneficial interest in the voting power of the applicant, or hold any voting power? If so, give particulars.

.................................................................................................................................

14. Are you engaged in, or do you expect to be engaged in, any litigation or matter of dispute with any authority, including taxation authorities? If so, give particulars.

.................................................................................................................................

.................................................................................................................................

FORM OF DECLARATION

I, being a proposed Director of ….........................................................................................

................................................................................................................................. on ................................................................. hereby certify that I have read and understood the provisions of the Securities Order, 2001 and all regulations and circulars issued thereunder.

I certify that the information given in the application is complete and accurate to the best of my knowledge, information and belief and that there are no other facts relevant to this application of which the Authority should be aware.

I undertake to inform the Authority of any changes material to the application which arise while the Authority is considering the application. I further undertake that, in the event that the licence or any renewal thereof which is hereby sought is granted, I will notify the Authority of any material changes to or affecting the completeness or accuracy of, the application above as soon as possible, but in any event no later than 14 days from the day that the changes come to my attention, unless a time limit has been prescribed.

Dated this ........................................ day of ........................................, 20..........

Name:

Position:

Signature:

1021
APPLICATION FOR A REPRESENTATIVE’S LICENCE

Application is made for a licence under section 20(1) of the Securities Order, 2001 and the following particulars are supplied in respect thereof —

1. ** Applicant. 
   
1.1 **Name** of applicant.
1.2 **Name** of person the applicant is to represent.
1.3 Nature of licence sought.
1.4 **Address** in Brunei Darussalam of the applicant.
1.5 **Address** of principal office, if incorporated outside Brunei Darussalam.
1.6 Date and place of Incorporation.
1.7 A detailed statement of the nature of activities to be conducted.
1.8 Details of applicant’s educational and professional qualifications.
1.9 Details of applicant’s working experience.

The following Part is to be completed by the applicant —

1. Have you at any time been licensed or registered in any place under any law which requires licensing or registration in relation to securities? If so, give particulars (including details of contact persons at relevant authorities).
2. Have you, or any body corporate with which you are or have been associated, at any time been charged with and/or convicted of any offence including an expunged offence (other than an offence in connection with the use or ownership of a motor vehicle)? If so, give particulars of the court by which you or the body corporated were convicted, the offence charged and the penalty imposed and the date of conviction.

3. Have you at any time held a licence relating to securities or providing investment advice, which has been cancelled, withdrawn or suspended under any law either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars (including details of contact persons at relevant authorities).

4. Have you been censured, disciplined, warned as to future conduct or publicly criticised by, or made the subject of a court order at the instigation of, any regulatory authority or professional body to which you belong or belonged or have you ever held a licence subject to conditions? If so, give particulars (including details of contact persons at relevant authorities).

5. Has the applicant been the subject of an investigation by, or at the instigation of, a governmental, professional or other regulatory body? If so, give particulars (including details of contact persons at relevant authorities).
6. Have you been dismissed from any office or employment or barred from entry to any profession or occupation? If so, give particulars.

7. Have you been adjudicated bankrupt by a court or at any time suspended payment to your creditors or entered into an arrangement with your creditors? If so, give particulars.

8. Have you failed to satisfy any debt adjudged due and payable by you as a judgment-debtor under an order of a court? If so, give particulars.

9. Have you, in connection with any security been adjudged by a civil court liable for any fraud, misfeasance or other misconduct by you towards such a security? If so, give particulars.

10. Has any organisation with which you were associated as a Dealer, Investment Adviser, Representative or any similar position been compulsory wound-up or made any compromise or arrangement with its creditors or ceased trading, in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars.

11. In carrying out your duties will you be acting on the direction or instructions of any other person? If so, give particulars.
12. Do you, in your private capacity, or does any close relative or associate (either individual or corporate), undertake or intend to undertake business with the applicant? If so, give particulars.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

13. Do you, in your private capacity, or does any close relative or associate (either individual or corporate) hold any (present or future) beneficial interest in the voting power of the applicant, or hold any voting power? If so, give particulars.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

14. Are you engaged in, or do you expect to be engaged in, any litigation or matter of dispute with any authority, including taxation authorities? If so, give particulars.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

15. Any additional information considered relevant to the application.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

FORM OF DECLARATION

I, being a Director of ...........................................................

……………………………………………………………………………………….....
on ................................................................. hereby certify that I have read and understood the provisions of the Securities Order, 2001 and all regulations and circulars issued thereunder.

I certify that the information given in the application is complete and accurate to the best of my knowledge, information and belief and that there are no other facts relevant to this application of which the Authority should be aware. It is believed that the applicant is of good character and reputation and has the competent experience to perform the functions of a representative.

I undertake to inform the Authority of any changes material to the application which arise while the Authority is considering the application. I further undertake that, in the event that the licence or any renewal thereof which is hereby sought is granted, I will notify the
Authority of any material changes to or affecting the completeness or accuracy of, the application above as soon as possible, but in any event no later than 14 days from the day that the changes come to my attention, where a time limit has not been prescribed.

Dated this ................................ day of ........................................., 20..........

Name:
Position:
Signature:

---

FORM 5
SECURITIES ORDER, 2001
[section 20(1)]

APPLICATION FOR RENEWAL OF DEALER’S/INVESTMENT ADVISER’S LICENCE

Application is made for a licence under section 20(1) of the Securities Order, 2001 and the following particulars are supplied in respect thereof —

1. Applicant.
   1.1 Name of applicant.
   1.2 Licence Number.
   1.3 Address in Brunei Darussalam of the registered office of the applicant.
   1.4 Address of principal office, if incorporated outside Brunei Darussalam.
   1.5 Details of any new business activity undertaken since the previous application.
2. Shareholders.

2.1 A list of all the shareholders of the applicant, providing the following information —

2.1.1 Full Name.

2.1.2 Nationality.

2.1.3 Private Address.

2.1.4 Number of shares held.

2.1.5 Date of acquisition of such shares.

3. Directors.

3.1 A list of all directors of the applicant, providing the following information —

3.1.1 Full Name.

3.1.2 Private Address.

3.1.3 Address in Brunei Darussalam.

3.1.4 Date of Birth.

3.1.5 Place of Birth.

3.1.6 Gender.

3.1.7 Nationality.

3.1.8 NRIC No. or Passport No.

3.1.9 Qualifications attained.

3.1.10 Working experience.

3.1.11 Any directorships held now and during the last 10 years, including details of the employer and dates of the employment.

The following Part is to be completed by the applicant and all the directors of the applicant —

1. Have you at any time been licensed or registered in any place under any law which requires licensing or registration in relation to securities? If so, give particulars (including details of contact persons at relevant authorities).
2. Have you, or any body corporate with which you are or have been associated, at any
time been charged with and/or convicted of any offence including an expunged offence
(other than an offence in connection with the use or ownership of a motor vehicle)? If
so, give particulars of the court by which you or the body corporate were convicted, the
offence charged and the penalty imposed and the date of conviction.

3. Have you at any time held a licence relating to securities or providing investment
advice, which has been cancelled, withdrawn or suspended under any law either while
you were associated with it or within one year after you ceased to be associated with it?
If so, give particulars (including details of contact persons at relevant authorities).

4. Have you been censured, disciplined, warned as to future conduct or publicly criticised
by, or made the subject of a court order at the instigation of, any regulatory
authorisation or professional body to which you belong or belonged or have you ever
held a licence subject to conditions? If so, give particulars (including details of contact
persons at relevant authorities).

5. Has the applicant been the subject of an investigation by, or at the instigation of, a
governmental, professional or other regulatory body? If so, give particulars (including
details of contact persons at relevant authorities).
6. Have you been dismissed from any office or employment or barred from entry to any profession or occupation? If so, give particulars.

.................................................................................................................................

.................................................................................................................................

7. Have you been adjudicated bankrupt by a court or at any time suspended payment to your creditors or entered into an arrangement with your creditors? If so, give particulars.

.................................................................................................................................

.................................................................................................................................

8. Have you failed to satisfy any debt adjudged due and payable by you as a judgment-debtor under an order of a court? If so, give particulars.

.................................................................................................................................

.................................................................................................................................

9. Have you, in connection with any security been adjudged by a civil court liable for any fraud, misfeasance or other misconduct by you towards such a security? If so, give particulars.

.................................................................................................................................

.................................................................................................................................

10. Has any organisation with which you were associated as a Dealer, Investment Adviser, Representative or any other similar position of any fund been compulsory wound-up or made any compromise or arrangement with its creditors or ceased trading, in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars.

.................................................................................................................................

.................................................................................................................................

11. In carrying out your duties will you be acting on the direction or instructions of any other person? If so, give particulars.

.................................................................................................................................

.................................................................................................................................
12. Do you, in your private capacity, or does any close relative or associate (either individual or corporate), undertake or intend to undertake business with the applicant? If so, give particulars.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

13. Do you, in your private capacity, or does any close relative or associate (either individual or corporate) hold any (present or future) beneficial interest in the voting power of the applicant, or hold any voting power? If so, give particulars.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

14. Are you engaged in, or do you expect to be engaged in, any litigation or matter of dispute with any authority, including taxation authorities? If so, give particulars.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

15. Any other changes since the previous application of additional information considered relevant to the application.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

FORM OF DECLARATION

I, being a Director of ………………………………………………………………………

……………………………………………………………………………………….......
……………………………………………………………………………………….......

hereby certify that I have read and understood the provisions of the Securities Order, 2001 and all regulations and circulars issued thereunder.

I certify that the information given in the application is complete and accurate to the best of my knowledge, information and belief and that there are no other facts relevant to this application of which the Authority should be aware.

I undertake to inform the Authority of any changes material to the application which arise while the Authority is considering the application. I further undertake that, in the event the renewal which is hereby sought is granted, I will notify the Authority of any material changes to or affecting the completeness or accuracy of, the application above as soon as possible, but
in any event no later than 14 days from the day that the changes come to my attention, where a time limit has not been prescribed.

Dated this ..................... day of ........................., 20............

Name:
Position:
Signature:

FORM 6
SECURITIES ORDER, 2001
[section 20(1)]

APPLICATION FOR RENEWAL OF A REPRESENTATIVE’S LICENCE

Application is made for a licence under section 20(1) of the Securities Order, 2001 and the following particulars are supplied in respect thereof —

1. Applicant.
   1.1 Name of applicant.
   1.2 Licence Number.
   1.3 Address in Brunei Darussalam of the applicant.
   1.4 Address of principal office, if incorporated outside Brunei Darussalam.
   1.5 Details of any new business activity undertaken since the previous application.

The following Part is to be completed by the applicant —

1031
1. Have you at any time been licensed or registered in any place under any law which requires licensing or registration in relation to securities? If so, give particulars (including details of contact persons at relevant authorities).

..............................................................................................................................................

..............................................................................................................................................

2. Have you, or any body corporate with which you are or have been associated, at any time been charged with and/or convicted of any offence including an expunged offence (other than an offence in connection with the use or ownership of a motor vehicle)? If so, give particulars of the court by which you or the body corporate were convicted, the offence charged and the penalty imposed and the date of conviction.

..............................................................................................................................................

..............................................................................................................................................

3. Have you at any time held a licence relating to securities or providing investment advice, which has been cancelled, withdrawn or suspended under any law either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars (including details of contact persons at relevant authorities).

..............................................................................................................................................

..............................................................................................................................................

..............................................................................................................................................

4. Have you been censured, disciplined, warned as to future conduct or publicly criticised by, or made the subject of a court order at the instigation of, any regulatory authority or professional body to which you belong or belonged or have you ever held a licence subject to conditions? If so, give particulars (including details of contact persons at relevant authorities).

..............................................................................................................................................

..............................................................................................................................................

..............................................................................................................................................

5. Has the applicant been the subject of an investigation by, or at the instigation of, a governmental, professional or other regulatory body? If so, give particulars (including details of contact persons at relevant authorities).

..............................................................................................................................................

..............................................................................................................................................
6. Have you been dismissed from any office or employment or barred from entry to any profession or occupation? If so, give particulars.

........................................................................................................................................................................................................
........................................................................................................................................................................................................

7. Have you been adjudicated bankrupt by a court or at any time suspended payment to your creditors or entered into an arrangement with your creditors? If so, give particulars.

........................................................................................................................................................................................................
........................................................................................................................................................................................................

8. Have you failed to satisfy any debt adjudged due and payable by you as a judgment-debtor under an order of a court? If so, give particulars.

........................................................................................................................................................................................................
........................................................................................................................................................................................................

9. Have you, in connection with any security been adjudged by a civil court liable for any fraud, misfeasance or other misconduct by you towards such a security? If so, give particulars.

........................................................................................................................................................................................................
........................................................................................................................................................................................................

10. Has any organisation with which you were associated as a Dealer, Investment Adviser, Representative or any similar position been compulsory wound-up or made any compromise or arrangement with its creditors or ceased trading, in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars.

........................................................................................................................................................................................................
........................................................................................................................................................................................................

11. In carrying out your duties will you be acting on the direction or instructions of any other person? If so, give particulars.

........................................................................................................................................................................................................
........................................................................................................................................................................................................

1033
12. Do you, in your private capacity, or does any close relative or associate (either individual or corporate), undertake or intend to undertake business with the applicant? If so, give particulars.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

13. Do you, in your private capacity, or does any close relative or associate (either individual or corporate) hold any (present or future) beneficial interest in the voting power of the applicant, or hold any voting power? If so, give particulars.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

14. Are you engaged in, or do you expect to be engaged in, any litigation or matter of dispute with any authority, including taxation authorities? If so, give particulars.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

15. Any other changes since the previous application of additional information considered relevant to the application.

……………………………………………………………………………………….......
……………………………………………………………………………………….......

FORM OF DECLARATION

I, being a Director of ………………………………………………………………………

……………………………………… on ………………………………………… hereby certify that I have read and understood the provisions of the Securities Order, 2001 and all regulations and circulars issued thereunder.

I certify that the information given in the application is complete and accurate to the best of my knowledge, information and belief and that there are no other facts relevant to this application of which the Authority should be aware. It is believed that the applicant is if good the character and reputation and has the competent experience to perform the functions of a representative.

I undertake to inform the Authority of any changes material to the application which arise while the Authority is considering the application. I further undertake that, in the event that the renewal which is hereby sought is granted, I will notify the Authority of any material
changes to or affecting the completeness or accuracy of, the application above as soon as possible, but in any event no later than 14 days from the day that the changes come to my attention, where a time limit has not been prescribed.

Dated this .................................. day of .................................., 20..............

Name:

Position:

Signature:

FORM 7
SECURITIES ORDER, 2001
[section 29]

NOTIFICATION OF CESSATION OF BUSINESS OR OTHER CHANGE IN PARTICULARS

Notice is hereby given for a change in particulars under section 29 of the Securities Order, 2001 and the following particulars are supplied in respect thereof —

I ........................................................................................... (name), a director of

.......................................................................... (name of licensee) hereby give notice that the following change(s) of information have occurred in respect of the following:

Notice is hereby given that .................................................. (name of licensee) hereby give notice that the following change(s) of information have occurred in respect of the following:

Notice is hereby given that .................................................. (name) the holder of a dealer’s licence/ investment adviser’s licence/ representative’s licence¹ will cease/ has ceased¹ to carry on the business or to hold himself out as carrying on the business to which the dealer’s licence/ investment adviser’s licence/representative’s licence¹ relates.

Any other changes, please state:²

1035
FORM 8
SECURITIES ORDER, 2001
[section 34(1)]
REGISTER OF SECURITIES

Particulars of the securities under section 34(1) of the Securities Order, 2001 in which I have an interest are as follows —

1. **Applicant.**
   1.1 Name of person.
   1.2 Designation.
   1.3 Name of security.
   1.4 Name of dealer.
   1.5 Date security acquired.
   1.6 Unit price.
   1.7 No. of units required.

---

1Delete as appropriate.
2If sufficient space, please include annexure.
1.8 No. of units disposed.

1.9 Notice of place at which register to be kept.

Dated this ....................... day of .................................., 20............

........................................

(Name)

Lodged in the office of the Authority in Brunei Darussalam by — For Registry’s Use
Name: Date of Registration:
Address:
Telephone No.:
Fax No.:
Receipt No.:
Checked by:

FORM 9
SECURITIES ORDER, 2001
[section 35(1)]

NOTICE OF PARTICULARS OF REGISTER

Notice is hereby given to the Authority of particulars as required under section 35(1) of the Securities Order, 2001 in which I have an interest are as follows —

1. Name of person.
2. Designation.
3. Address in Brunei Darussalam of the registered office of the applicant.
4. Place at which register is to be kept.
5. Date of commencement of keeping register at place as specified.
6. Such other particulars as the Authority may require.
Dated this ................................ day of ........................................, 20...........

........................................
(Name)

Made this 5th. day of Zulhijah, 1421 Hijriah corresponding to the 1st. day of March, 2001.

(DATO PADUKA AWANG HAJI YAKUB BIN ABU BAKAR)
Permanent Secretary,
Ministry of Finance,
Brunei Darussalam.
No. S 37

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

TELECOMMUNICATION SUCCESSOR COMPANY ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

1. Citation, commencement and long title.

2. Interpretation.

3. Vesting of telecommunication undertaking in telecommunication successor company.

4. Initial Government holding in the telecommunication successor company.

5. Transfer to telecommunication successor company of employees of the telecommunication undertaking.

6. Conditions of service.

7. Pensions.


10. Financial structure of telecommunication successor company.

11. Regulations.
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

TELECOMMUNICATION SUCCESSOR COMPANY ORDER, 2001

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

Citation, commencement and long title.

1. (1) This Order may be cited as the Telecommunication Successor Company Order, 2001 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the Gazette.

(2) The long title of this Order is "An Order to provide for the transfer of the property, rights and liabilities of the Telecommunications Department to the telecommunication successor company; for the transfer to the telecommunication successor company of the staff of the Telecommunications Department and for matters connected therewith".

Interpretation.

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

"Authority" means the Authority for Info-communications Technology Industry of Brunei Darussalam (also known by the acronym AiTi) established under section 3 of the Authority for Info-communications Technology Industry of Brunei Darussalam Order, 2001;

"designated telecommunication property" means property of any description, whether movable or immovable, which the Minister may designate as necessary to be retained by the Authority (or the Authority’s nominee) for the exercise of its duties and functions relating to telecommunications under the Authority for Info-communications Technology Industry of Brunei Darussalam Order, 2001 and under the Telecommunications Order, 2001;

"excepted telecommunication employee" means any officer or employee which the Authority may specify as necessary or expedient to be retained by the Authority (or the Authority’s nominee) for the exercise of any of the duties and functions relating to telecommunications under the Authority for Info-communications Technology Industry of Brunei Darussalam Order, 2001 and under the Telecommunications Order, 2001;

"liabilities" means all liabilities, duties and obligations, whether actual, contingent or prospective, and wherever arising;

"Minister" means the Minister for Finance;
"property" means any legal or equitable estate or interest (whether present or future or whether vested or contingent) in any property whether movable or immovable;

"rights" means all rights, powers, privileges and immunities, whether actual, contingent or prospective, whether statutory or otherwise, and wherever arising;

"succession date" means the date appointed by the Minister by order published in the Gazette for the purposes of section 3;

"telecommunication successor company" means the company nominated by the Minister pursuant to paragraph (a) of subsection (1) of section 3;

"telecommunication undertaking" means all property, whether moveable or immovable, vested in the Government which is necessary for the provision, maintenance, management and operation of telecommunication services in Brunei Darussalam, and all assets, powers, rights, interests, privileges, debts, liabilities and obligations connected therewith;

"transferred employee" means a person who, under section 5, is taken to have been engaged as an employee by the telecommunication successor company.

Vesting of telecommunication undertaking in telecommunication successor company.

3. (1) On the succession date —

(a) all the property, rights and liabilities comprised in the telecommunication undertaking (other than the designated telecommunication property) to which the Government was entitled or subject to immediately before that date, shall become, by virtue of this section and without further assurance, the property, rights and liabilities of a nominated for the purposes of this section by the Minister (referred to in this Order as the telecommunication successor company);

(b) the telecommunication successor company becomes the successor at law of the Government in respect of the telecommunication undertaking of the Government; and

(c) the telecommunication successor company shall be designated, in accordance with section 6 of the Telecommunications Order, 2001, as a public telecommunication licensee.

(2) Where any land is, on the succession day, reserved for use by the telecommunication undertaking, His Majesty the Sultan and Yang Di-Pertuan in Council may, in his discretion, alienate such land pursuant to section 3 of the Land Code (Chapter 40) in favour of the telecommunication successor company by granting in respect of that land a lease in perpetuity or for such lesser term as His Majesty the Sultan and Yang Di-Pertuan in Council may consider appropriate.
(3) A premium will be charged on land alienated under subsection (2) in the manner mentioned in section 14 of the Land Code (Chapter 40).

(4) If any question arises as to whether any particular property, right or liability has been transferred to or vested in the telecommunication successor company under this Order, a certificate under the hand of the Minister shall be conclusive evidence that the property, right or liability was or was not so transferred or vested.

(5) It is hereby declared for the avoidance of doubt that —

(a) any reference in this Order to property comprised in the Government’s telecommunication undertaking is a reference to such property (other than the designated telecommunication property) of the Government whether situated in Brunei Darussalam or elsewhere; and

(b) any such reference to rights and liabilities comprised in the Government’s telecommunication undertaking is a reference to such rights to which the Government is entitled or, as the case may be, such liabilities to which the Government is subject, whether under the laws of Brunei Darussalam or any country outside Brunei Darussalam.

(6) It shall be the duty of the Government and of the telecommunication successor company to take all such steps as may be requisite to secure that the vesting in the telecommunication successor company by virtue of this section of any foreign property, right or liability is effective under the relevant foreign law and until such time it shall be the duty of the Government to hold the property or right for the benefit of, or to discharge that liability on behalf of, the company.

(7) Nothing in subsection (6) shall be taken as prejudicing the effect under the laws of Brunei Darussalam of the vesting in the telecommunication successor company by virtue of this section of any foreign property, right or liability.

(8) In subsections (6) and (7), references to any foreign property, right or liability are references, respectively, to any property, right or liability comprised in the telecommunication undertaking as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of conflict of laws) by reference to the law of a country or territory outside Brunei Darussalam.

Initial Government holding in the telecommunication successor company.

4. (1) As a consequence of the vesting in the telecommunication successor company by virtue of section 3 of the property, rights and liabilities comprised in the Government’s telecommunication undertaking (other than the designated telecommunication property), the telecommunication successor company shall issue such securities of the company as the Minister may from time to time direct to any company wholly owned by the Government.
(2) The Minister shall not give a direction under subsection (1) at a time when the telecommunication successor company has ceased to be wholly owned by the Government.

(3) Securities required to be issued under this section will be issued or allotted at such time and on such terms as to allotment as the Minister may direct.

(4) Shares issued in pursuance of this section —

(a) shall be of such nominal value as the Minister may direct; and

(b) shall be issued as fully paid and treated for the purposes of the Companies Act (Chapter 39) as if they had been paid up by virtue of the payment to the telecommunication successor company of their nominal value in cash.

Transfer to telecommunication successor company of employees of the telecommunication undertaking.

5. (1) Every person who was an employee of Government in connection with the telecommunication undertaking immediately before the succession date (other than an excepted telecommunication employee) is deemed —

(a) to have been engaged by the telecommunication successor company, with effect from the succession date, on terms and conditions of service no less favourable than those enjoyed by him immediately prior to his transfer; and

(b) to have accrued an entitlement to benefits, in connection with his employment by the telecommunication successor company, that is equivalent to the entitlement that he had accrued, as an employee of the Government in connection with the telecommunication undertaking, immediately before the succession date.

(2) The service of an employee transferred under subsection (1), as an employee of the telecommunication successor company, is deemed, for all purposes, to have been continuous with the service of the employee immediately before the succession date, as an employee of the Government in connection with the telecommunication undertaking.

Conditions of service.

6. Until such time as contracts of service are drawn up by the telecommunication successor company, the terms and conditions of service in the Government shall continue to apply to every transferred employee as if he were still in the service of the Government.

Pensions.

7. Notwithstanding the provisions of the Pensions Act (Chapter 38), no transferred employee shall be entitled to claim any benefits under the Act on the ground that he has been
retired from the service of the Government on account of abolition of office or termination in the public interest in consequence of the incorporation of the telecommunication successor company or the transfer of that employee to the telecommunication successor company.

Performance of obligations.

8. Subject to any regulations made under section 11, any agreement made, transaction effected or other thing done by, to or in relation to the telecommunication undertaking which is in force or effective immediately before the succession date shall have effect from that date as if made, effected or done by, to or in relation to the telecommunication successor company, in all respects as if the telecommunication successor company were the same person in law as the Government (whether acting in its own right or through the telecommunication undertaking as its nominated representative), and accordingly references to the Government in respect of the telecommunication undertaking of the Government —

(a) in any agreement (whether or not in writing) and in any deed, bond or instrument;

(b) in any process or other document issued, prepared or employed for the purpose of any proceeding before any court; and

(c) in any document whatsoever relating to or offering any property, right or liability of the telecommunication undertaking which vests by virtue of section 3 in the telecommunication successor company,

shall be taken as from the succession date as referring to the telecommunication successor company.

Application of laws.

9. (1) The laws of Brunei Darussalam apply to the telecommunication successor company according to their tenor, and so far as they are capable of applying, except to the extent that the telecommunication successor company is exempted from the application of a particular law by express provision of this Order or of any other law of Brunei Darussalam.

(2) Any law of Brunei Darussalam which relates to —

(a) the standards applicable to the design or manner of construction of a building structure or facility; or

(b) the approval of the construction of a building, structure or facility; or

(c) the use of or occupancy of a building, structure or facility; or

(d) the alteration, repair or refurbishment of a building, structure or facility,

does not apply to a building, structure or facility that is the property of the telecommunication successor company if —
(i) the building, structure or facility was occupied or in use; or

(ii) the construction, alteration, repair or refurbishment of the building, structure or facility had commenced,

before the succession date.

Financial structure of telecommunication successor company.

10. (1) If the Minister so directs at any time before the telecommunication successor company ceases to be wholly owned by the Government, such sum (not exceeding the accumulated realised profits of the Government in connection with its telecommunication undertaking) as may be specified in the direction shall be carried by the telecommunication successor company to a reserve (referred to in this section as the statutory reserve).

(2) The statutory reserve may only be applied by the telecommunication successor company in paying up unissued shares of the company to be allotted to members of the company as fully-paid bonus shares.

(3) For the purposes of any statutory accounts of the telecommunication successor company —

(a) the vesting effected by virtue of section 3 shall be taken to have been a vesting of all the property, rights and liabilities comprised in the Government’s telecommunication undertaking (other than the designated telecommunication property) to which the Government was entitled or subject on the succession date; and

(b) the value of any asset and the amount of any liability of the Government taken to have been vested in the telecommunication successor company by virtue of paragraph (a) shall be taken to be the value or, as the case may be, the amount assigned to that asset or liability in the statement of accounts of the Government as at the succession date.

(4) For the purposes of any statutory accounts of the telecommunication successor company, the amount to be included in respect of any item shall be determined as if anything done by the Government (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the company.

(5) References in this section to the statutory accounts of the telecommunication successor company are references to any accounts prepared by the company for the purposes of any provision of the Companies Act (Chapter 39).
Regulations.

11. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations, not inconsistent with this Order, prescribing matters —

   (a) required or permitted by this Order to be prescribed; or

   (b) necessary or convenient to be prescribed for carrying out or giving effect to this Order.

Made this 16th. day of Safar, 1422 Hijrah corresponding to the 10th. day of May, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
No. S 38

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

TELECOMMUNICATIONS ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Citation, commencement and long title.

2. Interpretation.

PART II

EXCLUSIVE PRIVILEGE AND LICENSING ETC. OF
TELECOMMUNICATIONS SYSTEMS

3. Exclusive privilege with respect to telecommunications.

4. Exceptions to section 3.

5. Power to license telecommunication systems and services.


7. Modification of licence conditions.

8. Suspension or cancellation of licence etc.

9. Approval of equipment.

10. Residual power of Authority to provide telecommunication services.

11. Charges and other terms for services provided by Authority.
PART III

ERECTION, MAINTENANCE AND REPAIR OF
TELECOMMUNICATION INSTALLATIONS

12. Power to enter on and examine land other than State land.

13. Power to enter on State land for purposes of installation or plant.

14. Power to enter on other land for purposes of installation or plant.

15. Savings of wayleave agreements.

16. Inspection, maintenance and repair of installation or plant for telecommunications.

17. Removal or alteration of installation or plant for telecommunications.

18. Removal of trees dangerous to or obstructing any installation or plant for telecommunications.

19. Provisions of space or facility by developer or owner of building.

20. Provision of facilities for radio-communication.

21. Provision of installation, plant or system or space or facilities by direction of Authority.

22. Sharing of installation, plant or system.

23. Disputes as to compensation.

24. Precautions in execution of work.

25. Exemption from distress and attachment etc.

PART IV

CODES OF PRACTICE AND DIRECTIONS


27. Directions affecting telecommunication licensees.

PART V

TELECOMMUNICATION CABLE DETECTION WORK

29. Telecommunication cable detection work to be carried out before earthworks.
30. Powers of Authority in relation to telecommunication cable detection work.
31. Licensed telecommunication cable detection workers.
32. Duty to enquire before excavation.

PART VI

OFFENCES AND PENALTIES

33. Unlawful operation of telecommunication system or service.
34. Prohibitions in respect of telecommunication and radio-communication equipment.
35. Penalty for unlicensed station.
36. Exemption from sections 33, 34 and 35.
37. Powers of search and seizure.
38. Sealing of telecommunication system or equipment etc.
39. Using unlawful telecommunication system or service.
40. Obstruction of public telecommunication licensees.
41. Intentional damage to installation or plant used for telecommunications.
42. Offences by officer, employee or agent or public telecommunication licensees.
43. Fraudulent use of telecommunication service.
44. Possession or supply of anything for fraudulent purpose in connection with use of telecommunication service.
45. Sending false message.
46. Fraudulent retention of messages.
47. Protection of installation or plant used for telecommunications.
48. Prohibition of false notice relating to public telecommunication licensees’ installation or plant.

49. Damage to public telecommunication licensees’ installation or plant.

50. Compensation for damage caused to public telecommunication licensees’ installation or plant.

51. Penalty for removing any mark denoting used device for telephony purposes.

52. Failure to disconnect equipment not approved under section 9.

PART VII

INTERNATIONAL OBLIGATIONS AND NATIONAL INTERESTS

53. Right to conduct international business dealings.

54. Government’s overriding international rights.

55. Liability for international financial obligations.

56. Contribution by Government.

57. Provisions to Government of telecommunication services etc.

58. System of universal service provision.

59. Definition of "underserved areas" and "underserved groups within the community".

60. Universal Service Provision Fund.

61. Directions by Minister.

PART VIII

ENFORCEMENT POWERS AND PROCEDURES

62. Power to require information etc.

63. Powers of arrest and search in respect of seizable offences.

64. Powers of search and arrest in respect of offences under section 33 or 44.

65. Obstruction of police officer.
66. No costs or damages or other relief arising from seizure to be recoverable unless seizure without reasonable or probable cause.

67. Composition of offences.

68. General penalties.

69. Savings of prosecutions under other written laws.

70. Jurisdiction of Courts.

71. Offences by bodies of persons.

PART IX

GENERAL PROVISIONS

72. Appeal to Minister.

73. Exclusion of liability of public telecommunication licensees.

74. Service of documents.

75. Excluded matters.

76. Exemption by Minister.

77. Regulations.

78. Repeal.

79. Savings and transitional provisions.
1. (1) This Order may be cited as the Telecommunications Order, 2001 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the Gazette.

(2) The long title of this Order is "An Order to provide for the operation and provision of telecommunication systems and services in Brunei Darussalam, and for matters connected therewith".

Interpretation.

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

"appointed day" means the date of commencement of this Order;

"Authority" means the Authority for Info-communications Technology Industry of Brunei Darussalam established under the Authority for Info-communications Technology Industry of Brunei Darussalam Order, 2001;

"Chief Executive" means the Chief Executive of the Authority and includes any temporary Chief Executive of the Authority appointed under section 10 of the Authority for Info-communications Technology Industry of Brunei Darussalam Order, 2001;

"code of practice" and "standard of performance" mean, respectively, a code of practice and a standard of performance issued or approved under section 26;

"earthworks" includes —

(a) any act of excavating earth, rock or other material (by whatever means) in connection with —

(i) any works for or relating to the construction, reconstruction, extension, renovation, alteration, demolition or repair of any building, road, railway, bridge, viaduct, flyover, sewer or sewage works;

(ii) any works for or relating to the laying, inspecting, repairing or renewing of any mains, pipes, cables, fittings or other apparatuses;
(iii) any soil investigation works; or

(iv) such other works as are usually undertaken by a person carrying on business as a contractor in the construction industry or as a professional civil or structural engineer;

(b) any act of boring, dredging, jacking, leveling, piling or tunneling on or under any premises or street by any mechanical means; and

(c) the driving or sinking of any earth rod, casing or tube into the ground;

"equipment" includes any appliance, apparatus or accessory used or intended to be used for telecommunication purposes;

"Hertzian or radio waves" mean electro-magnetic waves of frequencies not exceeding 1,000 terahertz propagated in space without any artificial guide;

"installation or plant used for telecommunications" includes all buildings, lands, structures, machinery, equipment, cables, poles and lines used or intended for use in connection with telecommunications;

"JTB" means the Telecommunications Department of the Government existing immediately before the commencement of the Authority for Info-communications Technology Industry of Brunei Darussalam Order, 2001;

"message" means any sign, signal, writing, image, sound, intelligence or information of any nature transmitted by telecommunications;

"Minister" means the Minister responsible for telecommunication matters;

"public telecommunication licensee" means a person designated by the Authority under section 6;

"public telecommunication licensee’s installation or plant” means any installation or plant used for telecommunications belonging to or used by a public telecommunication licensee;

"radio-communication” means any telecommunication by means of Hertzian or radio waves;

"radio-communication service" means any service for radio-communications;

"radio-communication system” means any system used or intended to be used for radio-communications;

"repealed Act” means the Telecommunication Act (Chapter 54) repealed by this Order;
"securities", in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

"shares" includes stock;

"street" includes any way, road, lane, path, passage or open space, whether a thoroughfare or not, over which the public have a right of way and also the roadway and footway over any public bridge and includes any road, footway or passage, used or intended to be used as a means of access to two or more holdings, whether the public has a right of way thereover or not;

"telecommunications cable" means any cable of a telecommunication system belonging to or under the management or control of a telecommunication system licensee;

"telecommunication cable detection work" means any work of detecting or locating any underground telecommunication cable;

"telecommunication cable detection worker" means any person whose trade or occupation requires or includes the personal performance by him of telecommunication cable detection work;

"telecommunication cable detection work licence" means a licence granted under section 29;

"telecommunication licensee" means a person to whom a licence has been granted under section 5;

"telecommunication line" means a wire or cable used for telecommunications with any casing, coating, tube or pipe enclosing the same and any appliance and apparatus connected therewith for the purpose of fixing or insulating the same;

"telecommunication service" means any service for telecommunications but excludes any broadcasting service;

"telecommunication system" means any system used or intended to be used for telecommunications;

"telecommunication system licensee" means a person licensed under section 5 to operate a telecommunication system;

"telecommunications" means a transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception;
"vessel" includes any ship, boat, air-cushioned vehicle or floating rig or platform used in any form of operations at sea or any other description of vessel.

**PART II**

**EXCLUSIVE PRIVILEGE AND LICENSING ETC. OF TELECOMMUNICATION SYSTEMS**

Exclusive privilege with respect to telecommunications.

3. (1) As from the appointed day and subject to this Order, the Authority shall have the exclusive privilege for the operation and provision of telecommunication systems and services in Brunei Darussalam.

(2) The privilege conferred on the Authority by subsection (1) shall —

(a) include the rights of establishing, installing, using, working, maintaining, developing, constructing, promoting, hiring and selling telecommunication systems and services; and

(b) extend to every vessel or aircraft registered in Brunei Darussalam and every other vessel, aircraft and any vehicle, whether mechanically propelled or not, in Brunei Darussalam.

Exceptions to section 3.

4. The privilege conferred by section 3 shall not be infringed by —

(a) the running by a person solely for his own use or solely for the purposes of his business (but not for providing any telecommunication service to another person) of a telecommunication line system in which all the equipment comprised therein is situated —

(i) on a single set of premises in single occupation; or

(ii) in a vessel, aircraft or vehicle or in 2 or more vessels, aircraft or vehicles mechanically coupled together; or

(b) the operation of any telecommunication system in the course of their duties by the officers and men of the Royal Brunei Armed Forces, the Royal Brunei Police Force and other armed forces for the time being in Brunei Darussalam, or of any visiting forces present for the time being in Brunei Darussalam by virtue of any written law or by virtue of any lawful arrangement made by Brunei Darussalam.
5. (1) A licence may, with the consent of, or in accordance with the terms of a general authority given by the Minister, be granted by the Authority, either unconditionally or subject to such conditions as the Authority may impose and specify in the licence and either irrevocably or subject to revocation as therein specified for the running of such telecommunication systems and services falling within section 3 as are specified in the licence.

(2) A licence granted under subsection (1) may be granted either to any person, class of persons or a particular person, and may include (without prejudice to the power to impose conditions conferred by that subsection) conditions requiring —

(a) the licensee to enter into agreements or arrangements with any person, class of persons or another telecommunications licensee for —

(i) the interconnection of, and access to, telecommunication systems;

(ii) the sharing of installation or plant used for telecommunications belonging to any telecommunication licensee; and

(iii) such other purpose as may be specified in the licence,

and on such terms and conditions as may be agreed to by the licensee and such other persons or licensees or, in default of agreement, as may be determined by the Authority;

(b) the payment to the Authority of a fee on the grant of the licence or the payment to it of periodic fees during the currency of the licence or both, of such amount as may be determined by or under the licence;

(c) the licensee to comply with any direction given by the Authority as to such matters as are specified in the licence or are of a description so specified;

(d) the licensee to comply with codes of practice and standards of performance that are applicable to the licensee; and

(e) the licensee to do, or not to do, such things as are specified in the licence or are of a description so specified.

(3) Any payment required by subsection (2) to be rendered to the Authority may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

(4) No person shall question whether the grant of a licence under subsection (1) was, or was not, effected with the consent of or in accordance with the terms of a general authority given by the Minister, and the validity of a licence granted under that subsection shall not be impugned on the ground that it was granted neither with the consent of nor in accordance with the terms of a general authority given by the Minister.
(5) The grant of licences under this section shall be at the discretion of the Authority.

(6) Nothing in this section shall prevent the Minister from directing the Authority to grant a licence in any specific case and any person aggrieved by a refusal of the Authority to grant a licence may within 14 days of the refusal appeal to the Minister whose decision shall be final.

(7) Anything done under and in accordance with a licence granted under subsection (1) shall not constitute an infringement of the privilege conferred by section 3.

Designation of public telecommunication licensees.

6. The Authority may, with the approval of the Minister, designate any person who has been granted a licence under section 5 as a public telecommunication licensee to perform all or any of the functions relating to the operation and provision of telecommunication systems and services in Brunei Darussalam within the exclusive privilege of the Authority under this Order.

Modification of licence conditions.

7. (1) Subject to this section, the Authority may modify the conditions of a licence granted under section 5.

(2) Before making modifications to the conditions of a licence of a public telecommunication licensee under this section, the Authority shall give notice to the licensee —

(a) stating that it proposes to make the modifications in the manner as specified in the notice and the compensation payable for any damage caused thereby; and

(b) specifying the time (not being less than 28 days from the date of service of notice on such licensee) within which written representations with respect to the proposed modifications may be made.

(3) Upon receipt of any written representation referred to in subsection (2), the Authority shall consider such representation and may —

(a) reject the representation; or

(b) amend the proposed modifications or compensation payable in accordance with the representation, or otherwise,

and, in either event, it shall thereupon issue a direction in writing to such licensee requiring that effect be given to the proposed modifications specified in the notice or to such modifications as subsequently amended by the Authority within a reasonable time.
(4) Any public telecommunication licensee aggrieved by the decision of the Authority under subsection (3) may, within 14 days of the receipt by it of the direction, appeal to the Minister whose decision shall be final.

(5) The Authority shall not enforce its direction —

(a) during the period referred to in subsection (4); and

(b) whilst the appeal of the public telecommunication licensee is under consideration by the Minister.

(6) If no written representation is received by the Authority within the time specified in subsection (2) or if any written representation made under subsection (2) is subsequently withdrawn, the Authority may forthwith carry out the modifications as specified in the notice given under subsection (2).

Suspension or cancellation of licence etc.

8. (1) If the Authority is satisfied that a person is granted a licence under section 5 or any regulations made under this Order is contravening, or has contravened, whether by act or omission —

(a) any of the conditions of the licence or part thereof;

(b) any provision of any code of practice or standard of performance; or

(c) any direction of the Authority given under section 27,

the Authority may, by notice in writing, do either or both of the following —

(i) issue such written order to the person as it considers requisite for the purpose of securing compliance thereof;

(ii) require the payment, within a specified period, of a financial penalty of such amount not exceeding $1 million as it thinks fit.

except that where the Authority is satisfied that the person is again likely to so contravene, whether by act or omission, the Authority may (in lieu of an order or financial penalty under paragraph (i) or (ii) or both) by notice in writing and without compensation, do all or any of the following —

(A) cancel the licence or part thereof;

(B) suspend the licence or part thereof for such period as it thinks fit;

(C) reduce the period for which the licence is to be in force.
(2) Any person who is aggrieved by any decision of the Authority under subsection (1) may, within 14 days after such person has been given the notice in writing referred to in subsection (1), appeal to the Minister whose decision shall be final.

(3) An order under sub-paragraph (i) of subsection (1) —

(a) shall require the person concerned (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified therein;

(b) shall take effect at such time, being the earliest practical time, as is determined by or under that order; and

(c) may be revoked at any time by the Authority.

(4) Any person who fails to comply with any order under sub-paragraph (i) of subsection (1) shall be guilty of an offence.

(5) In any proceedings brought against any person for an offence under subsection (4), it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.

(6) Any financial penalty payable by any person by virtue of subsection (1) shall be recoverable by the Authority as a debt to the Authority from that person and the person’s liability to pay shall not be affected by his licence ceasing (for any reason) to be in force.

Approval of equipment.

9. (1) Any equipment to be used for connection to any telecommunication system or equipment belonging to a telecommunication licensee shall be approved by the Authority before use.

(2) A person applying for an approval under this section may be required by the Authority to comply with such requirements as the Authority may think appropriate; and those requirements may include a requirement to satisfy some other person with respect to any matter.

(3) An approval under this section may apply either to particular equipment or to any equipment of a description specified in the approval, and may so apply either for the purposes of a particular telecommunication system or for the purposes of any telecommunication system of a description so specified.

(4) An approval under this section may specify conditions which must be complied with if the approval is to apply, for any purposes specified in the approval, to any telecommunication system or equipment which is so specified or is of a description so specified; and any such condition may impose on the person to whom the approval is given a requirement from time to time to satisfy some other person with respect to any matter.

1147
(5) The Authority or any other person by whom any matter falls to be determined for
the purposes of any requirement imposed in pursuance of sub-section (2) or (4) may charge a
fee in respect of the carrying out of any test or other assessment made by the Authority or
other person.

(6) A public telecommunication licensee may, with the approval of the Authority
(except in cases of emergency), cease or refuse to supply a telecommunication service to any
person by means of a telecommunication system or telecommunication line operated by the
licensee if, through the use of such telecommunication service, there is or is intended to be
connected to the telecommunication system or telecommunication line, equipment or cabling
that is a threat to —

(a) the safety or proper functioning of the telecommunication system or
telecommunication line; or

(b) the safety of any person.

Residual power of Authority to provide telecommunication services.

10. (1) The Authority may provide any telecommunication service notwithstanding that it
has granted a licence to any person under section 5, in any of the following circumstances —

(a) if the Authority is of the opinion that a person licensed under section 5 has
failed to discharge or is not discharging to the Authority’s satisfaction the
obligations imposed by the Authority on the person in the licence granted to
the person; or

(b) to give effect to any direction of the Minister under section 61.

(2) Where the Authority undertakes the provision of telecommunication services
under subsection (1), section 2, 9, 12 to 24, subsection (1) of section 25, section 32, 39 to 43,
46 to 57 and 73 shall apply, with the necessary modifications, to the Authority in respect of
the provision of such services and the references to public telecommunication licensee in
those sections shall be read as references to the Authority.

Charges and other terms for services provided by Authority.

11. (1) The Authority may make, in relation to any service provided by the Authority
under this Order, a scheme or schemes for determining either or both of the following —

(a) the charges which, except in so far as they are the subject of an agreement
between the Authority and a person availing himself of the service, are to be
made by the Authority;

(b) the other terms and conditions which, except as provided, are to be
applicable to the service.
(2) A scheme made under this section may make different provision for different cases or classes of cases determined by, or in accordance with, the provisions of the scheme.

(3) A charge exigible by virtue of this section may be recovered by the Authority in any court of competent jurisdiction as if it were a simple contract debt.

(4) A scheme or any amendment thereof made under this section shall come into operation on such date as may be determined by the Authority.

(5) Nothing in this section shall be construed as prohibiting the Authority from levying any charge or collecting any dues for anything done or any service rendered by reason only of not being incorporated in a scheme and the rates, charges and fees payable to the Authority for any service rendered shall be in accordance with such rates, charges and fees as may, from time to time, be determined by the Authority.

(6) The rates, charges and fees applied by JTB immediately before the appointed day shall continue to be valid as though determined by the Authority under this section until rescinded, varied or otherwise determined by the Authority.

**PART III**

**ERECTION, MAINTENANCE AND REPAIR OF TELECOMMUNICATION INSTALLATIONS**

**Power to enter on and examine land other than State land.**

12. (1) Whenever it appears to a public telecommunication licensee that it shall or probably shall be necessary to exercise the powers conferred by this Order upon a public telecommunication licensee in respect of any land other than State land for the provision of any telecommunication service, that licensee or any person authorised by that licensee in that behalf may, after giving not less than 24 hours’ previous notice to the occupier thereof, if any, enter upon the land and may survey and take levels and do all other necessary acts preparatory to the provision of the service, so far as the same may be possible without causing any damage or disturbance.

(2) In the event of any damage or disturbance being caused by reason of the entry, the public telecommunication licensee shall pay compensation to the owner or occupier thereof.

(3) Nothing in this section shall be deemed to authorise any employee or agent of a public telecommunication licensee to cut down or clear away any vegetation or any fence or other erection or to enter any building or upon any enclosure attached to any building.

**Power to enter on State land for purposes of installation or plant.**

13. For the purpose of providing any telecommunication service, a public telecommunication licensee or any person authorised by the Authority in that behalf may, at
any reasonable time, enter upon any State land and may, subject to the approval of the Authority and the Commissioner of Land, erect in or upon the State land such installation or plant used for telecommunications or excavate such trenches as may be necessary or proper for the purpose of providing the telecommunication service, and may carry out all necessary works in connection therewith, and may, in the course thereof, fell or lop trees, remove vegetation and do all other things necessary for the purpose, but —

(a) where any such work interferes with improvements, buildings, growing trees or crops the licensee shall pay compensation for any damage or disturbance; and

(b) where the land is occupied under a licence for temporary occupation, the compensation shall be paid to the occupant under the licence.

Power to enter on other land for purposes of installation or plant.

14. (1) Subject to this section, whenever it is necessary to do so for the purposes of providing any telecommunication service under this Order, a public telecommunication licensee may lay, place or carry on, and erect under, upon or over any land, other than State land, such installation or plant used for telecommunications as may be necessary or proper for such purposes and may take such other action as may be necessary to render such installation or plant safe and efficient, paying compensation to any person interested for any damage, disturbance or disability that may be caused thereby.

(2) Any compensation payable under subsection (1) may include an annual payment for land or other immovable property used for the purpose of the public telecommunication licensee’s installation or plant.

(3) A public telecommunication licensee shall not acquire any right other than that of user only in respect of any land or property under, over, along across in or upon which the licensee places any installation or plant used for telecommunications under this section.

(4) Before entering on any land for the purpose specified in subsection (1), a public telecommunication licensee shall give 14 days’ notice stating as fully and accurately as possible the nature and extent of the acts intended to be done.

(5) The notice shall be given to the owner or occupier of the land in the manner provided under this Order.

(6) The owner or occupier of the land may, within 14 days of the receipt of the notice referred to in subsection (4), lodge a written objection with the Authority and the Authority shall specify a date to inquire into any such objection.

(7) If no objection is lodged within the time specified in subsection (6), the public telecommunication licensee may forthwith enter on the land and do all or any of the acts specified in the notice given under subsection (4).
(8) If an objection is lodged and is not withdrawn before the date fixed for the hearing thereof, the Authority shall hold an enquiry, giving each party an opportunity to be heard.

(9) Subject to subsection (10), upon the conclusion of the enquiry, the Authority may authorise, either unconditionally or subject to such terms, conditions and stipulations as it thinks fit, any of the acts mentioned in the notice given under subsection (4) to be carried out.

(10) Any person aggrieved by any decision of the Authority under this section may, within 14 days of the conclusion of the enquiry, appeal to the Minister whose decision shall be final.

**Savings of wayleave agreements.**

15. Nothing in subsections (1) and (6) of section 14 shall —

(a) affect the right of a public telecommunication licensee to enter into an agreement, commonly known as a wayleave agreement, with the owner or occupier of any land for the purpose of laying, placing, carrying or erecting any installation or plant used for telecommunications on the land;

(b) affect any such wayleave agreement subsisting immediately before the appointed day; or

(c) affect the right of a public telecommunication licensee to negotiate the use of land or facilities belonging to the State or any other person.

**Inspection, maintenance and repair of installation or plant for telecommunications.**

16. (1) Whenever it is necessary to do so for the purposes of carrying out any functions and duties of the Authority under this Order or any regulations made thereunder the Authority may enter upon any land or building, or stop or board any vessel, aircraft or vehicle and may carry out all necessary inspections or investigations and do all things necessary for such purpose.

(2) Whenever it is necessary to do so for the purpose of inspecting, maintaining or repairing a public telecommunication licensee’s installation or plant or for the purpose of carrying out any functions conferred on a public telecommunication licensee under this Order or under any licence granted under section 5, that licensee or any person authorised by that licensee in that behalf may, at any reasonable time, enter upon any land or building, whether or not such installation or plant has been laid, placed, carried or erected on, under, upon or over the land or building, and may carry out all necessary inspection, maintenance or repair, and may in the course thereof, fell or lop trees, remove vegetation and do all other things necessary for the purpose, causing as little damage as possible and paying compensation to any person adversely affected for any damage that may be caused thereby for which compensation has not already been assessed under section 14.
Removal or alteration of installation or plant for telecommunications.

17. (1) Where a public telecommunication licensee’s installation or plant has been laid, placed, carried or erected on, under, upon or over any land under section 13 or 14, and any owner or occupier of the land or any person to or by whom the land is subsequently alienated or occupied desires to use the land in such manner as to render it necessary or convenient that such installation or plant should be removed to another part of the land, or to a higher or lower level, or altered in form, he may require that licensee to remove or alter such installation or plant accordingly.

(2) If the licensee fails to comply with the requisition, the person may apply in writing to the Authority and the Authority shall, as soon as practicable, specify a date to inquire into the facts of the case.

(3) Subject to subsection (8), upon the conclusion of the enquiry, the Authority may require, subject to such terms, conditions and stipulations as it thinks fit, the removal or alteration of such installation or plant.

(4) Whenever a public telecommunication licensee’s installation or plant has been laid, placed, carried or erected on any State land by such licensee, and the land is subsequently alienated to any person, the owner or occupier of the land may, unless the terms of the alienation expressly provide otherwise, require the removal to another part of the land, or to a higher or lower level, of such installation or plant, and subsections (1), (2) and (3) shall apply to any such requisition, and the costs of executing the removal shall be defrayed by the person making the requisition.

(5) Where an owner of any land desires to use his land for the purposes of development and he considers it necessary that a public telecommunication licensee’s installation or plant that has been laid, placed, carried or erected on his land should be removed therefrom, he may request the licensee to remove the same from his land.

(6) Where a public telecommunication licensee undertakes the work of removal pursuant to the request of the owner under subsection (5), the owner shall pay compensation to the licensee.

(7) Subject to subsection (8), if a public telecommunication licensee does not intend to undertake the work of removal pursuant to the request of the owner under subsection (5), that licensee shall, by notice in writing, inform the owner and the Authority of its intention and the Authority shall specify a date not less than 14 days from the date of the notice to inquire into the facts of the case.

(8) Any person aggrieved by any decision of the Authority under this section may, within 14 days of the conclusion of the enquiry, appeal to the Minister whose decision shall be final.
Removal of trees dangerous to or obstructing any installation or plant for telecommunications.

18. (1) Where, in the opinion of a public telecommunication licensee, there is at any time danger or suspected danger that any tree (which terms in this section includes undergrowth) near the licensee’s installation or plant may interrupt or interfere with any telecommunication service or cause damage to such installation or plant, the licensee may cause the tree to be felled or dealt with in such other manner as will, in its opinion, avert the danger.

(2) Where a tree, which has been felled or otherwise dealt with under subsection (1), was in existence before the public telecommunication licensee’s installation or plant was placed, erected or installed, the licensee may subject to subsections (3) and (4) pay to any person adversely affected such sum as may be agreed by way of compensation.

(3) No further compensation shall be paid for the felling or lopping of any tree or the clearing of any vegetation where the action is necessary for the maintenance of a public telecommunication licensee’s installation or plant and the tree and vegetation has grown or been allowed to grow since the payment of compensation under subsection (2).

(4) No compensation shall be payable by a public telecommunication licensee under subsection (2) in respect of any tree within 20 meters of the centre line of any road constructed or maintained by the Government or by any public authority unless it is proved that the tree was in existence prior to the construction of the road.

(5) In the event of the owner or occupier of any land felling, lopping or clearing any tree or vegetation adjacent to a public telecommunication licensee’s installation or plant, the owner or occupier shall give the licensee 14 days’ notice in writing of his intention to do so and shall take all such reasonable precautions as the licensee may require for the protection of such installation or plant.

(6) If any such owner or occupier fails to give notice as provided under subsection (5) or having given notice fails to take any such reasonable precautions as the public telecommunication licensee may have required, he shall be liable to pay the licensee any cost and expense incurred by the licensee for any damage caused to any such installation or plant, and a certificate purporting to be under the hand of the Chief Executive of the licensee stating the amount of the cost and expense incurred by the licensee shall be prima facie evidence of the amount due from the owner or occupier.

(7) If the amount due for the cost and expense is not paid within 7 days after demand, the amount may be recovered in the same manner as if it were a simple contract debt.

(8) If any tree is felled or vegetation is cleared upon land adjacent to a public telecommunication licensee’s installation or plant, it shall be presumed until the contrary is proved that the tree was felled or the vegetation was cleared by the owner or occupier of the land or by his employees or agents acting as such.
Provision of space or facility by developer or owner of building.

19. Any developer or owner of a building who requires any telecommunication service of a telecommunication licensee shall provide at his expense, and in accordance with such specifications as the Authority may publish, such space and facilities within or on the building and access thereto, as may be necessary for the operation of any installation or plant to be used in providing the telecommunication service.

Provision of facilities for radio-communication.

20. (1) Any person who intends to install, erect or construct, within a radius of 200 meters from the site of a telecommunication licensee’s installation or plant used in connection with its radio-communication service, any building more that 30 meters above ground level shall notify the licensee in writing before carrying out any such installation, erection or construction.

(2) The telecommunication licensee may, after receiving such notification from the person, make arrangements with the person for the licensee to enter upon the building at any reasonable time to provide such accommodation or other facilities in or around the building as may be necessary or proper for any installation or plant used in connection with radio-communication service to be laid, placed, constructed, erected or installed in, on or around the building.

(3) Where, in the opinion of a telecommunication licensee, a building which is installed, erected or constructed after the licensee’s installation or plant used in connection with its radio-communication service was laid, placed, constructed, erected or installed in or around the building, interrupts or interferes with the licensee’s radio-communication service or system, the licensee may, with the approval of the Authority, at any reasonable time, enter upon the building to provide such accommodation or other facilities in or around the building as may be necessary or proper for such installation or plant to be laid, placed, constructed, erected or installed in, on or around the building for the purposes of eliminating such interruption or interference.

(4) The telecommunication licensee shall pay compensation to the owner or occupier of any building for any disturbance, disability or damage caused as a result of any act of the licensee under subsection (2) or (3).

(5) For the purposes of this section and section 19, "a building" means any permanent or temporary building and includes any structure or erection of any kind (whether permanent or temporary) and any extension, modification or alteration made thereto.

Provision of installation, plant or system or space or facilities by direction of Authority.

21. (1) Where the Authority considers it necessary that any telecommunication service should be provided to any building, whether completed or not, or that the quality of a telecommunication service provided to any building be enhanced, the Authority may by direction —
(a) require, in connection with paragraph (b), the developer or owner of the building or land to provide at his expense, within such period as may be specified in the direction, such space and facilities within or on the building or land, and access thereto, as the Authority may specify in the direction; and

(b) require any telecommunication licensee to install, within such period as may be specified in the direction, such installation, plant or system as the Authority considers necessary for the provision, or the enhancement of quality, of the telecommunication service.

(2) Any direction under subsection (1) may include —

(a) a requirement that the telecommunication licensee shall contribute, wholly or partly, to such costs and expenses incurred for the provision of any installation, plant or system, or space or facilities under subsection (1) as the Authority may determine; and

(b) such other requirements as the Authority may specify.

(3) Any person who fails to comply with any requirement in a direction under subsection (1) shall be guilty of an offence.

Sharing of installation, plant or system.

22. (1) The Authority may direct any telecommunication licensee to co-ordinate and co-operate, in such manner and on such terms as the Authority may specify, with any other person, in the use or sharing of any installation, plant or system, or part thereof, used for telecommunications.

(2) Any person who fails to comply with any direction under subsection (1) shall be guilty of an offence.

Disputes as to compensation.

23. (1) If any dispute arises concerning the sufficiency of compensation to be paid under subsection (2) of section 12, section 13, subsection (1) of section 14, subsection (2) of section 16, subsection (6) of section 17, subsection (2) of section 18 and subsection (4) of section 20, it shall, on application for that purpose by any aggrieved person to the Authority, be determined by the Authority.

(2) If any aggrieved person is dissatisfied with the Authority’s determination, he may, within 14 days of the determination, appeal to the Minister whose decision shall be final.
Precautions in execution of work.

24. The execution of any work by a public telecommunication licensee under this Order which may affect any street, railway, river, canal, or other waterway or any system of irrigation, drainage or water supply or any telecommunications, harbour works or other public or private works, and the erection of any installation or plant used for telecommunications whether over, on or under the ground shall be carried out in a lawful manner having regard to the safety of any person or property.

Exemption from distress and attachment etc.

25. (1) The installation or plant used for telecommunications of a public telecommunication licensee shall not be subject to distress or be liable to be taken in execution under any process of a court in any bankruptcy or insolvency proceedings against any person without the prior approval of the Minister in writing.

(2) Every installation or plant used for telecommunications placed under, over, along, across, in or upon any property by a public telecommunication licensee shall remain the property of the licensee concerned whether or not it has become in whole or in part a fixture.

PART IV

CODES OF PRACTICE AND DIRECTIONS


26. (1) The Authority may issue or approve and, from time to time, review codes of practice and standards of performance in connection with —

(a) the operation of telecommunication systems and equipment;

(b) the provision of telecommunication services; and

(c) the conduct of telecommunication licensees in the provision of telecommunication services.

(2) If any provision in any code of practice or standard of performance issued or approved by the Authority is inconsistent with any regulations made under this Order, such provision shall, to the extent of the inconsistency, either have effect subject to such regulation or, where appropriate, having regard to such regulation, shall not have effect.

(3) The Authority may exempt, either generally or for such time as the Authority may specify, any telecommunication licensee from any provision in any code of practice or standard of performance.
(4) Every telecommunication licensee shall comply with the relevant codes of practice and standards of performance.

Directions affecting telecommunication licensees.

27. (1) The Authority may give directions to be observed by telecommunication licensees —

   (a) to ensure the reliability of the provision of any telecommunication service to the public;
   
   (b) to ensure the technical compatibility and safety of operation of any equipment or telecommunication system;
   
   (c) to ensure fair and efficient market conduct by telecommunication licensees; or
   
   (d) in the public interest.

(2) A direction under subsection (1) —

   (a) shall require the telecommunication licensee concerned (according to the circumstances of the case) to do, or not to do, such things as are specified in the direction or are of a description as specified therein;
   
   (b) shall take effect at such time, being the earliest practicable time, as is determined by or under that direction; and
   
   (c) may be revoked at any time by the Authority.

(3) Before giving a direction to any telecommunication licensee under subsection (1), the Authority shall, unless the Authority in respect of any particular direction considers that it is not practicable or desirable, give notice —

   (a) stating that the Authority proposes to make the direction and setting out its effect; and

   (b) specifying the time within which representations or objections to the proposed direction may be made,

and shall consider any representations or objections which are duly made.

(4) Any telecommunication licensee who is aggrieved by any direction of the Authority under subsection (1) may, within 14 days after the licensee is served with the direction, appeal to the Minister whose decision shall be final.
(5) Every telecommunication licensee shall comply with every direction of the Authority given to the licensee under this section.

Advisory guidelines.

28. (1) The Authority may make written advisory guidelines about any aspect of telecommunications.

(2) Advisory guidelines, for example, may be made about —

(a) any matter in respect of which codes of practice and standards of performance may be made under section 26;

(b) the use, construction, design or performance of anything;

(c) interference with radio-communications; or

(d) frequency allocation and co-ordination.

(3) The Authority must —

(a) give a copy of each advisory guideline it makes to the Minister; and

(b) publish each advisory guideline in the way it thinks fit.

PART V

TELECOMMUNICATION CABLE DETECTION WORK

Telecommunication cable detection work to be carried out before earthworks.

29. (1) Subject to subsection (2), no person shall commence or carry out, or cause or permit the commencement or carrying out of, any earthworks which are within the vicinity of any telecommunication cable belonging to or under the management or control of a telecommunication system licensee unless —

(a) he has given to the telecommunication system licensee not less that 7 days’ (or such other period as the Authority may allow in any particular case) notice in writing of the date on which it is proposed to commence the earthworks;

(b) he has obtained from the telecommunication system licensee the necessary information on the location of such telecommunication cable and has consulted the licensee on the steps to be taken to prevent the telecommunication cable from damage while the earthworks are being carried out; and
(c) he has caused telecommunication cable detection work to be performed or carried out by a licensed telecommunication cable detection worker in order to confirm the location of the telecommunication cable.

(2) Nothing in subsection (1) shall prohibit a person from commencing or carrying out any earthworks where he has reasonable cause to believe that it is necessary to do so in the interest of public or private safety except that the person shall, not more that 7 days after the earthworks have been commenced or carried out, give to the telecommunication system licensee notice in writing stating the nature and extent of those earthworks.

(3) It shall be the duty of the person who carries out any earthworks referred to in subsection (1) —

(a) to comply with all reasonable requirements of the telecommunication system licensee for the prevention of damage to the telecommunication cable;

(b) to ensure that reasonable precautions are taken when carrying out such earthworks to prevent any damage to the telecommunication cable, including but not limited to site supervision of the earthworks; and

(c) to allow the telecommunication system licensee reasonable access to the work site for the purpose of inspecting or taking any necessary measures to protect the telecommunication cable.

(4) It shall be the duty of a telecommunication system licensee to whom a notice under subsection (1)(a) has been given —

(a) to promptly inform the person who has given him the notice of the location of the telecommunication cable and to provide such person with any other information as may be necessary to enable him to ascertain the exact location of the telecommunication cable;

(b) to advise the person who has given him the notice on the precautions to be taken to prevent damage to the telecommunication cable; and

(c) to take all such measures at the work site as may be reasonable and necessary for the protection of the telecommunication cable from damage and, in so doing, the telecommunication system licensee shall have regard to the potential risks and dangers that can arise from any damage to the telecommunication cable.

(5) No person other that a licensed telecommunication cable detection worker shall commence or carry out any telecommunication cable detection work within the vicinity of any telecommunication cable belonging to or under the management or control of a telecommunication system licensee where such telecommunication cable detection work is commenced or carried out in connection or combination with or in relation to any earthworks carried out or to be carried out.
(6) Any person who contravenes or fails to comply with subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or imprisonment for a term not exceeding 3 years or both.

(7) Subject to subsection (8), in any proceedings for an offence under sub-section (6), it shall be a defence for the person charged to prove —

(a) that he took all reasonable steps to discharge his duty under sub-section (1) or (3), as the case may be; or

(b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(8) If in any proceedings for an offence under subsection (6) the defence involves acting on information supplied by a telecommunication system licensee or a licensed telecommunication cable detection worker, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period of 14 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of the person who supplied him with the information.

(9) Any person who contravenes or fails to comply with subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 12 months or both.

Powers of Authority in relation to telecommunication cable detection work.

30. The Authority may —

(a) grant a telecommunication cable detection work licence permitting a person to perform such telecommunication cable detection work as is specified in the licence and may suspend, cancel, alter, extend, renew or replace any such licence;

(b) classify any telecommunication cable detection work licence in such manner as it determines;

(c) specify the nature of the telecommunication cable detection work in respect of which a telecommunication cable detection work licence is granted and restrict such work to any type or class of telecommunication cable detection work;

(d) specify the circumstances or manner in which licensed cable detection workers may perform or carry out telecommunication cable detection work;

(e) impose any terms, conditions or restrictions on any telecommunication cable detection work licence;
require any public telecommunication licensee to conduct approved courses or training, including refresher courses, and provide for examinations for telecommunication cable detection workers;

(g) keep a register of licensed telecommunication cable detection workers; and

(h) do any act or thing which is necessary or convenient to carrying out the objects of this Part or is incidental thereto.

Licensed telecommunication cable detection workers.

31. (1) Any person who, not being a licensed telecommunication cable detection worker, advertises or holds himself out or conducts himself in any way or by any means as a person who is a licensed telecommunication cable detection worker shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 3 years or both.

(2) No person other than a licensed telecommunication cable detection worker shall be entitled to recover in any court any charge, fee or remuneration for any telecommunication cable detection work performed or carried out by the person.

Duty to enquire before excavation.

32. Any person who digs, bores, trenches, grades, excavates or breaks any ground with any mechanical equipment or explosive or allows his employee or agent to do so without first ascertaining the location of any telecommunication cable belonging to or under the management or control of any telecommunication system licensee that may be interfered with shall be guilty of an offence.

PART VI
OFFENCES AND PENALTIES

Unlawful operation of telecommunication system or service.

33. (1) Subject to this section and section 4, any person who establishes, installs, maintains, provides or operates a telecommunication system or service within Brunei Darussalam without a licence granted under section 5 or otherwise infringes the privilege conferred upon the Authority by section 3 shall be guilty of an offence.

(2) Any person guilty of an offence under this section shall be liable on conviction to a fine not exceeding $100,000, imprisonment for a term not exceeding 3 years or both and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part thereof during which the offence continues after conviction.
(3) In the case of an offence in relation to a telecommunication system or service not extending beyond Brunei Darussalam, the person or every person operating the system or service (or, if different people run different parts of the system or service, each of them) shall be guilty of an offence and, in the case of an offence in relation to a telecommunication system or service extending beyond Brunei Darussalam, the person or every person operating that portion of such system or service within Brunei Darussalam (or, if different people operate different parts of the system or service, each of them) shall be guilty of an offence and shall be similarly liable.

(4) Where the commission by any person of an offence under this section is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(5) In any proceedings for an offence under this section, it shall, subject to subsection (6), be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) Where the defence provided by subsection (5) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a written notice giving such information identifying or assisting in the identification of that other person as was then in his possession.

Prohibitions in respect of telecommunication and radio-communication equipment.

34. (1) No person shall —

   (a) offer for sale, sell or possess for sale any telecommunication equipment; or

   (b) possess any radio-communication equipment,

except and in accordance with a licence granted under section 5 or any regulations made under this Order.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence.

Penalty for unlicensed station.

35. (1) Any person who establishes, installs, maintains, provides or operates a radio-communication system or service or any radio-communication equipment in any place or on board any vessel, aircraft or in any vehicle in Brunei Darussalam without a licence granted under section 5 or any regulations made under this Order shall be guilty of an offence.
(2) Any person who is in possession of any radio-communication equipment shall be deemed, until the contrary is proved, to have operated the same.

(3) The occupier of any dwelling-house or premises in which is installed any radio-communication equipment in respect of which a licence is not in force shall be guilty of an offence.

(4) It shall be a defence in any proceedings for an offence under subsection (3) that the occupier was not aware and could not with reasonable diligence have become aware of the existence in the dwelling-house or premises of the radio-communication equipment.

Exemption from sections 33, 34 and 35.

36. Subject to such conditions as the Authority may impose, sections 33, 34 and 35 shall not apply to any person who has been issued with a licence for the installation or working of any telecommunication equipment under the provisions of any written law in force in any country which is a party to a treaty or any other arrangement to which Brunei Darussalam is a party pursuant to which licences issued under the written laws in force in each country for the installation or working of any telecommunication equipment are recognised as having force in the other country.

Powers of search and seizure.

37. (1) Any police officer not below the rank of Inspector may, if he has reasonable grounds for believing that a telecommunication system or service has been established, installed, maintained, operated or provided in contravention of this Order or any regulations made thereunder or in breach of any licence granted by the Authority or that any telecommunication equipment used is of a type that is not approved by the Authority under section 9 or that the telecommunication equipment is imported in contravention of any of the provisions of this Order or any regulations made thereunder —

(a) in the case of any telecommunication equipment or any telecommunication system or service, other than any radio-communication system or service, enter and inspect any place in which the telecommunication equipment is located or the telecommunication system or service is established, installed, maintained, operated or provided, and may seize any telecommunication system or equipment found therein which appears to be used for or in connection with telecommunications; and

(b) in the case of any radio-communication system or service, enter any place in Brunei Darussalam or stop or board any vessel, aircraft or vehicle and inspect any place therein and may seize any radio-communication system or equipment found therein which appears to be used for or is capable of being used for or in connection with radio-communications.
(2) Where any police officer not below the rank of Inspector has reasonable grounds for believing that an offence has been or is being committed under section 33, 34, 35, 39 or 42, he may seize any telecommunication system or equipment or any radio-communication system or equipment, or any other thing used in the commission of the offence.

(3) If there is no prosecution with regard to any equipment or system seized under this section, the equipment or system shall be taken and deemed to be forfeited to the Authority unless a claim is made within 2 months from the date of seizure.

(4) Any person asserting that he is the owner of the equipment or system may personally or by his authorised agent give written notice to the Authority that he claims the same.

(5) On receipt of this notice, the Authority may direct that the equipment or system be released or may refer the matter to a Magistrate’s Court.

(6) The Magistrate’s Court may proceed to the examination of the matter and upon examination shall order that the equipment or system be forfeited or released.

Sealing of telecommunication system or equipment etc.

38. (1) Where it appears to any police officer not below the rank of Inspector that it is not practicable to remove from where it is found any telecommunication system or equipment or any radio-communication system or equipment or any radio-communication system or equipment seized by him under section 37 by reason of its nature, size or amount, he may by any means seal the telecommunication system or equipment or the radio-communication system or equipment.

(2) Any person who, without lawful authority, breaks, tampers with or damages any seal referred to in subsection (1), or removes any telecommunication system or equipment or any radio-communication system or equipment which has been sealed under that subsection, or attempts to do so, shall be guilty of an offence.

Using unlawful telecommunication system or service.

39. Any person who knowing or having reason to believe that a telecommunication system or service has been established, installed, maintained, operated or provided in contravention of this Order, whether or not such system or service is connected to or provided through a public communication licensee’s installation or plant, uses the system or service for communication or for performing any service incidental thereto or delivers any message for transmission by the system or service or accepts delivery of any message sent shall be guilty of an offence.

Obstruction of public telecommunication licensees.

40. (1) Any person who —
(a) whilst in any premises used for the purposes of the business of a public telecommunication licensee, intentionally obstructs the course of business of the licensee concerned; or

(b) assaults or intentionally obstructs or incites anyone to obstruct or impede an officer or employee of a public telecommunication licensee in the performance of his duties,

shall be guilty of an offence.

(2) A public telecommunication licensee may require any person guilty of an offence under subsection (1) to leave the premises used for the purposes of its business and, if any such offender who is so required refuses or fails to comply with the requirement, he may be removed by an employee of the licensee.

Intentional damage to installation or plant used for telecommunications.

41. Any person who intending —

(a) to prevent or obstruct the transmission or delivery of any message;

(b) to intercept or to acquaint himself with the contents of any message; or

(c) to commit mischief,

damages, removes, tampers with or touches any installation or plant or any part thereof used for telecommunications belonging to a public telecommunication licensee or interferes with the radio-communication service or system of a public telecommunication licensee shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 3 years or both.

Offences by officer, employee or agent of public telecommunication licensees.

42. (1) Any officer, employee or agent of a public telecommunication licensee who —

(a) wilfully secretes, makes away with or alters any message or record of any message; or

(b) except in obedience to an order under the hand of the Minister or the direction of a court, wilfully omits to transmit or intercepts or acquaints himself with or detains any message or part thereof or deliberately causes a call or connection to be disconnected or not to be connected,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 3 years or both.

(2) Paragraph (b) of subsection (1) shall not apply to —
(a) any act or thing done by an officer, employee or agent of a public telecommunication licensee for or in connection with the installation of a telecommunication line, equipment or the operation or maintenance of a telecommunication system; or

(b) the tracing of the origin of any telephone call at the request of the subscriber of a telecommunication service.

Fraudulent use of telecommunication service.

43. Any person who dishonestly uses or permits another person to use any telecommunication service provided by a telecommunication licensee with intent to avoid payment of any charge applicable to the provision of that service shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 3 years or both.

Possession or supply of anything for fraudulent purpose in connection with use of telecommunication service.

44. (1) Subsection (2) shall apply if a person has in his custody or under his control any thing which may be used for the purpose of obtaining, or for a purpose connected with the obtaining of, a service to which section 43 applies.

(2) If the person intends —

(a) to use the thing referred to in subsection (1) —

(i) to obtain such a service dishonestly; or

(ii) for a purpose connected with the dishonest obtaining of such a service;

(b) dishonestly to allow the thing to be used to obtain such a service; or

(c) to allow the thing to be used for a purpose connected with the dishonest obtaining of such a service,

he shall be guilty of an offence.

(3) Subsection (4) shall apply if a person supplies or offers to supply any thing which may be used for the purpose of obtaining, or for a purpose connected with the obtaining of, a service to which section 43 applies.

(4) If the person supplying or offering to supply the thing referred to in subsection (3) knows or believes that the person to whom it is supplied or offered intends or intends if it is supplied to him —

(a) to use the thing —
(i) to obtain such a service dishonestly; or

(ii) for a purpose connected with the dishonest obtaining of such a service;

(b) dishonestly to allow the thing to be used for a purpose connected with the dishonest obtaining of such a service; or

(c) to allow the thing to be used for a purpose connected with the dishonest obtaining of such a service,

he shall be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable on conviction to a fine not exceeding $100,000, imprisonment for a term not exceeding 10 years or both.

Sending false message.

45. Any person who transmits or causes to be transmitted a message which he knows to be false or fabricated shall be guilty of an offence and shall be liable on conviction —

(a) in the case where the false or fabricated message contains any reference to the presence in any place or location of a bomb or other thing liable to explode or ignite, to a fine not exceeding $50,000, imprisonment for a term not exceeding 7 years or both; and

(b) in any other case, to a fine not exceeding $10,000, imprisonment for a term not exceeding 3 years or both.

Fraudulent retention of messages.

46. Any person who fraudulently retains or wilfully secretes, makes away with or detains a message or record of a message which ought to have been delivered to some other person or being required by a public telecommunication licensee to deliver up any such message or record thereof neglects or refuses to do so shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 3 years or both.

Protection of installation or plant used for telecommunications.

47. (1) No person shall, without the written approval of the Authority —

(a) lay or carry any mains, pipes, conduits or wires in, along, through, across, over or under any street or place in a manner which is likely to interfere with or cause damage to any installation or plant used for telecommunications; or
(b) affix any; placard, advertisement, notice or other thing in or on, or paint, tar or in any way disfigure any installation or plant used for telecommunications.

(2) Any approval under subsection (1) may be refused by the Authority or granted by the Authority on such terms and conditions as it may determine.

(3) Where the commission by any person of an offence under subsection (1) is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(4) In any proceedings for an offence under subsection (1), it shall, subject to subsection (5), be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(5) Where the defence provided by subsection (4) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a written notice giving such information identifying or assisting in the identification of that other person as was then in his possession.

(6) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and shall, in addition to the forfeiture of any equipment seized, be liable on conviction to a fine not exceeding $10,000 and, in the case of a continuing offence, to a further fine not exceeding $1,000 for every day or part thereof during which the offence continues after conviction.

Prohibition of false notice relating to public telecommunication licensees’ installation or plant.

48. Any person who, without the permission of a public telecommunication licensee, places or maintains in or on any house or place, belonging to him or under his control, any word, letter or mark which signifies or implies or may reasonably lead the public to believe that the house or place is part of a public telecommunication licensee’s installation or plant shall be guilty of an offence.

Damage to public telecommunication licensees’ installation or plant.

49. (1) Any person who wilfully removes, destroys or damages any installation or plant used for telecommunications shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000, imprisonment for a term not exceeding 3 years or both.

(2) Notwithstanding subsection (1), any person who, in the course of carrying out any earthworks, damages or suffers to be damaged any cable of a telecommunication system belonging to or under the management or control of a telecommunication system licensee
shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $1 million, imprisonment for a term not exceeding 5 years or both.

(3) Where an offence under subsection (2) is committed by any person acting as the agent or employee of another person, or being otherwise subject to the supervision or instructions of another person for the purposes of any employment in the course of which the offence was committed, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under that subsection in the same manner and to the same extent as if he had personally committed the offence unless he proves to the satisfaction of the court that the offence was committed without his consent or connivance or that it was not attributable to any neglect on his part.

(4) In any proceedings for an offence under subsection (2), it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) If in any proceedings for an offence under subsection (2) the defence involves acting on information supplied by a telecommunication system licensee or a licensed telecommunication cable detection worker, the person charged shall not, without leave of the court, be entitled to rely on that defence unless within a period of 14 clear days before the hearing, he has served on the prosecutor a written notice giving such information as was then in his possession identifying or assisting in the identification of the telecommunication system licensee or telecommunication cable detection worker.

Compensation for damage caused to public telecommunication licensees' installation or plant.

50. (1) Any person who removes, destroys or damages, whether wilfully, negligently, accidentally or otherwise, the installation or plant used for telecommunications shall, in addition to any penalty for which he is liable for an offence under this Order, be liable to pay compensation for the damage he has done and the compensation shall be recoverable by civil action or suit before any court of competent jurisdiction.

(2) Subject to subsection (1), any court before which a person is charged with an offence under this Order may assess the compensation payable under this section and may make an order for the payment of the same.

(3) Any order under subsection (2) may be enforced as if it were a judgment in a civil action or suit.

Penalty for removing any mark denoting used device for telephony purposes.

51. (1) Any person who, with fraudulent intent, erases or removes from any device, any mark put or impressed upon the device denoting that the same has been used, or sells or uses any such device shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 3 years or both.
(2) For the purpose of this section, "device" means any device provided for use by a public telecommunication licensee for accessing any telecommunication equipment of the licensee to enable the telecommunication service of the licensee to be used.

**Failure to disconnect equipment not approved under section 9.**

52. Where —

(a) any person has under his control a telecommunication system or equipment connected to the telecommunication system or equipment of a telecommunication system licensee which is of a type not approved by the Authority under section 9;

(b) the Authority has given to the person a written notice stating that —

(i) the telecommunication system or equipment under his control is of a type that has not been approved by the Authority under section 9; and

(ii) the person must disconnect the telecommunication system or equipment from the telecommunication system or equipment of the telecommunication system licensee within such period as specified in the notice; and

(c) the person has failed to comply with any written notice under paragraph (b),

then the person shall be guilty of an offence.

**PART VII**

**INTERNATIONAL OBLIGATIONS AND NATIONAL INTERESTS**

**Right to conduct international business dealings.**

53. For the purposes of the conduct of any international telecommunication service by a public telecommunication licensee, and subject to this Order, the licensee may enter into direct communication, arrangement and agreement with the lawfully constituted telecommunication authority of any country or with any duly authorised international agency or organisation concerned with telecommunications matters for the purpose of providing facilities, fixing rates, arranging terms of payment or accounting, for operational, engineering or administrative purposes or for any other purpose necessary for the proper fulfilment of its functions.

**Government’s overriding international rights.**

54. Nothing in section 53 shall be deemed to abrogate the right of the Government at any time to determine its relations with any country or with any international agency or organisation and a public telecommunication licensee shall so discharge its responsibilities and conduct its business as to comply with and fulfil all international agreements,
conventions or undertakings relating to telecommunication to which Brunei Darussalam is a party.

**Liability for international financial obligations.**

55. A public telecommunication licensee shall be fully responsible for meeting all financial obligations arising from the operation of any international telecommunication service and shall settle accounts with other telecommunication authorities.

**Contribution by Government.**

56. Where the Government considers it necessary that any telecommunication service of an exceptional nature should be provided, and where a public telecommunication licensee considers it uneconomic to provide the service without contribution from the Government, the Government may make such contribution towards the capital outlay necessary to provide any such service as may be estimated by the licensee and agreed to by the Government.

**Provisions to Government of telecommunication services etc.**

57. The Minister may direct a public telecommunication licensee to undertake and provide such telecommunication services and facilities as may be necessary for aeronautical, maritime, meteorological, government, defence or other purposes and upon being so directed, the licensee shall so provide the services or facilities, and shall be entitled to fair and proper payment therefor.

**System of universal service provision.**

58. The Authority may, with the approval of the Minister, determine a system to promote the widespread availability and usage of telecommunication services throughout Brunei Darussalam by encouraging the installation of telecommunication systems in underserved areas or for underserved groups within the community.

**Definition of "underserved areas" and "underserved groups within the community".**

59. (1) A determination by the Authority under section 58 shall include definitions of "underserved areas" and "underserved groups within the community".

(2) In determining the definition of "underserved areas", the Authority may have regard to —

(a) the level of competition in particular areas or places;

(b) the availability of telecommunication services in particular areas or places; and/or
(c) the commercial viability of installing telecommunication systems in particular areas or places.

(3) In determining the definition of "underserved groups within the community", the Authority may have regard to —

(a) the availability of services to such groups; and/or

(b) any barriers to the use of available services.

Universal Service Provision Fund.

60. For the purposes of this Order, a fund to be known as the Universal Service Provision Fund (USP Fund) is established and it shall be controlled and operated by the Authority.

Directions by Minister.

61. (1) The Minister may, after consultation with the Authority or any public telecommunication licensee, give to the Authority or licensee, as the case may be, such directions as the Minister thinks fit as to the exercise by the Authority or that licensee of its functions under this Order.

(2) Without prejudice to subsection (1), if it appears to the Minister to be requisite or expedient to do so —

(a) on the occurrence of any public emergency, in the public interest or in the interests of public security, national defence, or relations with the government of another country; or

(b) in order —

(i) to discharge or facilitate the discharge of an obligation binding on the Government by virtue of its being a member of an international organisation or a party to an international agreement.

(ii) to attain or facilitate the attainment of any other object the attainment of which is in the opinion of the Minister requisite or expedient in view of the Government being a member of an international organisation or a party to an international agreement; or

(iii) to enable the Government to become a member of an international organisation or a party to an international agreement,

the Minister may, after consultation with the Authority or any public telecommunication licensee, give such directions to the Authority or that licensee as are necessary in the circumstances of the case.
(3) Any direction given under subsection (1) or (2) may include —

(a) provisions for the prohibition or regulation of such use of telecommunications in all cases or of such cases as may be considered necessary;

(b) provisions for the taking of, the control of or the usage for official purposes of, all or any such telecommunication system and equipment; and

(c) provisions for the stopping, delaying and censoring of messages and the carrying out of any other purposes which the Minister thinks necessary.

(4) Nothing in any direction given under subsection (3) shall apply to the use of any telecommunications for the purpose of making or answering signals of distress.

(5) The Authority and any public telecommunication licensee shall give effect to any direction given to it under subsection (1) or (2) notwithstanding any other duty imposed on the Authority or the licensee by or under this Order.

(6) The Authority and any public telecommunication licensee shall not disclose any direction given to that person under subsection (1) or (2) if the Minister notifies that person that the Minister is of the opinion that the disclosure of the directions is against the public interest.

(7) The Minister may —

(a) pay compensation for any damage caused to a public telecommunication licensee by reason of its compliance with the directions of the Minister under paragraph (b) of subsection (3); or

(b) make grants to public telecommunication licensees for defraying or contributing towards any losses which they may sustain by reason of their compliance with the directions of the Minister under any other provisions of this section.

(8) Any sums required by the Minister for paying compensation or making grants under subsection (7) shall be paid out of the Consolidated Fund.

(9) If any doubt arises as to the existence of a public emergency or as to whether any act done under this section was in the public interest or in the interests of public security, national defence or relations with the government of another country, a certificate signed by the Minister shall be conclusive evidence of the matters state therein.
PART VIII

ENFORCEMENT POWERS AND PROCEDURES

Power to require information etc.

62. (1) The Authority or any officer authorised by the Authority in that behalf may, for the purpose of discharging its functions under this Order, by order —

(a) require any person to furnish the Authority with any information in his possession which relates to any telecommunication service or telecommunication system; and

(b) require any person who has in his custody or under his control any document which relates to any telecommunication service or telecommunication system —

(i) to furnish the Authority with a copy of or extract from the document; or

(ii) unless the document forms part of the records or other documents of a court or public authority, to transmit the document itself to the Authority for inspection.

(2) The Authority or such duly authorised officer shall be entitled without payment to keep any copy or extract furnished to him under subsection (1).

(3) The Authority or any officer authorised by the Authority in that behalf shall at all reasonable times in the day have full and free access to all buildings, places, books, documents and other papers for the purpose of discharging its functions under this Order, and may, without payment, inspect, copy or make extracts from any such books, documents or papers.

(4) The Authority may take possession of any equipment, books, documents or papers where in its opinion —

(a) the equipment, books documents or papers may be interfered with or destroyed unless possession is taken; or

(b) the equipment, books documents or papers may be required as evidence in proceedings for an offence under this Order or any regulations made thereunder.

(5) The rights conferred by this section shall, in relation to information recorded otherwise than in legible form include the right to require the information to be made available in legible form for inspection or for a copy or extract to be made of or from it.

(6) Any person who —
(a) fails to comply with any requirement specified in any order under subsection (1);

(b) intentionally alters, suppresses or destroys any document or information which he has been required by any order under subsection (1) to furnish or transmit to; or

(c) in furnishing any information required of him under any order under subsection (1), makes any statement which he knows to be false in a material particular, or reckless makes any statement which is false in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000, imprisonment for a term not exceeding 12 months or both and, in the case of a continuing offence, to a further fine not exceeding $50 for every day or part thereof during which the offence continues after conviction.

(7) No person shall by virtue of this section be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy.

Powers of arrest and search in respect of seizable offences.

63. (1) Any police officer may arrest without warrant —

(a) any person found committing or attempting to commit or employing or aiding any person to commit a seizable offence under this Order, or

(b) any person against whom a reasonable suspicion exists that he has been guilty of a seizable offence under this Order,

and may search any person so arrested, except that no female shall be searched except by a female.

(2) Every person so arrested shall, together with any article as to which an offence may have been committed or attempted to be committed, be taken to a police station.

(3) For the purposes of this section, offences punishable under sections 33, 41, 42, 43, 44, 45, 46, 49 and 52 shall be deemed to be seizable offences within the meaning of the Criminal Procedure Code (Chapter 7).

Powers of search and arrest in respect of offences under section 33 or 44.

64. (1) Whenever it appears to any police officer that an offence under section 33 or 44 is being committed or is about to be committed or attempted, or that any article is concealed or deposited or contained in or on any vessel, aircraft, vehicle or premises in contravention of either of those sections, the police officer may, if he has reasonable grounds for believing that by reason of the delay in obtaining a search warrant the article is likely to be removed —
(a) stop and examine the vessel, aircraft or vehicle or enter the premises and
there search for and take possession of any article and of any book or
document which is reasonably believed to have a bearing on the case; and

(b) arrest any person being in the vessel, aircraft, vehicle or premises in whose
possession the article may be found or whom the police officer may
reasonably suspect to have concealed or deposited the article and may search
any person so arrested, except that no female shall be searched except by a
female.

(2) Every person so arrested shall, together with any such article, be taken to a police
station.

Obstruction of police officer.

65. Any person who intentionally obstructs a police officer in the execution of his duty
under section 37 or 64 shall be guilty of an offence.

No costs or damages or other relief arising from seizure to be recoverable unless seizure
without reasonable or probable cause.

66. No person shall, in any proceedings before any court in respect of any equipment,
article, book or document seized in the exercise or the purported exercise of any power
conferred under this Order, be entitled to the costs of the proceedings or to any damages or
other relief other than an order for the return of the equipment, article, book or document or
the payment of their value unless the seizure was made without reasonable or probable cause.

Composition of offences.

67. (1) Any police officer not below rank of Inspector specially authorised by name in
that behalf by the Minister, or any employee of the Authority specially authorised by name in
that behalf by the Chief Executive, may in his discretion compound any such offence under
this Order or any regulations made thereunder as may be prescribed as being an offence which
may be compounded by collecting from the person reasonably suspected of having
committed the offence a sum not exceeding $1,000.

(2) The Authority may, with the approval of the Minister, make regulations
prescribing the offences which may be compounded.

(3) All sums collected under this section shall be paid to the Authority.

General penalties.

68. Any person guilty of an offence under this Order or any regulations made thereunder
for which no penalty is expressly provided shall, in addition to the forfeiture of any article
seized, be liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 3 years or both.

**Saving of prosecutions under other written laws.**

69. Nothing in this Order shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an offence under this Order or any regulations made thereunder, or from being liable under that other written law to any punishment or penalty higher or other than that provided by this Order or the regulations, but no person shall be punished twice for the same offence.

**Jurisdiction of Courts.**

70. A Magistrate’s Court shall have jurisdiction to hear and determine all offences under this Order and, notwithstanding anything to the contrary in the Criminal Procedure Code (Chapter 7), shall have power to impose the full penalty or punishment in respect of any offence under this Order.

**Offences by bodies of persons.**

71. Where an offence under this Order or any regulations made thereunder has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of a company, firm, society or other body of persons or was purporting to act in such capacity shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

**PART IX**

**GENERAL PROVISIONS**

**Appeal to Minister.**

72. (1) Any telecommunication licensee aggrieved by —

(a) any decision of the Authority in the exercise of any discretion vested in it by or under this Order; or

(b) anything contained in any code of practice or standard of performance or in any direction of the Authority given under section 27,

may appeal to the Minister in the prescribed manner.
(2) Unless otherwise provided, where an appeal is lodged under this section the decision, direction or other thing appealed against shall be complied with until the determination of the appeal.

(3) The Minister may determine an appeal under this section by confirming, varying or reversing any decision or direction of the Authority or by amending any code of practice or standard of performance.

(4) The decision of the Minister in any appeal shall be final.

Exclusion of liability of public telecommunication licensees.

73. A public telecommunication licensee shall not be liable in respect of any injury, loss or damage suffered by any person by reason of —

(a) any failure to provide or delay in providing any telecommunication services or any equipment associated therewith or service ancillary thereto;

(b) any failure, interruption, suspension or restriction of any telecommunication service or service ancillary thereto or delay of, or fault in any communication by means of telecommunications;

(c) any error in, or omission of, any information transmitted through telecommunication; or

(d) any loss of secrecy in communication arising from the use of any telecommunication service,

which is due to the act or default of another person, or an accident or some other cause beyond the public telecommunication licensee’s control.

Service of documents.

74. (1) Unless otherwise expressly provided in this Order, any notice, order or document required or authorised by this Order or any regulations made thereunder to be given or served on any person, and any summons issued by a court in connection with any offence under this Order or any regulations made thereunder may be served on the person concerned —

(a) by delivering it to the person or to some adult member or employee of his family at his last known place of residence;

(b) by leaving it at his usual or last known place of residence or place of business in a cover addressed to him;

(c) by affixing it to some conspicuous part of his last known place of residence;
(d) by sending it by registered post addressed to the person at his usual or last known place of residence or place of business; or

(e) where the person is a body corporate —

(i) by delivering it to the secretary or other like officer of the body corporate at its registered or principal office; or

(ii) by sending it by registered post addressed to the body corporate at its registered or principal office.

(2) Any notice, order, document or summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person to whom the letter is addressed at the time when the letter would, in the ordinary course of post, be delivered and in proving service of the same, it shall be sufficient to prove that the envelope containing the notice, order, document or summons was properly addressed, stamped and posted by registered post.

Excluded matters.

75. This Order shall not apply to the licensing of any broadcasting service or any broadcasting apparatus under the Broadcasting Act (Chapter 180) except in respect of the regulation of any telecommunication system required for the operation of any broadcasting service or the approval of any broadcasting apparatus used in accordance with section 9.

Exemption by Minister.

76. The Minister may exempt any person or class of persons from all or any of the provisions of this Order.

Regulations.

77. (1) The Authority may, with the approval of the Minister, make regulations for any purpose for which regulations are required to be made under this Order and generally for carrying out the purposes and provisions of this Order.

(2) Without prejudice to the generality of subsection (1), the Authority may, with the approval of the Minister, make regulations for or with respect to all or any of the following matters —

(a) the proficiency examinations, including the syllabi and the details thereof, for the certification of competency of individuals operating telecommunication services or for the grant of any licence by the Authority;

(b) the classes and the conditions for the grant of licences by the Authority;
in relation to cable detection work licences —

(i) the class or classes of licences to be granted, the form and duration of those licences, the terms and conditions upon, and the circumstances in which those licences may be granted, held, suspended, cancelled, altered, extended, renewed or replaced and the fees payable in respect thereof;

(ii) the qualifications and other requirements for applicants for such licences, the examination or testing of such applicants, the fees payable in respect of such examination or testing and the circumstances in and conditions on which an applicant may be exempted from such examination or testing; and

(iii) the duties and responsibilities of licensed cable detection workers;

(d) the control and regulation of dealing in and use of telecommunication equipment;

(e) the control and regulation of interference by radiowaves or electrical or other means of telecommunications in Brunei Darussalam;

(f) the control and regulation of installation, wiring, cabling and other types of works to be carried out on the telecommunication systems of a public telecommunication licensee;

(g) the implementation of section 58;

(h) contributions by telecommunication licensees under this Order to the USP Fund and any other matters related to or incidental to the establishment and operation of the USP Fund.

Repeal.

78. The Telecommunications Act (Chapter 54) is hereby repealed.

Savings and transitional provisions.

79. (1) Any scheme, contract, document, licence, permission or resolution prepared, made, granted or approved by JTB in relation to telecommunication matters under the repealed Act shall, so far as it is not inconsistent with the provisions of this Order and except as otherwise expressly provided in this Order or in any other written law, continue and be deemed to have been prepared, made, granted or approved by the Authority under the corresponding provisions of this Order.

(2) Any subsidiary legislation made under the repealed Act or any other written law relating to telecommunication matters and in force immediately before the appointed day
shall, so far as it is not inconsistent with the provisions of this Order, continue in force as if made under this Order until it is revoked or repealed by subsidiary legislation made under this Order.

Made this 16th. day of Safar, 1422 Hijriah corresponding to the 10th. day of May, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

AUTHORITY FOR INFO-COMMUNICATIONS TECHNOLOGY
INDUSTRY OF BRUNEI DARUSSALAM ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Citation, commencement and long title.
2. Interpretation.

PART II

ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF AUTHORITY

3. Establishment, incorporation and constitution of Authority.
5. Constitution of Authority.

PART III

FUNCTIONS, DUTIES AND POWERS OF AUTHORITY

6. Functions and duties of Authority.
7. Powers of Authority.
8. Appointment of committees and delegation of powers.
PART IV

PROVISIONS RELATING TO STAFF

10. Appointment of Chief Executive and other employees etc.

11. Protection from personal liability.


PART V

FINANCIAL PROVISIONS


14. Bank accounts and application of revenue.

15. Power to borrow.

16. Investment.

17. Other financial provisions.

PART VI

GENERAL

18. Powers of enforcement.


20. Authority’s symbol.


22. Rules.

23. Saving and transitional provisions.

FIRST SCHEDULE — CONSTITUTION AND PROCEEDINGS OF AUTHORITY

SECOND SCHEDULE — POWERS OF AUTHORITY

THIRD SCHEDULE — FINANCIAL PROVISIONS
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

AUTHORITY FOR INFO-COMMUNICATIONS TECHNOLOGY INDUSTRY OF BRUNEI DARUSSALAM ORDER, 2001

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

PART 1
PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Authority for Info-communications Technology Industry of Brunei Darussalam Order, 2001 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty and Yang Di-Pertuan, by notification in the Gazette.

(2) The long title of this Order is "An Order to establish and incorporate the Authority for Info-communications Technology Industry of Brunei Darussalam".

Interpretation.

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

"appointed day" means the date of commencement of this Order;

"Authority" means the Authority for Info-communications Technology Industry of Brunei Darussalam (also known by the acronym AiTi) established under section 3;

"broadcasting service" has the same meaning as in the Broadcasting Act (Chapter 180);

"Chairman" means the Chairman of the Authority and includes any temporary Chairman of the Authority;

"Chief Executive" means the Chief Executive of the Authority appointed under section 10 and includes any temporary Chief Executive;

"debenture" includes debenture stock;

"information and communications industry" means any person who is carrying on a business or engaged in any commercial activity connected with information and communications technology;
"information and communications services" means any service involving the use of information and communications technology;

"information and communications technology" means any technology employed in collecting, storing, using or sending out information and includes that involving the use of computers or any telecommunication system;

"JTB" means the Telecommunications Department of the Government existing immediately before the commencement of this Order;

"member" means a member of the Authority;

"Minister" means the Minister responsible for telecommunication matters;

"repealed Act" means the Telecommunication Act (Chapter 54) repealed by the Telecommunications Order, 2001;

"securities", in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

"shares" includes stock;

"subsidiary" has the same meaning as in the Companies Act (Chapter 39);

"telecommunication service" means any service for telecommunications but excludes any broadcasting service;

"telecommunication system" means any system used or intended to be used for telecommunications;

"telecommunications" means a transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception.
PART II

ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF AUTHORITY

Establishment and incorporation of Authority for Info-communications Technology Industry of Brunei Darussalam.

3. There is hereby established a body to be known as the Authority for Info-communications Technology Industry of Brunei Darussalam or by the acronym, AiTi, which shall be a body corporate with perpetual succession and shall, by that name, be capable of —

(a) suing and being sued;

(b) acquiring, owning, holding and developing or disposing of property, both movable and immovable; and

(c) doing and suffering such other acts or things as bodies corporate may lawfully do and suffer.

Common seal.

4. (1) The Authority shall have a common seal and the seal may, from time to time, be broken, altered or made anew as the Authority thinks fit.

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to any document and shall presume that it was duly affixed.

Constitution of Authority.

5. (1) The Authority shall consist of —

(a) a Chairman;

(b) and not less than 3 and not more than 7 other members as the Minister may from time to time determine.

(2) The First Schedule shall have effect with respect to the Authority, its members and proceedings.
Functions and duties of Authority.

6. (1) It shall be the function and duty of the Authority —

(a) promote the efficiency and international competitiveness of the information and communications industry in Brunei Darussalam;

(b) to ensure that telecommunication services are reasonably accessible to all people in Brunei Darussalam, and are supplied as efficiently and economically as practicable and at performance standards that reasonably meet the social, industrial and commercial needs of Brunei Darussalam;

(c) to promote and maintain fair and efficient market conduct and effective competition between persons engaged in commercial activities connected with telecommunication technology in Brunei Darussalam;

(d) to promote the effective participation of all sectors of the Brunei Darussalam information and communications industry in markets (whether in Brunei Darussalam or elsewhere);

(e) to act internationally as the national body representative of Brunei Darussalam in respect of information and communications technology matters;

(f) to advise the Government on national needs and policies in respect of all information and communications technology matters and on matters appertaining to the Authority generally;

(g) to further the advancement of technology and research and development relating to information and communications technology;

(h) to exercise licensing and regulatory functions in respect of telecommunication systems and services in Brunei Darussalam, including the establishment of standards and codes relating to equipment attached to telecommunication and radio-communication systems, and any equipment or software used as an adjunct to or in conjunction with such systems and the monitoring of and access to such equipment and software;

(i) to exercise licensing and regulatory functions in respect of the allocation and use of satellite orbits and the radio frequency spectrum in Brunei Darussalam for all purposes, including the establishment of standards and codes relating to any matter in connection therewith;
(j) to encourage, facilitate and promote the greatest practicable use of industry
self-regulation by the information and communications industry in Brunei Darussalam;

(k) to exercise licensing and regulatory functions in respect of the installation,
use and provision of undersea cables, cable frontier stations and satellite
stations, receivers and transmitters in Brunei Darussalam and all equipment
used in connection therewith;

(l) to exercise regulatory functions in respect of the determination and approval
of prices, tariffs, charges and the provision of telecommunication and such
other related services;

(m) to encourage, promote, facilitate, invest in and otherwise assist in the
establishment, development and expansion of the information and
communications industry in Brunei Darussalam, including information and
communications technology manpower resources in Brunei Darussalam;

(n) to provide facilities for the training of and do anything for the purpose of
advancing the skill and knowledge of persons for any purpose connected
with the information and communications industry in Brunei Darussalam;

(o) to advise on development and implementation of information and
communications technology systems and services for Government
ministries, departments and agencies;

(p) to advise on education and training in information and communications
technology in Brunei Darussalam;

(q) to establish and maintain, to the extent permitted by any law, standards and
codes for the monitoring and regulation of such aspects of information and
communications technology data privacy and protection as the Authority
thinks fit;

(r) to promote the use of the Internet and electronic commerce and to establish
regulatory frameworks for that purpose;

(s) to provide consultancy and advisory services concerning information and
communications technology;

(t) to promote the acceptance and use of information and communications
technology in Brunei Darussalam;

(u) to exercise any other functions and duties conferred on the Authority by or
under the Telecommunications Order, 2001 or any other written law.

(2) In discharging the functions and duties imposed on it by subsection (1), the
Authority shall have regard to —

1191
(a) efficiency and economy;

(b) the social, industrial and commercial needs of Brunei Darussalam for information and communications services;

(c) the state of and trends in the development of information and communications technology and the evolution of standards and protocols used in the information and communications industry, both in Brunei Darussalam and elsewhere;

(d) the convergence between broadcasting services and other services using information and communications technology, and the need to accommodate technological change;

(e) fostering the development and expansion of information and communications services in the world in collaboration with other countries and international organisations;

(f) maintaining effective competition between persons engaged in the provision of telecommunication systems and services;

(g) enabling persons providing information and communications services in Brunei Darussalam to compete effectively in the provision of such services outside Brunei Darussalam;

(h) the promotion of measures for the safety of life through telecommunications technology;

(i) the provision of telecommunication services at rates consistent with efficient service;

(j) improvements in the effective and efficient use of the radio frequency spectrum;

(k) the promotion of research and development in the fields of information and communications technology and, in particular, the peaceful uses of such technology; and

(l) collaboration with educational institutions for the promotion of technical education in the field of information and communications technology.

(3) Nothing in this section shall be construed as —

(a) imposing on the Authority, directly or indirectly, any form of duty or liability enforceable by proceedings before any court;

(b) precluding the Authority from interrupting, suspending or restricting any telecommunication services provided by the Authority; or
(c) precluding the Authority from ensuring the provision of any special service for any person or section of the public where the special service is required.

(4) In addition to the functions and duties imposed by this section, the Authority may undertake such other functions as the Minister may assign to the Authority, and in so doing the Authority shall be deemed to be fulfilling the purposes of this Order and the provisions of this Order shall apply to the Authority in respect of such functions.

Powers of Authority.

7. (1) Subject to this Order, the Authority may carry on such activities as appear to the Authority to be advantageous, necessary or convenient for it to carry on for or in connection with the discharge of its functions and duties under this Order or any other written law, and in particular, the Authority may exercise any of the powers specified in the Second Schedule.

(2) This section shall not be construed as limiting any power of the Authority conferred by or under any other written law.

(3) The Authority shall furnish the Minister information with respect to its property and activities in such manner and at such times as the Minister may require.

Appointment of committees and delegation of powers.

8. (1) The Authority may appoint from among its own members or other persons who are not members such number of committees as it thinks fit consisting of members or other persons or members and other persons for purposes which, in the opinion of the Authority, would be better regulated and managed by means of such committees.

(2) The Authority may, subject to such conditions or restrictions as it thinks fit, delegate to any such committee or to any member, officer or employee of the Authority, any of the functions or powers of the Authority under this Order or any other written law, except the power of delegation conferred by this section.

(3) No delegation under this section shall prevent the performance or exercise of any function or power by the Authority.

Power to act in relation to proposals for privatisation.

9. (1) Where the Minister is at any time proposing that any property or function of the Authority should be transferred to another body corporate, the functions of the Authority shall include the power to do anything which in the opinion of the Authority is appropriate for the purpose of —

(a) facilitating the implementation of the proposal for the transfer; or
(b) facilitating the implementation of, or securing a modification of, any related proposals of the Minister.

(2) The proposals which are to be treated for the purposes of this section as related to a proposal of the Minister for the transfer of anything from the Authority to a body corporate shall include any proposal relating to, or to any matter connected with —

(a) any of the Authority’s property, rights or liabilities which would be affected by the transfer, or any such property, rights or liabilities after their proposed transfer;

(b) the exercise, whether before or after the transfer, of any function which it is proposed to transfer to or otherwise vest in that body corporate;

(c) the establishment or formation, flotation, control, finances or officers or employees of that body corporate or of any other body corporate which is, or in pursuance of any proposal of the Minister may become, a member of the same group as that body corporate.

(3) Any power of the Authority to do anything under this section in relation to a proposal for the transfer of any property or function, or in relation to any related proposal, shall include power to do that thing with a view to promoting the interests of —

(a) any body corporate to which it is proposed to transfer the property or function; or

(b) any body corporate which is, or in pursuance of any proposal of the Minister may become a member of the same group as a body corporate to which it is proposed to transfer the property or function.

(4) The powers conferred by this section in relation to any proposal shall be without prejudice to any power conferred otherwise than by virtue of this section.

(5) For the purposes of this section, a body corporate is a member of the same group as another body corporate if it is a holding company or subsidiary of that other body corporate or if it is another subsidiary of that other body corporate’s holding company; and in this subsection, "holding company" has the same meaning as in the Companies Act (Chapter 39).

PART IV

PROVISIONS RELATING TO STAFF

Appointment of Chief Executive and other employees etc.

10. (1) The Authority shall, with the approval of the Minister, appoint a Chief Executive on such terms and conditions as the Authority may determine.
(2) The Chief Executive shall —

(a) be known by such designation as the Authority may determine;

(b) be responsible to the Authority for the proper administration and management of the functions and affairs of the Authority in accordance with the policy laid down by the Authority; and

(c) not be removed from office without the consent of the Minister.

(3) The Minister shall consult the Public Service Commission before granting his approval under subsection (1) or before giving his consent under paragraph (c) of subsection (2).

(4) If the Chief Executive is temporarily absent from Brunei Darussalam, or is temporarily unable to perform his duties by reason of illness or otherwise, another person may be appointed by the Authority to act in the place of the Chief Executive during any such period of absence from duty.

(5) The Authority may, from time to time, appoint and employ on such terms and conditions as the Authority may determine such other employees, consultants and agents as may be necessary for the effective performance of its functions.

Protection from personal liability.

11. No suit or other legal proceedings shall lie personally against any member, officer or employee of the Authority or other person acting under the direction of the Authority for anything which is in good faith done or intended to be done in the execution or purported execution of this Order.

Public servants.

12. All members, officers and employees of the Authority shall be deemed to be public servants for the purposes of the Penal Code (Chapter 22).

PART V

FINANCIAL PROVISIONS

Application of revenue.

13. (1) The revenue of the Authority for any financial year shall be applied in defraying the following charges —

(a) the remuneration, fees and allowances of the members of the Authority;
the salaries, fees, remuneration, pensions, superannuation allowances and
gratuities of the officers, agents, employees, advisers and former employees
of the Authority or its predecessors;

(c) working and establishment expenses and expenditure on, or provision for,
the maintenance of any of the property of the Authority, and the discharge
of the functions of the Authority properly chargeable to revenue account;

(d) interest on any debentures issued, and on any loan raised, by the Authority;

(e) sums required to be paid to the Government towards repayment of any loan
made by the Government to the Authority;

(f) sums required to be transferred to a sinking fund or otherwise set aside for
the purpose of making provision for the redemption of debentures or the
repayment of other borrowed money;

(g) such sums as may be deemed appropriate to set aside in respect of
depreciation or renewal of the property of the Authority, having regard to the
amount set aside out of revenue under paragraphs (c) and (f);

(h) the cost, or any portion thereof, of any new works, plant, vessels or
appliances not being a renewal of the property of the Authority, which the
Authority may determine to charge to revenue;

(i) such sums by way of contribution, for the purposes associated with the
objects of this Order as the Authority may determine, to the public or for
charities; and

(j) any other expenditure authorised by the Authority and properly chargeable to
revenue account.

(2) The balance of the revenue of the Authority shall be applied —

(a) to the creation of a general reserve and such other reserves as the Authority
may think fit; and

(b) to the payment of such dividends on shares issued by the Authority as the
Authority may, after consultation with the Minister for Finance, see fit to
declare.

Bank accounts and application of revenue.

14. (1) The Authority shall open and maintain an account or accounts with such bank or
banks as the Authority thinks fit; and every such account shall be operated upon as far as
practicable by cheque signed by such person or persons as may from time to time be
authorised in that behalf by the Authority.
(2) The moneys of the Authority shall be applied only in payment or discharge of the expenses, obligations and liabilities of the Authority and in making any payments that the Authority is authorised or required to make.

Power to borrow.

15. For the discharge of its functions or duties under this Order or any other written law, the Authority may, from time to time, raise loans from the Government or, with the approval of the Minister, raise loans from banks and other financial institutions (whether in Brunei Darussalam or elsewhere) by —

(a) mortgage, overdraft or otherwise;

(b) charge, whether legal or equitable, on any property vested in the Authority or on any revenue receivable by the Authority under this Order or any other written law;

(c) or the creation and issue of debentures or bonds.

Investment.

16. The Authority may invest any of its funds available for investment in such shares, funds, securities or investments as may be authorised by the Minister.

Other financial provisions.

17. The financial provisions set out in the Third Schedule shall have effect with respect to the Authority.

PART VI

GENERAL

Powers of enforcement.

18. (1) In addition to the powers conferred on him by any written law, an officer or employee of the Authority may, on declaration of his office and production to the person against whom he is acting such identification card as the Chief Executive may direct to be carried by officers or employees of the Authority, in relation to any offence under any such written law —

(a) require any person whom he reasonably believes to have committed an offence under any such written law to furnish evidence of the person’s identity;
require any person, for the purposes of any such written law, to furnish any information or produce any book, document or copy thereof in the possession of that person, and may, without fee or reward, inspect, copy or make extracts from such book or document; and

when conducting any investigation under such written law the power to require, by order in writing, the attendance before the officer or employee of any person being within the limits of Brunei Darussalam who from the information given or otherwise appears to be acquainted with the circumstances of the case, and the person so ordered shall attend as so required.

2) A person who —

refuses to give access to, or assaults, obstructs, hinders or delays, an officer or employee of the Authority in the discharge of his duties;

wilfully mis-states or without lawful excuse refuses to give any information or without lawful excuse refuses to produce any book, document or copy thereof required of him by an officer or employee of the Authority under subsection (1); or

fails to comply with a lawful demand of an officer or employee of the Authority in the discharge of his duties,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000, to imprisonment for a term not exceeding 12 months or both.

Preservation of secrecy.

19. (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 Authority or a member of a committee of the Authority shall disclose any information relating to the affairs of the Authority 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) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $2,000, to imprisonment for a term not exceeding 12 months or both.

Authority’s symbol.

20. (1) The Authority shall have the exclusive right to the use of such symbol or representation as it may select or devise and thereafter display or exhibit in connection with its activities or affairs.
Any person who uses a symbol or representation identical with that of the Authority, or which so resembles the Authority’s symbol or representation as to deceive or cause confusion, or to be likely to deceive or to cause confusion, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $2,000, to imprisonment for a term not exceeding 6 months or both.

**Annual report.**

21. The Authority shall, as soon as practicable after the end of each financial year, submit to the Minister an annual report on the activities of the Authority during that financial year and the Minister shall cause a copy of every such report to be presented to His Majesty the Sultan in Council.

**Rules.**

22. (1) The Authority may, with the approval of the Minister, make rules for carrying out the purposes and provisions of this Order.

(2) Without prejudice to the generality of subsection (1), the Authority may, with the approval of the Minister, make rules for or with respect to all or any of the following matters —

(a) the manner of appointment, conduct and discipline and the terms and conditions of service of the employees of the Authority;

(b) the establishment of funds for the payment of gratuities and other benefits to employees of the Authority;

(c) the fees to be charged in respect of anything done or any services rendered by the Authority under or by virtue of this Order or any other written law.

**Saving and transitional provisions.**

23. (1) Any scheme, contract, document, licence, permission or resolution prepared, made, granted or approved by JTB under the repealed Act shall, so far as it is not inconsistent with the provisions of this Order and except as otherwise provided in this Order or in any other written law, continue and be deemed to have been prepared, made, granted or approved by the Authority under the corresponding provisions of this Order.

(2) Where any thing has been commenced by or on behalf of JTB under the repealed Act before the appointed day, such thing may be carried on and completed by or under the authority of the Authority under this Order.
CONSTITUTION AND PROCEEDINGS OF AUTHORITY

Appointment of Chairman and members.

1. (1) The Authority shall consist of —

(a) a Chairman;

(b) the Chief Executive; and

(c) such other members, not being less than 2 or more than 6, as the Minister may from time to time determine.

(2) The Chairman and other members of the Authority shall be appointed by the Minister.

Tenure of office of members of Authority.

2. A member of the Authority shall hold office on such conditions and for such term, not exceeding 3 years, as the Minister may determine and shall be eligible for reappointment.

Temporary members.

3. The Minister may appoint any person to be a temporary member of the Authority during the temporary incapacity from illness or otherwise, or during the temporary absence from Brunei Darussalam of any member.

Temporary Chairman.

4. The Minister may appoint any member of the Authority to be a temporary Chairman during the temporary incapacity from illness or otherwise, or during the temporary absence from Brunei Darussalam, of the Chairman.

Revocation of appointment.

5. If at any time it appears to the Minister that removal from office of all or any of the members of the Authority is necessary in the interests of the effective and economical performance of the functions of the Authority under this Order, or in the public interest, the Minister may remove from office all or so many of those members of the Authority as he considers necessary in such interests.
Resignation.

6. A member of the Authority may resign his office at any time by giving not less than one month’s notice to the Minister.

Chairman may delegate function.

7. The Chairman may, in writing, authorise any member of the Authority to exercise any power or perform any function conferred on the Chairman under this Order.

Vacation of office.

8. The seat of a member of the Authority shall become vacant —
   
   (a) on his death;
   
   (b) if he, without sufficient cause (the sufficiency thereof to be decided by the Authority) fails to attend 3 consecutive meetings of the Authority;
   
   (c) if he becomes in any manner disqualified for membership of the Authority;
   
   (d) if he resigns his seat; or
   
   (e) if his appointment is revoked.

Filling of vacancies.

9. If a vacancy occurs in the membership of the Authority, the Minister may, subject to paragraph 1, appoint any person to fill the vacancy and the person so appointed shall hold office for so long as the member in whose place he is appointed would have held office.

Disqualification from membership.

10. No person shall be eligible to be appointed or to remain a member of the Authority if he —

   (a) is an undischarged bankrupt or has made any arrangement with his creditors;

   (b) is incapacitated by physical or mental illness; or

   (c) is otherwise unable or unfit to discharge the functions of a member.
Disclosure of interest by members.

11. (1) Subject to sub-paragraph (2), if a member of the Authority has a pecuniary interest, direct or indirect, in any contract, proposed contract or other matter which is before any meeting of the Authority, he shall at that meeting declare the nature of his interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, that contract or other matter, and if the Chairman or the person presiding at that meeting so directs, he shall withdraw from the meeting during the consideration or discussion.

(2) For the purposes of sub-paragraph (1), a general notice given to the members of the Authority by a member to the effect that he is an officer or member of a specified corporation or a member of a specified firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that corporation or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made if it specifies the nature and extent of his interest in the specified corporation or firm and his interest is not different in nature or greater in extent than the nature and extent so specified in the general notice at the time any contract is so made, but no such notice shall be of effect unless either it is given at a meeting of the Authority or the member takes reasonable steps to ensure that it is brought up and read at the next meeting of the Authority after it is given.

(3) For the purposes of this paragraph, a pecuniary interest of a spouse, parent, son or an adopted son, or daughter or an adopted daughter, of a member shall be treated as a pecuniary interest of the member.

(4) For the purpose of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that, under this paragraph, he cannot vote or has withdrawn from the meeting.

Sealing of documents.

12. (1) All deeds, documents and other instruments requiring the seal of the Authority shall be sealed with the common seal of the Authority in the presence of any 2 officers of the Authority duly authorised by the Authority to act in that behalf and shall be signed by those officers and such signing shall be sufficient evidence that the common seal of the Authority has been duly and properly affixed and that the seal is the lawful common seal of the Authority.

(2) The Authority may by resolution or otherwise appoint an officer or employee of the Authority or any other agent, either generally or in a particular case, to execute or sign on behalf of the Authority any agreement or other instrument not under seal in relation to any matter coming within the powers of the Authority.

Salaries, fees and allowances payable to members of Authority.

13. There shall be paid to the members of the Authority, out of the funds of the Authority, such salaries, fees and allowances as the Minister may from time to time determine.
Quorum.

14. (1) The Authority shall ordinarily meet for the despatch of business at such times and places as the Chairman may from time to time appoint.

(2) At every meeting of the Authority, one half of the number of members shall constitute a quorum.

(3) A decision at a meeting of the Authority shall be adopted by a simple majority of the members present and voting except that, in the case of an equality of votes, the Chairman of the meeting shall have a casting vote.

(4) Where not less than 4 members of the Authority request the Chairman by notice in writing signed by them to convene a meeting of the Authority for any purpose specified in the notice, the Chairman shall, within 7 days from the receipt of the notice, convene a meeting for that purpose.

Vacancies.

15. The Authority may act notwithstanding any vacancy in its membership.

Procedure at meetings.

16. Subject to this Order, the Authority may make rules regulating its own procedure generally and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of such minutes, and the opening, keeping, closing and auditing of accounts.

Appointment of committees and delegation of powers.

17. (1) The Authority may, in its discretion, appoint from among its own members or other persons who are not members of the Authority such number of committees as it thinks fit consisting of members or other persons or members and other persons for purposes which, in the opinion of the Authority, would be better regulated and managed by means of such committees.

(2) The Authority may, subject to such conditions or restrictions as it thinks fit, delegate to any such committee or the Chairman or the Chief Executive, all or any of the powers, functions and duties vested in the Authority by this Order or any other written law, and any power, function or duty so delegated may be exercised or performed by such committee or the Chairman or the Chief Executive, as the case may be, in the name and on behalf of the Authority.

(3) The Authority may, subject to such conditions or restrictions as it thinks fit, delegate to any officer or employee thereof or any other person all or any of its powers, functions and duties vested in the Authority by this Order or any other written law, and any
power, function or duty so delegated may be exercised or performed by the officer or employee or other person, as the case may be, in the name and on behalf of the Authority.

(4) The Authority may continue to exercise a power conferred upon it, or perform a function or duty under this Order or any other written law made thereunder, notwithstanding the delegation of the power, function or duty under this paragraph.

SECOND SCHEDULE
(section 7(1))

POWERS OF AUTHORITY

1. To grant licences for telecommunication purposes pursuant to the Telecommunications Order, 2001 and to supervise and enforce compliance with the provisions of such licences.

2. To give directions to any person granted a licence under the Telecommunications Order, 2001 or any regulations made thereunder.

3. To levy such charges and fees for the granting of such licences, spectrum rights, administration of spectrum registrations, equipment approvals and other services provided by the Authority as may in its opinion be appropriate.

4. To regulate rates, charges and fees levied by operators of telecommunication systems and services.

5. To issue or approve standards of performance and codes of practice and advisory guidelines relating to information and communications technology, or any other matter related to the functions of the Authority.

6. To regulate the interconnection of and access to systems of operators of telecommunication systems and services.

7. To regulate the sharing of installation or plant used for telecommunications between telecommunication licensees.

8. To control and regulate the availability, and terms of provision, by telecommunication licensees of directory and directory-enquiry services.

9. To control and regulate the sharing and terms of provision by telecommunication licensees of information on customers’ particulars for the purpose of establishing an integrated directory.

10. To control and regulate the management and allocation of numbering plans and schemes for telecommunication systems and services.

11. To control and regulate interference to telecommunications in Brunei Darussalam by radiowaves or electrical or other means.
12. To control and regulate the importation of, dealing in and use of communication equipment.

13. To operate every installation or plant for telecommunication purposes and all movable and immovable property used in connection therewith which is or which may be acquired by the Authority under this Order or the Telecommunications Order, 2001.

14. To utilise all the property of the Authority, movable and immovable, in such manner as the Authority may think expedient including the raising of loans by mortgaging such property.

15. To purchase, construct, reconstruct, install and maintain any installation or plant for telecommunication purposes.

16. To sell, hire, let or otherwise supply any installation or plant for telecommunication purposes and install, repair, maintain or remove such installation or plant.

17. To lease or let, with or without taking a premium, any property vested in or acquired by it or to grant easements, rights of way, temporary licences or other rights or privileges over, under, through or in respect of any land or building belonging to or vested in the Authority upon such terms and conditions as the Authority may think fit.

18. To subscribe for or acquire any securities, stocks and shares of an incorporated company or other body corporate, to procure its admission to membership of an incorporated company limited by guarantee and not having a share capital, to promote the formation of an incorporated company or participate in the promotion of such company or to acquire an undertaking or part of an undertaking.

19. To form or participate in the formation of any company or in any joint venture as a shareholder or partner or in any other capacity, with any firm, body corporate, society or institution for the purposes of this Order or any other written law.

20. To carry out such other works or activities as may appear to the Authority to be requisite, advantageous or convenient, with a view to making the best use of any of the assets of the Authority.

21. To provide electronic mail services.

22. To provide all forms of information and communications technology systems and services, whether interactive or otherwise, including data processing.

23. To levy such rates, charges and fees and to decide such rates or apportionment thereof as between itself and other telecommunication authorities as may in its opinion be appropriate.

24. To engage in conjunction with other authorities, international agencies or organisations for the purposes of promoting telecommunication systems and services.
25. To enter into all such contracts for the supply of goods or materials or for the execution of works or any other contract as may be necessary for the discharge of its duties and functions under this Order or any other written law.

26. To engage alone or in conjunction with other corporations, in the production, manufacture or sale, whether in Brunei Darussalam or elsewhere, of any appliance, apparatus or accessory used or intended to be used for telecommunication purposes.

27. To conduct or to supervise the conduct of proficiency examinations leading to certificates of competency for any person for the purpose of operating any telecommunication system and service or for the grant of a licence by the Authority.

28. To organise courses, awards, diplomas and certificates of proficiency.

29. To charge fees or commissions for services rendered.

30. To promote or undertake publicity in any form.

31. To authorise or regulate the registration, administration and management of domain names in Brunei Darussalam.

32. To grant loans to officers or employees of the Authority for such purposes specifically approved by the Authority as are likely to increase the efficiency of officers or employees.

33. To grant or guarantee loans to any officer or employee of the Authority for the purchase of a house, land or a flat or for the renovation of a house or a flat for the use or occupation of the officer or employee and his family (if any).

34. To make provision for gratuities, pensions, allowances or other benefits for employees or former employees of the Authority or its predecessors.

35. To make provision for the specialised training of any employee of the Authority and, in that connection, to offer scholarships to intending trainees or otherwise pay for the cost of the training and all expenditure incidental thereto.

36. To offer bursaries and scholarships for study at any school or institution of higher learning to members of the public and officers or employees of the Authority and members of their families.

37. To provide financial grant, aid or assistance to any person for all or any of the purposes of this Order or the Telecommunications Order, 2001.

38. To operate such agency services as the Authority may think fit and to employ such number of agents to do anything the Authority may do.

39. To receive donations and contributions from any source and raise funds by all lawful means.
To do anything incidental to any of its functions under this Order or any other written law.

THIRD SCHEDULE
(section 17)

FINANCIAL PROVISIONS

1. The financial year of the Authority shall begin on 1st. April of each year and end on 31st. March of the succeeding year, except that the first financial year of the Authority shall begin on the appointed day and end on 31st. March of the succeeding year.

2. The Authority shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Authority and over the expenditure incurred by the Authority.

3. The accounts of the Authority shall be audited by the Auditor-General or by an auditor appointed annually by the Minister in consultation with the Auditor-General.

4. A person shall not be qualified for appointment as an auditor under paragraph 3 unless he is an authorised auditor under the Companies Act (Chapter 39).

5. The remuneration of the auditor shall be paid out of the funds of the Authority.

6. The Authority shall, as soon as practicable after the close of the financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.

7. The auditor shall in his report state —

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

   (b) whether proper accounting and other records have been kept including records of all assets of the Authority whether purchased, donated or otherwise;

   (c) whether the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Authority during the year have been in accordance with this Order; and

   (d) such other matters arising from the audit as he considers should be reported.

8. The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Authority, and shall also submit such periodical and special reports to the Authority as may appear to him to be necessary or as the Minister or the Authority may require.
9. The auditor or any person authorised by him is entitled at any reasonable time to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Authority.

10. The auditor or any person authorised by him may make copies of, or take extracts from, any such accounting and other records.

11. The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor or any duly authorised person considers necessary for the purposes of his functions under this Order.

12. Any person who fails, without any reasonable cause, to comply with any requirement of the auditor under paragraph 11 or who otherwise hinders, obstructs or delays the auditor in the performance of his functions under this Order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $1,000 and, in the case of a continuing offence, to a further fine not exceeding $100 for every day or part thereof during which the offence continues after conviction.

13. As soon as the accounts of the Authority and the financial statements have been audited in accordance with this Order, a copy of the audited financial statements signed by the Chairman, together with a copy of any report made by the auditor, shall be submitted to the Minister.

14. Where the Auditor-General is not appointed as the auditor, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Authority.

15. The Minister shall as soon as practicable cause a copy of the audited financial statements and of the auditor’s report to be presented to His Majesty the Sultan in Council.

Made this 16th. day of Safar, 1422 Hijriah corresponding to the 10th. day of May, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
ELECTRONIC TRANSACTIONS ORDER, 2000
(S 93/2000)

Notification under section 1(1)

In exercise of the power conferred by section 1(1), the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby appoints the 7th. day of Safar, 1422 Hijriah corresponding to the 1st. day of May, 2001 as the date on which the Electronic Transactions Order, 2000, with the exception of Part X, shall commence.

Dated this 27th. day of Safar, 1422 Hijriah corresponding to the 21st. day of May, 2001.

DATO PADUKA AWANG HAJI YAKUB BIN ABU BAKAR
Permanent Secretary,
Ministry of Finance,
Brunei Darussalam.
No. S 42

LAW REVISION ACT
(CHapter 1)

LAW REVISION ORDER NO. 1 OF 2001

In exercise of the powers conferred by subsections (1) and (2) of section 5 of the Law Revision Act, the Attorney General hereby makes the following Order —

Citation and commencement.

1. This Order may be cited as the Law Revision Order No. 1 of 2001 and shall be deemed to have commenced on the 31st. January, 2001.

Substitution of pages.

2. The removal from the Laws of the pages specified in the third column of Part A of the Schedule bearing on the face thereof or overleaf the legend specified in the fourth column thereof with reference to the written laws specified in the first and second columns thereof is hereby directed, and the inclusion in the Laws, in respective substitution of the pages so directed to be removed, of the pages specified in the third column of Part B of the Schedule bearing on the face thereof or overleaf the legend specified in the fourth column thereof with reference to those written laws is hereby authorised.

SCHEDULE  

PART A

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Pages</th>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Law Revision Act</td>
<td>1 to 16</td>
<td>B.L.R.O. 1/1984</td>
</tr>
<tr>
<td>2</td>
<td>Application of Laws Act</td>
<td>1 to 4</td>
<td>B.L.R.O. 1/1984</td>
</tr>
<tr>
<td>3</td>
<td>Oaths and Affirmations Act</td>
<td>1 to 8</td>
<td>B.L.R.O. 1/1984</td>
</tr>
<tr>
<td>4</td>
<td>Interpretation and General Clauses Act</td>
<td>1 to 44</td>
<td>B.L.R.O. 1/1984</td>
</tr>
</tbody>
</table>
## SCHEDULE (Continued)

### PART A

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Pages</th>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Supreme Court Act</td>
<td>1 to 326</td>
<td>B.L.R.O. 1/1984</td>
</tr>
<tr>
<td>6</td>
<td>Subordinate Courts Act</td>
<td>1 to 18</td>
<td>B.L.R.O. 1/1984</td>
</tr>
</tbody>
</table>

### PART B

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Pages</th>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Law Revision Act</td>
<td>1 to 14</td>
<td>B.L.R.O. 1/2001</td>
</tr>
<tr>
<td>2</td>
<td>Application of Laws Act</td>
<td>1 to 4</td>
<td>B.L.R.O. 1/2001</td>
</tr>
<tr>
<td>3</td>
<td>Oaths and Affirmations Act</td>
<td>1 to 8</td>
<td>B.L.R.O. 1/2001</td>
</tr>
<tr>
<td>4</td>
<td>Interpretation and General Clauses Act</td>
<td>1 to 42</td>
<td>B.L.R.O. 1/2001</td>
</tr>
</tbody>
</table>
| 5       | Supreme Court Act  
Rules of the Supreme Court | 1 to 562 | B.L.R.O. 1/2001   |
| 6       | Subordinate Courts Act               | 1 to 16 | B.L.R.O. 1/2001   |
|         | Magistrates’ Courts (Civil Appeal) Rules | 1 to 12 | B.L.R.O. 1/2001   |
|         | Magistrates’ Courts (Execution Proceedings) Rules | 1 to 16 | B.L.R.O. 1/2001   |
|         | Magistrates’ Courts (Civil Procedure) Rules | 1 to 34 | B.L.R.O. 1/2001   |
|         | Magistrates’ Courts (Court Fees and Costs) Rules | 1 to 6  | B.L.R.O. 1/2001   |
Made this 15th. day of Rabiulawal, 1422 Hijriah corresponding to the 7th. day of June, 2001.

DATO PADUKA AWANG HAJI KIFRAWI BIN
DATO PADUKA HAJI KIFLI
ATTORNEY GENERAL,
BRUNEI DARUSSALAM.
WHEREAS His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam by a Proclamation of Emergency dated the 20th. day of May, 2000 has declared a state of emergency in the whole State;

AND WHEREAS it is provided by subsection (3) of section 83 of the Constitution of Brunei Darussalam, that when a Proclamation of Emergency has been made and for so long as such Proclamation is in force, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam may make any Orders whatsoever which he considers desirable in the public interest;

AND WHEREAS it is provided by subsection (5) of section 83 of the Constitution of Brunei Darussalam, that such powers shall include the power to make such financial provisions as may be necessary during the period of the emergency including provision for the public service;

AND WHEREAS the sum of three thousand, two hundred and eighty-one million, eight hundred and seventy thousand, four hundred and seventy four dollars ($3,281,870,474.00) has been provided by the Emergency (Supply) (2000) Order, 1999;

AND WHEREAS the sum of ninety nine million, six hundred and forty seven thousand, five hundred and twenty three dollars and forty one cents ($99,647,523.41) has been provided by the Emergency (Supplementary Supply) (2000) (No. 1) Order, 2000;

AND WHEREAS the sum of seven million, nine hundred and thirty nine thousand, five hundred and eighty dollars and thirty two cents ($7,939,580.32) has been provided by the Supplementary Supply (2000) (No. 2) Order, 2000;

AND WHEREAS the sum of six hundred and thirty five million, two hundred and eighty one thousand dollars ($635,281,000.00) has been provided by the Supplementary Supply (2000) (No. 3) Order, 2000;

AND WHEREAS the sum of eleven million, seven hundred and sixty two thousand, three hundred and twenty five dollars and sixty nine cents ($11,762,325.69) has been provided by the Supplementary Supply (2000) (No. 4) Order, 2000;

AND WHEREAS it is now requisite to make a further provision of thirty one million, six hundred and thirty one thousand, seven hundred and ninety four dollars and twenty cents ($31,631,794.20);
NOW, THEREFORE, in the exercise of the powers conferred on him by subsections (3) and (5) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam has made the following Order —

Citation.

1. This Order may be cited as the Supplementary Supply (2000) (No. 5) Order, 2001.

Further expenditure for the year 2000, appropriation and replacement of amount advanced from Contingencies Fund.


   (2) The said sum is appropriated for the purposes specified in the Schedule.

   (3) The replacement out of the amount shown in the third column of the amount shown in the fourth column of the Schedule bearing the amount advanced from the Contingencies Fund created under subsection (1) of section 10 of the Constitution (Financial Procedure) Order, 1959, is hereby authorised.

    SCHEDULE

<table>
<thead>
<tr>
<th>[1]</th>
<th>[2]</th>
<th>[3]</th>
<th>[4]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head</td>
<td>Title</td>
<td>Total Appropriation to Head $</td>
<td>Replacement of Advances from Contingencies Fund $</td>
</tr>
<tr>
<td>MINISTRY OF FINANCE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>S.D52</td>
<td>Miscellaneous Services</td>
<td>107,342.20</td>
<td>107,342.20</td>
</tr>
<tr>
<td>S.D53</td>
<td>Miscellaneous Services HMSF</td>
<td>24,806,370.00</td>
<td>24,806,370.00</td>
</tr>
<tr>
<td>[1]</td>
<td>[2]</td>
<td>[3]</td>
<td>[4]</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------------</td>
<td>-------</td>
<td>--------------------</td>
</tr>
<tr>
<td></td>
<td><strong>Head</strong></td>
<td><strong>Total Appropriation to Head</strong></td>
<td><strong>Replacement of Advances from Contingencies Fund</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Title</strong></td>
<td><strong>$</strong></td>
<td><strong>$</strong></td>
</tr>
<tr>
<td></td>
<td><strong>MINISTRY OF HOME AFFAIRS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>S.E11</td>
<td>Prisons</td>
<td>360,966.00</td>
<td>360,966.00</td>
</tr>
<tr>
<td></td>
<td><strong>MINISTRY OF HEALTH</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>S.M2</td>
<td>Medical and Health Services</td>
<td>6,357,116.00</td>
<td>6,357,116.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$31,631,794.20</td>
<td>$31,631,794.20</td>
</tr>
</tbody>
</table>

Made this 28th. day of Safar, 1422 Hijriah corresponding to the 22nd. day of May, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

INDUSTRIAL CO-ORDINATION ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

1. Citation, commencement and long title.

2. Interpretation.


4. Appointment of licensing officer.

5. Application, issue and conditions of licence.

6. Revocation of licence.

7. Transfer of licence.

8. Variation.

9. Compliance with other laws.

10. Enforcement.

11. Exemption.


14. Person aggrieved may appeal.

15. Continuation of licence pending appeal.

16. Revocation to be published.

17. Failure to comply with or give effect to order under section 14 to be an offence.

18. Liability of certain persons for offences committed by company, partnership or body of persons.

20. Regulations.
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

INDUSTRIAL CO-ORDINATION ORDER, 2001

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

Citation, commencement and long title.

1. (1) This Order may be cited as the Industrial Co-ordination Order, 2001 and shall commence on 1st June, 2001.

(2) The long title of this Order is "An Order to provide for the co-ordination and orderly development of manufacturing activities in Brunei Darussalam, for the establishment of an Industrial Co-ordination Advisory Council and for matters connected therewith or incidental thereto".

Interpretation.

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

"Council" means the Industrial Co-ordination Advisory Council established under subsection (1) of section 12;

"licence" means a licence issued under this Order to engage in any manufacturing activity;

"licensing officer" means any public officer appointed to be a licensing officer under section 4;

"manufacturer" means a person who is engaged in any manufacturing activity;

"manufacturing activity" includes the making, altering, blending, ornamenting, finishing or otherwise treating or adapting any article or substance, the assembly of parts and ship repairing, but shall not include any trade, business or occupation specified in the Schedule to the Miscellaneous Licences Act (Chapter 127);

"Minister" means the Minister charged with the responsibility for industrial development;

"product" means any article, thing, substance or service produced as a result of any manufacturing activity.
Licence required for manufacturing activity.

3. (1) No person shall engage in any manufacturing activity except under and in accordance with a licence issued under this Order.

(2) Any person who fails to comply with the provision of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 or to a term of imprisonment not exceeding one year, and to a further fine not exceeding $1,000 for every day during which such failure continues.

Appointment of licensing officer.

4. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint any public officer to be a licensing officer for the purpose of this Order.

Application, issue and conditions of licence.

5. (1) An application for a licence shall be made in the prescribed form to the licensing officer.

(2) One application may be made for one or more products manufactured in one or more places of manufacturing activity but a separate licence shall be issued for each place of manufacturing activity.

(3) The licensing officer shall, in deciding whether an application for a licence should be approved or refused, consider whether the issue of a licence is consistent with national and social objectives and would promote the orderly development of manufacturing activities in Brunei Darussalam.

(4) The licensing officer in issuing a licence, may, in furtherance of the aforesaid objectives impose such conditions as he may think fit, and such conditions may be varied on the application of the manufacturer or on the licensing officer’s own motion after consultation with the manufacturer in respect of whom the conditions in the licence are to be varied.

(5) Every licence issued shall be in the prescribed form and shall be subject to such fee as may be prescribed.

Revocation of licence.

6. (1) The licensing officer may in his discretion revoke a licence granted to any manufacturer if such manufacturer —

(a) fails to comply with any condition imposed in the licence;
(b) is no longer engaged in the manufacturing activity in respect of which the license is issued; or

(c) made any false statement in his application for the licence.

(2) Before exercising his power to revoke a licence the licensing officer may call upon the manufacturer to show within such period as may be prescribed due cause why his licence should not be revoked.

(3) The licensing officer may withhold or suspend the revocation of a licence if he is satisfied that the act or omission on the part of the manufacturer under subsection (1) was due to some cause beyond his control and there is a reasonable prospect of such act or omission being remedied within such period as the licensing officer may direct.

(4) An appeal shall lie to the Minister (whose decision shall be final) from the decision of the licensing officer under this section.

Transfer of licence.

7. (1) No licence shall be transferable from a licensee to any other person without the prior approval of the licensing officer.

(2) Without prejudice to subsection (1), the licensing officer may in the event of the death, incapacity, bankruptcy, or in the case of a company, liquidation of the holder of a licence, or where a receiver or manager is appointed in relation to the business of the holder of a licence, or where for any reason the licensing officer is satisfied it would be unjust not to do so, authorise the transfer of the licence.

(3) An application for the transfer of a license shall be made in writing to the licensing officer.

Variation.

8. (1) A manufacturer shall not produce any product other than those specified in the licence issued to him under this Order without the prior approval of the licensing officer.

(2) A manufacturer may suspend or discontinue the manufacture of a product that is specified in such a licence after notifying the licensing officer in writing of his intention to do so.

(3) An application for an approval under subsection (1) shall be made in writing to the licensing officer.
Compliance with other laws.

9. The issue of a licence shall not relieve the manufacturer to whom a licence is issued from complying with any other written law.

Enforcement.

10. (1) The Minister may authorise in writing any public officer (referred to in this section as the authorised officer) to exercise the powers under this section.

(2) In exercising any of the powers under this section the authorised officer shall on demand produce to the person against whom he is acting under this Order or any regulations made thereunder the authority issued to him by the Minister.

(3) Wherever it appears to any magistrate upon written information on oath and after any enquiry which he may think necessary that there is reasonable cause to believe that in any building or place there is manufactured, concealed, deposited or kept any product, manufacturing equipment or other thing in respect of which an offence against this Order or any regulations made thereunder has been committed, he may issue a warrant authorising any authorised officer named therein by day or night and with or without assistance to enter such building or place and there search for and seize any product, manufacturing equipment or other thing in respect of which any such offence is suspected to have been committed and may also seize any book or document which may reasonably be believed to contain information as to any offence so suspected of having been committed.

(4) Wherever it appears to any authorised officer that there is reasonable cause to believe that in any building or place there is manufactured, concealed, deposited or kept any products, manufacturing equipment or other thing in respect of which an offence against this Order or any regulations made thereunder has been committed and if he has reasonable ground for believing that by reason of the delay in obtaining a search warrant such product, manufacturing equipment or other thing is likely to be removed, such officer may exercise in or upon or in respect of such building or place all the powers mentioned in subsection (3) as if he were authorised to do so by a warrant issued under that subsection.

(5) Every authorised officer who is exercising his power under subsection (4) shall, before exercising such powers, obtain the written approval of the Minister.

(6) Any person who obstructs or impedes any authorised officer in the lawful exercise of any of the powers under this Order or under any regulations made thereunder shall be guilty of an offence and liable on conviction to a fine of $2,000, imprisonment for a term not exceeding 6 months or both.

Exemption.

11. The Minister may by order exempt on such terms and conditions as he shall think fit, any manufacturing activity from all or any of the provisions of this Order.
Establishment and composition of Industrial Co-ordination Advisory Council.

12. (1) There is hereby established a body called the Industrial Co-ordination Advisory Council, whose function is to advise the Minister on matters pertaining to this Order.

(2) The Council shall consist of the following members who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan —

(a) a Chairman;

(b) a representative from the Ministry of Industry and Primary Resources;

(c) a representative from the Brunei Economic Development Board;

(d) a representative from the Land Department;

(e) a representative from the Town and Country Planning Department;

(f) a representative from the Labour Department;

(g) a representative from the Ministry of Health; and

(h) at the discretion of the Minister, not more than three other members.

(3) His Majesty the Sultan and Yang Di-Pertuan may revoke the appointment of a member of the Council who is appointed under this section or an alternate member thereof who is appointed under subsection (1) of section 13 without assigning any reason therefor and where he so does the revocation shall be final and shall not be questioned in any court.

Appointment of alternate member of Council.

13. (1) His Majesty the Sultan and Yang Di-Pertuan may in respect of each member of the Council, other than a member appointed under paragraphs (a) and (h) of subsection (2) of section 12, appoint another person from the same body or representing the same interests as that member to be that member’s alternate, and such alternate member may attend the meetings of the Council in place of that member if that member is for any reason unable to attend.

(2) When attending a meeting of the Council, or in the absence of the member in respect of whom he is appointed to be an alternate, an alternate member shall for all purposes be deemed to be a member of the Council.

Person aggrieved may appeal.

14. (1) Any person who —
(a) being an applicant for the issue of a licence is aggrieved by a refusal to issue such licence;

(b) being the holder of a licence is aggrieved by —

(i) the imposition of any term or condition in his licence;

(ii) the variation of, or the refusal to vary, any term or condition imposed in his licence; or

(iii) the revocation of his licence; or

(c) is aggrieved by a refusal to approve a transfer of a licence,

may, within 45 days from the date on which the decision of the licensing officer was communicated to him, appeal to the Minister.

(2) The Minister may after hearing the appeal make such order as he thinks fit and that order shall be final and shall not be questioned in any court.

Continuation of licence pending appeal.

15. (1) Where any person lodges an appeal under paragraph (b) or (c) of subsection (1) of section 14, the licence shall continue in force until the appeal has been disposed of as though no decision had been made by the licensing officer.

(2) Notwithstanding subsection (1), the licensing officer may in the meantime exercise any of the powers conferred upon him by this Order in relation to the licence on any ground not covered by the appeal.

Revocation to be published.

16. (1) In the event that there is no appeal against the revocation of a licence by the licensing officer within the prescribed period, the Minister shall by notification in the Gazette publish such revocation.

(2) In the event that the Minister makes an order for a revocation of a licence the Minister shall by notification in the Gazette publish such revocation.

Failure to comply with or give effect to order under section 14 to be an offence.

17. Any person who fails to comply with or give effect to an order made under subsection (2) of section 14 commits an offence and shall be liable on conviction to a fine not exceeding $10,000, a term of imprisonment not exceeding one year or both, and to a further fine not exceeding $1,000 for every day during which such failure continues.
Liability of certain persons for offences committed by company, partnership or body of persons.

18. (1) Where an offence under this Order has been committed by a person or a manufacturer being a company, partnership or body of persons, any person who at the time of the commission of the offence was a director, manager or other officer serving in a managerial capacity or a partner of the company, partnership or body of persons or purported to act in such capacity shall also be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, consent and connivance and that he had exercised all necessary diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and all prevailing circumstances.

(2) For the purposes of this section, the expressions "companies" and "partnership" shall respectively have the meanings assigned to those expressions in the written laws relating to companies and partnerships.

Transitional provisions.

19. Notwithstanding anything contained in this Order, a person who immediately before the date of commencement of this Order was engaged in any manufacturing activity, shall be entitled to do the same without a licence —

(a) for a period 12 months beginning from date of commencement of this Order; or

(b) if before the expiration of that period he applies for a licence in respect of the same, until the licence is issued or finally refused or the application is withdrawn.

Regulations.

20. The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may make regulations —

(a) providing for application and the form and conditions of any licence granted under this Order, the fees thereof, and the period for which such licence shall be issued;

(b) providing for the procedure for application and issue of replacement and duplicate licences in case of loss, damage or destruction and the fees thereof;

(c) prescribing on appeals under this Order the fees payable; and

(d) generally for carrying out the purposes and provisions of this Order.
Made this 28th. day of Safar, 1422 Hijriah corresponding to the 22nd. day of May, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

INCOME TAX (AMENDMENT) ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

1. Citation and commencement.
2. Amendment of section 2 of Chapter 35.
3. Amendment of section 5.
5. Insertion of new sections 11A, 11B, 11C and 11D.
6. Insertion of new section 16A.
7. Amendment of section 25.
8. Amendment of section 52.
9. Insertion of new sections 55A and 55B.
10. Amendment of section 53.
11. Amendment of section 61.
12. Amendment of section 70.
13. Amendment of section 72.
14. Amendment of section 78.
15. Amendment of section 79.
16. Amendment of First Schedule.
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

INCOME TAX (AMENDMENT) ORDER, 2001

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

Citation and commencement.

1. This Order may be cited as the Income Tax (Amendment) Order, 2001 and shall commence on 1st June, 2001.

Amendment of section 2 of Chapter 35.

2. Section 2 of the Income Tax Act, in this Order referred to as the Act, is amended —

(a) by deleting the definition ""company" means a company formed and registered under the Company Act (Cap. 39)"" and by substituting ""company" means a company incorporated or registered under the Companies Act (Chapter 39) or any law in force elsewhere" therefor;

(b) by inserting the following two new definitions immediately after the definition of "incapacitated person" —

"Minister" means the Minister of Finance;

"permanent establishment" means a fixed place where a business is wholly or partly carried on including —

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a warehouse;

(f) a workshop;

(g) a farm or plantation;

(h) a mine, oil well, quarry or other place of extraction of natural resources;
(i) a building or work site or a construction, installation or assembly project.

and without prejudice to the generality of the foregoing, a person shall be deemed to have a permanent establishment in Brunei Darussalam if that person —

(j) carries on supervisory activities in connection with a building or work site or a construction, installation or assembly project; or

(k) has another person acting on that person’s behalf in Brunei Darussalam who —

(i) has and habitually exercises an authority to conclude contracts;

(ii) maintains a stock of goods or merchandise for the purpose of delivery on behalf of that person; or

(iii) habitually secures orders wholly or almost wholly for that person or for such other enterprises as are controlled by that person;”; and

(c) by inserting the following two new definitions immediately after the definition of "replanting" —

"research and development" means any systematic or intensive study carried out in the field of science or technology with the object of using the results of the study for the production or improvement of materials, devices, products, produce, or processes, but does not include —

(a) quality control or routine testing of materials, devices or products;

(b) research in the social sciences or the humanities;

(c) routine data collection;

(d) efficiency surveys or management studies; or

(e) market research or sales promotion;

"research and development company" means a company which provides research and development services for any trade or business;”.

Amendment of section 5.

3. Section 5 of the Act is amended, in subsection (1), by deleting "The Collector may, with the approval of His Majesty in Council" from the first two lines and by substituting "The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan" therefor.
Substitution of section 6.

4. The Act is amended by deleting section 6 and substituting the following therefor —

"Service and signature of notices.

6. (1) Except where it is provided by this Act that service shall be effected either personally or by registered post, a notice may be served on a person either personally or by being sent through the post.

(2) Where a notice is served by ordinary or registered post, it shall be deemed to have been served on the day succeeding the day on which the notice would have been received in the ordinary course of post if the notice is addressed —

(a) in the case of a company incorporated in Brunei Darussalam, to the registered office of the company;

(b) in the case of a company incorporated outside Brunei Darussalam, either to the individual authorised to accept service of process under the Companies Act (Chapter 39), or to the registered office of the company wherever it may be situated;

(c) in the case of an individual or a body of persons, to the last known business or private address of such individual or body of persons.

(3) Where the person to whom there has been addressed a registered letter containing any notice which may be given under this Act is informed of the fact that there is a registered letter awaiting him at a post office and such person refuses or neglects to take delivery of such registered letter, such notice shall be deemed to have been served upon him on the date on which he was informed that there was a registered letter awaiting him at a post office.

(4) Every notice to be given by the Collector under this Act shall be signed by the Collector or by some person or persons from time to time authorised by him in that behalf under section 3, and every such notice shall be valid if the signature of the Collector is duly printed or written thereon.

(5) Any notice under this Act requiring the attendance of any person or witness before the Collector shall be signed by the Collector or by a person duly authorised by him as aforesaid".

Insertion of new sections 11A, 11B, 11C and 11D.

5. The Act is amended by inserting the following four new sections immediately after section 11 —
"Further deduction for expenses relating to approved trade fairs, exhibitions or trade missions or to maintenance of overseas trade office.

11A. (1) Where the Collector is satisfied that expenses have been incurred —

(a) on or after 1st. January, 2001 by an approved company resident in Brunei Darussalam in establishing, maintaining or otherwise participating in an approved overseas trade fair, exhibition or trade mission which is for the primary purpose of promoting the export of goods manufactured in Brunei Darussalam;

(b) on or after 1st. January, 2001 by an approved company resident in Brunei Darussalam in establishing, maintaining or otherwise participating an approved local trade fair or exhibition which is for the primary purpose of promoting the export of goods manufacture in Brunei Darussalam;

(c) on or after 1st. January, 2001 by an approved company resident in Brunei Darussalam which is engaged in the manufacture of goods in Brunei Darussalam or the export of goods manufactured in Brunei Darussalam, in maintaining an approved overseas trade office established exclusively for the purpose of promoting the export of such goods;

(d) on or after 1st. January, 2001 by an approved company in Brunei Darussalam and carrying on in Brunei Darussalam the business of providing services in establishing, maintaining or otherwise participating in an approved local or overseas trade fair or exhibition, trade mission or trade promotion activity for the primary purpose of promoting the provision of services overseas;

(e) on or after 1st. January, 2001 by an approved company resident in Brunei Darussalam and carrying on in Brunei Darussalam the business of providing services in maintaining an approved overseas trade office established exclusively for the purpose of promoting the provision of services overseas;

(f) on or after 1st. January, 2001 by an approved company resident in Brunei Darussalam which is the holder of a master franchise or master intellectual property licence in establishing, maintaining or otherwise participating in an approved local or overseas promotion activity for the primary purpose of promoting the provision of services overseas in connection with the use overseas of any right under the franchise or licence; or

(g) on or after 1st. January, 2001 by an approved company resident in Brunei Darussalam which is the holder of a master franchise or master intellectual property licence in maintaining an approved overseas
trade office established exclusively for the purpose of promoting the provision of services overseas in connection with the use overseas of any right under the franchise or licence,

there shall be allowed a further deduction of the amount of such expenses in addition to the deduction allowed under section 11 subject to the following provisions of this section.

(2) In respect of the deduction allowable to a company under paragraph (b) of subsection (1), if the export sales of the manufacturer do not exceed 50% of his total sales in the basis period for the year of assessment, the amount of deduction to be allowed shall be determined in accordance with the formula.

\[
\frac{B}{A \times C}
\]

where A is the amount of expenses incurred;

B is the export sales in the basis period for the year of assessment; and

C is the total sales in the basis period for the year of assessment.

(3) In respect of the deduction allowable to a company for expenses incurred in establishing, maintaining or otherwise participating in an approved local trade fair or exhibition under paragraph (d) of subsection (1), if the gross revenue of the company in the basis period for any year of assessment from the provision of services on persons not resident in Brunei Darussalam and having no permanent establishment in Brunei Darussalam or to permanent establishments outside Brunei Darussalam of persons resident in Brunei Darussalam or elsewhere does not exceed 50% of its total gross revenue in that basis period from the provision of services, the amount of deduction to be allowed to the company or firm shall be determined in accordance with the formula.

\[
\frac{A \times B}{C}
\]

where A is the amount of expenses incurred;

B is the gross revenue in the basis period for the year of assessment from the provision of services to persons not resident in Brunei Darussalam and having no permanent establishment in Brunei Darussalam or to permanent establishments outside Brunei Darussalam of persons resident in Brunei Darussalam or elsewhere; and

C is the total gross revenue in the basis period for the year of assessment from the provision of services.

(4) The Minister may specify the maximum amount of expenditure (or any item thereof) to be allowed under subsection (1).

1262
(5) No deduction shall be allowed under this section in respect of —

(a) any expenses which are not allowed as deductions under section 11;

(b) travelling, accommodation and subsistence expenses or allowances for more than 2 employees taking part in the approved overseas trade fair, exhibition or trade mission;

(c) any expenses incurred during its tax relief period (or qualifying period in the case of investment allowance) by a company which is given tax relief under the Investment Incentives Order, 2001; and

(d) any expenses relating to an approved overseas trade office —

(i) which are incurred in the establishment of the approved overseas trade office;

(ii) by way of remuneration, travelling, accommodation and subsistence expenses or allowances for more than 3 employees of the approved overseas trade office;

(iii) which are specifically excluded as a condition for the approval of the overseas trade office under this section;

(iv) which are incurred after the end of the first 2 years of the date of establishment of the approved overseas trade office; and

(v) which are incurred by a company having a permanent establishment subject to tax in the country in which the approved trade office is established.

(6) As soon as any amount of further deduction is allowed to any company under this section, section 11B or 11D, a sum equal to that amount shall be credited to an account (referred to in this section as the further deduction account) to be kept by the company for the purposes of any of those sections.

(7) Where for any year of assessment a further deduction account of a company is in credit, the company shall —

(a) debit from that account such amount as would have been the chargeable income had the further deduction not been allowed or the amount of the credit in that account, whichever is the less; and

(b) credit the amount debited under paragraph (a) to an account to be called a tax exempt account which shall be kept by the company for the purposes of this section, section 11B or 11D.

and any remaining balance in the further deduction account shall be carried forward to be used by company in the first subsequent year of assessment when the company has
chargeable income had the further deduction not been allowed, and so on for subsequent years of assessment until the credit in the further deduction account has been fully used.

(8) Where a tax exempt account of a company is in credit at the date on which any dividends are paid by the company out of the net amount credited to that account, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the tax exempt account.

(9) So much of the amount of any dividends debited to the account as is received by a shareholder of the company shall, if the Collector is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

(10) Section 36 shall not apply to any dividends or part thereof which is exempt from tax under this section.

(11) Where an amount of dividends exempt from tax under this section has been received by a shareholder, which is a holding company owning, at the time such dividends are received, not less than 50% beneficial interest in the issued capital of the company, any dividends paid by the holding company to its shareholders, to the extent that the Collector is satisfied that those dividends are paid out of such amount, shall be exempt from tax in the hands of those shareholders; and section 36 shall not apply to any such dividends or part thereof.

(12) Notwithstanding subsections (9) and (11), no dividend paid on any share of a preferential nature shall be exempt from tax in the hands of the shareholder.

(13) A company shall deliver to the Collector a copy of the account made up to any date specified by him whenever called upon to do so by notice in writing.

(14) Notwithstanding anything in this section, where it appears to the Collector that in any year of assessment —

(a) any further deduction which has been allowed under this section, section 11B or 11D; or

(b) any dividend, including a dividend paid by a holding company, which has been exempted from tax in the hands of any shareholder, ought not to have been so allowed or exempted, as the case may be, the Collector may, within the year of assessment or within 6 years after the expiration thereof —

(i) make such assessment or additional assessment upon the company or any such shareholder as may be necessary in order to make good any loss of tax; or

(ii) direct the company to debit its tax exempt account with such amount as the circumstances require.
(15) In this section —

"approved" means approved by the Minister charged with the responsibility for industrial development;

"master franchise" means any agreement under which the franchisor authorises or permits the franchisee to use in Brunei Darussalam or overseas a business system owned or controlled by the franchisor, including the sub-franchising of the business system;

"master intellectual property licence" means any licence under which the licensor authorises or permits the licensee to use in Brunei Darussalam or overseas the rights under a patent, copyright, trademark, design or know-how, including the sub-licensing of the same.

Further deduction for export market development expenditure and certain advertising expenses.

11B. (1) Subject to this section, where the Collector is satisfied that —

(a) export market development expenditure for the carrying out of an approved marketing project overseas; or

(b) advertising expenses in respect of advertisements placed in any approved Brunei Darussalam publication designed for publicity overseas,

have been incurred —

(i) on or after 1st. January, 2001 by an approved company resident in Brunei Darussalam principally for promoting the export of goods manufactured in Brunei Darussalam;

(ii) on or after 1st. January, 2001 by an approved company resident in Brunei Darussalam and carrying on in Brunei Darussalam the business of providing services principally for promoting the provision of services overseas; or

(iii) on or after 1st. January, 2001 by an approved company resident in Brunei Darussalam which is the holder of a master franchise or master intellectual property licence principally for promoting the provisions of services overseas in connection with the use overseas of any right under the franchise or licence,

there shall be allowed a further deduction of the amount of such expenditure in addition to the deduction allowed under section 11.
(2) The Minister may specify the maximum amount of export market development expenditure (or any item thereof) or of advertising expenses to be allowed under subsection (1).

(3) No deduction shall be allowed under this section in respect of —

(a) any expenses which are not allowed as deductions under section 11;

(b) any expenses incurred during its tax relief period (or qualifying period in the case of investment allowance) by a company which is given tax relief under the Investment Incentives Order, 2001;

(c) any expenses which are allowed as deductions under section 11A; or

(d) travelling, accommodation and subsistence expenses or allowances for more than 2 employees taking part overseas in the approved marketing project.

(4) In this section —

"approved” means approved by the Minister charged with the responsibility for industrial development;

"export market development expenditure” means —

(a) expenses directly attributable to the carrying out of export market research or obtaining of export market information, including any feasibility study;

(b) expenses in respect of advertisements placed in overseas news media, including television, newspapers and trade journals;

(c) expenses incurred on overseas export promotion campaigns; or

(d) expenses incurred in the design of the packaging, or in the certification, of goods manufactured in Brunei Darussalam for export or in the certification of services to be provided overseas where such certification is carried out by an approved person;

"master franchise” and "master intellectual property licence” have the same meanings as in section 11A.

Expenditure on research and development.

11C. (1) For the purpose of ascertaining the income of any person carrying on a manufacturing trade or business or a trade or business for the provision of specified services, the following expenditure incurred on or after the respective dates referred to
in subsection (2) (other than any amount which is allowable as a deduction under section 11) by that person shall be allowed as a deduction —

(a) expenditure incurred on research and development undertaken directly by him and related to that trade or business (except to the extent that it is capital expenditure on plant, machinery, land or buildings or on alterations, additions or extensions to buildings or in the acquisition of rights in or arising out of research and development); and

(b) payments made by that person to an approved research and development company for undertaking on his behalf research and development related to that trade or business.

(2) For the purposes of subsection (1) —

(a) any person carrying on a manufacturing trade or business shall only be allowed as deduction expenditure incurred on or after 1st. January, 2001; and

(b) any person carrying on a trade or business for the provision of specified services shall only be allowed as deduction expenditure incurred on or after 1st. January, 2001.

(3) In this section —

"approved" means approved by the Minister charged with the responsibility for industrial development;

"specified services" means —

(a) services and activities which relate to the development of computer programs;

(b) services and activities which relate to the technology involved in acquiring, storing, processing or distributing information by the use of computers or computer programs;

(c) services and activities which relate to technology applied to agriculture, horticulture or the farming of livestock, fish or other forms of aquatic life;

(d) laboratory and testing services;

(e) services and activities which relate to medical research; and

(f) any other services or activities as may be prescribed by the Minister.
(4) For the purposes of this section, any expenditure incurred by a person prior to the commencement of his trade or business shall be deemed to have been incurred by that person on the first day on which he carries on that trade or business.

Further deduction for expenditure on research and development project.

11D. (1) Subject to this section, where the Collector is satisfied that —

(a) a person carrying on a manufacturing trade or business has incurred expenditure on or after 1st. January, 2001 in undertaking directly by himself, or in paying a research and development company to undertake on his behalf, an approved research and development project in Brunei Darussalam which is related to that trade or business;

(b) a research and development company has incurred expenditure on or after 1st. January, 2001 in undertaking an approved research and development project in Brunei Darussalam and no deduction under this section has been allowed to another person in respect of any expenditure for that project or for another project of which that project forms a part; or

(c) a person carrying on a trade or business for the provision of any specified services has incurred expenditure on or after 1st. January, 2001 in undertaking directly by himself, or in paying a research and development company to undertake on his behalf, an approved research and development project in Brunei Darussalam which is related to that trade or business,

there shall be allowed to that person or research and development company a further deduction of the amount of such expenditure in addition to the deduction allow under section 11 or 11C.

(2) The Minister may —

(a) specify the maximum amount of the expenditure (or any item thereof) incurred to be allowed under section (1);

(b) impose such conditions as he thinks fit when approving the research and development project; and

(c) specify the period or periods for which deduction is to be allowed under this section.

(3) No deduction shall be allowed under this section in respect of any expenditure which is not allowed under section 11 or 11C.

(4) In this section —
"approved" means by the Minister charged with the responsibility for industrial development;

"specified services" has the same meaning as in section 11C.

Insertion of new section 16A.

6. The Act is amended by inserting the following new section immediately after section 16 —

"Writing-down allowances for approved know-how or patents.

16A. (1) Subject to this section, where on or after 1st. January, 2001 a person carrying on a manufacturing trade or business has incurred capital expenditure in acquiring any approved know-how or any approved patent rights for use in that trade or business (referred to in this section as the relevant trade or business), writing-down allowances in respect of that expenditure shall be made to him during a writing-down period of 4 years beginning with the year of assessment relating to the basis period in which that expenditure is incurred.

(2) The writing-down allowance to be made to a person under this section for any year of assessment shall be an amount equal to 25% of the expenditure incurred by him on the acquisition of the approved know-how or patent rights, as the case may be.

(3) Any expenditure incurred on the acquisition of any approved know-how or patent rights by a person before the commencement of his trade or business shall be treated for the purpose of this section as if it had been incurred by him on the first day he commences that trade or business.

(4) Where writing-down allowances have been made to any person under this section in respect of any approved patent rights and, before the end of the writing-down period, any of the following events occurs —

(a) the rights come to an end without being subsequently revived;

(b) he sells all those rights or so much thereof as he still owns; or

(c) he sells part of those rights and the net proceeds of the sale (so far as they consist of capital sums) are not less than the amount of the expenditure remaining unallowed,

no writing-down allowance in respect of the approved patent rights shall be made to that person for the year of assessment relating to the basis period in which the event occurs or for any subsequent year of assessment.
(5) Where writing-down allowances have been made to any person under this section in respect of any approved patent rights and, before the end of the writing-down period, either of the following events occurs —

(a) the rights come to an end without being subsequently revived; or

(b) he sells all those rights, or so much thereof as he still owns, and the net proceeds of the sale (so far as they consist of capital sums) are less than the amount of the expenditure remaining unallowed, there shall be made to him for the year of assessment relating to the basis period in which the event occurs a balancing allowance equal, if the event is the rights coming to an end, to the amount of the expenditure remaining unallowed, and, if the event is a sale, to the amount of the expenditure remaining unallowed less the net proceeds of the sale.

(6) Where a person to whom writing-down allowances have been made under this section in respect of any approved patent rights —

(a) sells all or any part of those rights and the net proceeds of the sale (so far as they consist of capital sums) exceed the amount of the expenditure remaining unallowed, if any, there shall be made on him for the year of assessment relating to the basis period in which the sale occurs a charge (referred to in this section as a balancing charge) on an amount equal to the excess or, where the amount of the expenditure remaining unallowed is nil, to the net proceeds;

(b) sells a part of those rights and paragraph (a) does not apply, the amount of any writing-down allowance made in respect of the capital expenditure incurred in acquiring the approved patent rights for the year of assessment relating to the basis period in which the sale occurs or any subsequent year of assessment shall be the amount arrived at by —

(i) subtracting the net proceeds of the sale (so far as they consist of capital sums) from the amount of the expenditure remaining unallowed at the time of the sale; and

(ii) dividing the result by the number of complete years of the writing-down period remaining at the beginning of the year of assessment relating to the basis period in which the sale occurs, and so on for any subsequent sales.

(7) References in subsections (5) and (6) to the amount of any expenditure remaining unallowed shall, in relation to any event, be construed as references to the amount of that expenditure less any writing-down allowances made in respect thereof for the years of assessment before the year of assessment relating to the basis period in
which the event occurs, and less also the net proceeds of any previous sale by the
person who incurred the expenditure of any part of the rights acquired by the
expenditure, so far as those proceeds consist of capital sums.

(8) Notwithstanding anything in subsection (6), the total amount on which a
balancing charge is made in respect of any expenditure shall not exceed the total
writing-down allowances actually made in respect of that expenditure, less, if a
balancing charge has previously been made in respect of that expenditure, the amount
on which that charge was made.

(9) Where a person to whom writing-down allowances have been made under
this section in respect of any approved know-how disposes of the approved know-how,
the amount or value of any consideration received by him for the disposal shall, so far
as it is not chargeable to tax as a revenue or income receipt, be treated for all purposes
as a trading receipt of the relevant trade or business.

(10) Where a person to whom writing-down allowances have been made under
this section ceases to carry on the relevant trade or business, an allowance equal to the
amount of the expenditure remaining unallowed in respect of the approved know-how
or patent rights, as the case may be, shall be made to him in computing his income for
the year of assessment relating to the basis period in which the cessation occurs.

(11) In this section —

"approved" means approved by the Minister charged with the
responsibility for industrial development;

"know-how" means any industrial information and techniques likely to
assist in the manufacture or processing of goods or materials;

"patent rights" means the right to do or authorise the doing of anything
which would, but for that right, be an infringement of a patent.

(12) For the purposes of this section —

(a) any reference to the sale of part of patent rights includes a reference
to the grant of a licence in respect of the patent in question, and any
reference to the acquisition of patent rights includes a reference to
the acquisition of a licence in respect of a patent;

(b) any disposal or sale which occurs the date on which the relevant
trade or business permanently ceases, shall be deemed to have
occurred immediately before the cessation". 
Amendment of section 25.

7. Section 25 of the Act is amended by deleting subsections (1) and (2) and by substituting the following therefor —

"(1) Where the Collector is satisfied that the purpose or effect of any arrangement is directly or indirectly —

(a) to alter the incidence of any tax which is payable by, or which would otherwise have been payable by, any person;

(b) to relieve any person from any liability to pay tax or to make a return under this Act; or

(c) to reduce or avoid any liability imposed or which would otherwise have been imposed on any person by this Act,

he may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the arrangement and make such adjustment as he considers appropriate, including the computation or re-computation of gains or profits, and the imposition of liability to tax, so as to nullify any tax advantage obtained or obtainable from or under that arrangement.

(2) In subsection (1), "arrangement" includes any scheme, trust, grant, covenant, agreement, disposition transaction and all steps by which it is carried into effect."

Amendment of section 52.

8. Section 52 of the Act is amended by inserting "in such form and manner as the Collector may determine" immediately after "him" in the second line.

Insertion of new sections 55A and 55B.

9. The Act is amended by inserting the following two new sections immediately after section 55 —

"Power to call for statements of bank etc.

"55A. The Collector may give notice in writing to any person requiring him to furnish within the time limited by such notice, not being less than 30 days from the date of service of such notice, a statement containing particulars of —

(a) all banking accounts, whether current or deposit, business or private, in that person's own name or in the name or names of his wife or wives, or in any other name, in which he is or has been interested, or on which he has
or has had the power to operate, jointly or solely, and which are in
existence or which have existed at any time during the period stated in the
notice;

(b) all savings and loan accounts, deposits, building society and co-operative
society accounts, in regard to which he has, or has had, any interest or
power to operate jointly or solely during the period stated in the notice;

(c) all assets, other than those referred to in paragraphs (a) or (b), which he
and his wife or wives possess, jointly or solely, or have possessed during
the period stated in the notice;

(d) all sources of income not referred to in paragraphs (a), (b) or (c) and the
income derived therefrom during the period stated in the notice;

(e) all facts bearing upon his liability to income tax to which he is, or has
been, liable.

Power of access to building and document etc.

55B. (1) The Collector and any officer authorised in writing by him in that behalf
shall at all times have full and free access to all land, buildings, places, books,
documents and other papers for any of the purposes of this Act and may, without fee or
reward, inspect, copy or make extracts from any such books, documents or papers.

(2) The Collector may take possession of any books, documents or papers to
which he has access under subsection (1) where in his opinion —

(a) the inspection, copying thereof or extraction therefrom cannot
reasonably be performed without taking possession;

(b) the books, documents or papers may be interfered with or destroyed
unless possession is taken; or

(c) the books, documents or papers may be required as evidence in
proceedings for an offence under this Act or on proceedings for the
recovery of tax or liabilities as may be demanded by the Collector for
the purposes of this Act.

(3) Where in the opinion of the Collector it is necessary for the purpose of
ascertaining income in respect of the gains or profits from any business for any period
to examine any books, accounts or records kept otherwise than in the Malay or English
languages, he may by notice require any person carrying on that business during any
period to furnish within the time stated in the notice (not being less than 30 days from
the date of service of the notice) a translation in the Malay or English languages of
those books, accounts or records.”.
Amendment of section 53.

10. Section 53 of the Act is amended by deleting "subsection (1) of this section" from the fourth and fifth lines and by substituting "section 52" therefor.

Amendment of section 61.

11. Section 61 of the Act is amended, in subsection (1), by deleting "53" from the last line and by substituting "52" therefor.

Amendment of section 70.

12. Section 70 of the Act is amended by deleting "2 months" from the sixth line and by substituting "30 days" therefor.

Amendment of section 72.

13. Section 72 of the Act is amended —

(a) in paragraph (b) of subsection (1), by deleting "2 months" from the third line and by substituting "30 days" therefor;

(b) by inserting immediately after paragraph (b) the following new paragraph —

"(bb) notwithstanding the provisions of paragraphs (a) and (b) if the amount of tax outstanding is not paid within 60 days of the imposition of the penalty as provided by paragraph (a), an additional penalty of 1% of the tax outstanding shall be payable for each completed month that the tax remains unpaid, but the total additional penalty shall not exceed 12% of the amount of tax outstanding, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of tax of such additional penalty; ".

Amendment of section 78.

14. Section 78 of the Act is amended —

(a) in paragraph (a) of subsection (1), by deleting "subsection (1) of section 53" from the fourth line and by substituting "section 52, section 55A, section 53" therefor;

(b) in paragraph (b) of subsection (1), by deleting "subsection (2) of" from the second line and "or" from the fourth line;

(c) by inserting "or" immediately after the semi-colon in paragraph (c) of subsection (1);
(d) by inserting immediately after paragraph (c) the following new paragraph —

"(d) obstructs or hinders any officer acting in the discharge of his duty under this Act or any rules made thereunder;"

(e) in subsection (2), by deleting "he shall have been personally served with such notice" from the last two lines and by substituting "such notice has been served on him personally or by registered post" therefor;

Amendment of section 79.

15. Section 79 of the Act is amended by deleting subsection (2).

Amendment of First Schedule.

16. The Act is amended by deleting subparagraph (ii) of paragraph (b) of the First Schedule.

Made this 28th. day of Safar, 1422 Hijriah corresponding to the 22nd. day of May, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
CONSTITUTION OF BRUNEI DARUSSALAM  
(Order under section 83(3))

BRUNEI ECONOMIC DEVELOPMENT BOARD (AMENDMENT) ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

1. Citation and commencement.

2. Amendment of section 2 of Chapter 104.


4. Amendment of section 7.

5. Amendment of section 8.


7. Insertion of new sections 9A, 9B and 9C.
BRUNEI ECONOMIC DEVELOPMENT BOARD (AMENDMENT) ORDER, 2001

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

Citation and commencement.

1. This Order may be cited as the Brunei Economic Development Board (Amendment) Order, 2001 and shall commence on 1st. June, 2001.

Amendment of section 2 of Chapter 104.

2. Section 2 of the Brunei Economic Development Board Act, in this Order referred to as the Act, is amended —

(a) by inserting the following three new definitions immediately after the definition of "Board" —

"business enterprise" means any sole proprietorship, partnership, company or co-operative society wherever registered or incorporated under any law for the time being in force in relation to companies, co-operative societies or businesses and engaged in or proposing to engage in any one or more of the following purposes or functions —

(a) manufacture and sale of goods, materials or things or the subjection of goods, materials or things to any process, including that of repairs, breaking-up, reconditioning or maintenance;

(b) the exploration for, and exploitation of, natural resources, including —

(i) the working of a mine, quarry or any other source of mineral deposits; or

(ii) the treatment or preparation for the sale, consumption or use, and the storage or removal, of any substance from any mine, quarry or other source of mineral deposits;

(c) transport, dock, water, electricity or gas undertaking, including the business of wharf-fingers and stevedores;

(d) the storage of goods, materials or things;

(e) the working of a plantation;
(f) fishing;

(g) the business of a tourist enterprise;

"Chief Executive Officer" means the officer appointed under section 7;

"goods, materials or things" includes capital or consumer goods of every description, including aircraft, ships, machinery, food and drugs;"

(b) by deleting the definition of "Managing Director";

(c) by deleting the definition of "Member" or "Member of the Board" and the following is substituted therefor —

"Member" or "Member of the Board" means any member of the Board appointed under section 4, and includes the Chairman, Deputy Chairman and the ex-officio members;

(d) by inserting the following two new definitions immediately after the definition of "Member" —

"Minister" means the Minister charged with the responsibility for industrial development;

"underwrite" means to contract, with or without conditions, to subscribe for stocks, shares, bonds or debentures of a business enterprise with a view to the resale of the whole or part of it.".

Substitution of section 4.

3. Section 4 of the Act is repealed and the following is substituted therefor —

"4. (1) The Board shall consist of —

(a) a Chairman, who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan;

(b) a Deputy Chairman, who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan;

(c) 3 ex-officio members who shall be the persons for the time being holding the office of the Permanent Secretary of the Ministry of Industry and Primary Resources, the Chief Executive Officer and a representative of the Ministry of Finance, appointed by the Permanent Secretary of the Ministry of Finance, the Minister of Finance or by His Majesty the Sultan and Yang Di-Pertuan; and
not less than 3 and not more than 5 other members (hereinafter referred to as "appointed members") to be appointed by His Majesty the Sultan and Yang Di-Pertuan from amongst persons appearing to him to be qualified as having wide experience of and shown capacity in matters relating to banking, manufacturing, housing, commerce, finance or administration, or to be otherwise suitable for appointment by virtue of their special knowledge and experience.

Amendment of section 7.

4. Section 7 of the Act is amended —

(a) by deleting "Managing Director" from the first line and substituting "Chief Executive Officer" therefor;

(b) by deleting subsection (2); and

(c) by deleting "Managing Director" from the marginal note and substituting "Chief Executive Officer" therefor.

Amendment of section 8.

5. Section 8 of the Act is amended —

(a) in paragraph (b) of subsection (1), by deleting "or undertake" immediately after "promote" in the first line and substituting therefor "undertake, form or participate in";

(b) in paragraph (d) of subsection (1), by inserting "with the written approval of the Minister and the Minister of Finance," immediately before "to" in the first line;

(c) by deleting "and" at the end of paragraph (d) and inserting the following five new paragraphs immediately after paragraph (d) —

"(da) to stimulate the growth, expansion and development of Brunei Darussalam economy by promoting Brunei Darussalam as an investment destination;

(db) to formulate investment promotion policies and plans, promotional incentives and marketing strategies to attract foreign and local investments in advanced technology industries and skill-intensive services which enjoy good export market prospects;

(dc) to promote, facilitate and assist in the development of industrial activities including export oriented business activities;
(dd) to encourage foreign and local industries to upgrade their skill and technological levels through investment in new technology, automation, training, research and product development activities;

(de) support the development of local entrepreneurs and small and medium businesses and assist local companies to expand and upgrade their operations; and”.

Amendment of section 9.

6. Section 9 of the Act is amended —

(a) by inserting "(1)" immediately before "For" in the first line;

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

"(a) acquire, purchase, exchange, sell or lease and hold land, buildings and other immovable property;";

(c) in paragraph (c) by inserting "acquire" immediately before "purchase" in the first line;

(d) in paragraph (f) by inserting "acquire" immediately before "purchase" in the first line;

(e) by deleting paragraph (k) and substituting therefor the following —

"(k) with the written approval of the Minister and the Minister of Finance, underwrite the issue of stocks, shares, bonds or debentures by business enterprises;";

(f) by deleting paragraph (l) and substituting therefor the following —

"(l) with the written approval of the Minister and the Minister of Finance, guarantee on such terms and conditions as may be agreed upon, loans raised by business enterprises which are floated in the public market;";

(g) by deleting paragraph (m) and substituting therefore the following —

"(m) with the written approval of the Minister and the Minister of Finance, grant loans or advances to business enterprises for the purpose of industrial development;";

(h) by deleting paragraph (n) and substituting therefor the following —

"(n) manage, control or supervise business enterprises by nominating directors or advisers or otherwise collaborating with them;";
(i) by deleting paragraph \((o)\) and substituting therefor the following —

"\((o)\) with the written approval of the Minister and the Minister of Finance, establish, sell shares of, invest in and manage business enterprises;"

(j) by deleting paragraph \((p)\) and substituting therefor the following —

"\((p)\) provide technical service and assistance to business enterprises and to build up a corps of engineering and managerial staff to provides such assistance;"

(k) by deleting "to" from the first line of paragraph \((q)\);

(l) by deleting paragraph \((r)\) and substituting therefor the following —

"\((r)\) act as agents for any business enterprises;"

(m) by substituting a semicolon for the fullstop at the end of paragraph \((r)\) and adding the following six new paragraphs immediately thereafter —

"\((s)\) subscribe to stocks, shares, bonds or debentures of industrial enterprises;

\((t)\) lay out, develop and manage sites, parks, estates, identified zones and other premises for industries and businesses in Brunei Darussalam or elsewhere via sale or lease of specific site;

\((u)\) foster the growth of the services industry by developing the appropriate infrastructure and formulating and implementing investment promotion plans, promotional incentives and marketing strategies to support local and international firms and businesses in the services sector in Brunei Darussalam;

\((v)\) facilitate new and existing companies in the implementation and operation of their projects, and offer assistance through direct consultation and co-operation with the relevant authorities;

\((w)\) exercise all functions and powers and perform all duties which, under or by virtue of any written law, are or may be or become vested or delegated to it; and

\((x)\) generally do all such matters and things as may be incidental to or consequential upon the exercise of its duties under this Act."

(n) by adding the following new subsection after subsection (1) —

"(2) For the purposes of paragraph \((u)\) of subsection (1), "services" means all or any of the following services —

\((a)\) financial and business services;
(b) engineering and technical services;

c) information technology services;

d) transport and communication services;

e) warehousing and distribution services;

(f) accountancy and management and professional services;

(g) agrotechnology services;

(h) education services;

(i) medical services;

(j) publishing services;

(k) entertainment, leisure and recreation services;

(l) exhibition services; and

(m) any other services which the Minister may prescribe."

Insertion of new sections 9A, 9B and 9C.

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

"Directions by Minister.

9A. His Majesty the Sultan and Yang Di-Pertuan may empower the Minister to give to the Board such directions, not inconsistent with the provisions of this Act, as he considers fit, as to the exercise and performance by the Board of its powers, duties and functions under this Act, and the Board shall give effect to all such directions."

Appointments of committees and delegation of powers.

9B. (1) The Board may, in its discretion, appoint from among its members or other persons who are not members of the Board such number of committees consisting of members or other persons or members and other persons for the purposes which, in the opinion of the Board, would be better regulated and managed by means of those committees.

(2) The Board may, subject to such conditions or restrictions as it thinks fit, delegate to such committee or the Chairman or the Chief Executive Officer or any
government agency all or any of the powers, functions and duties by this Act vested in
the Board; and any power, function or duty so delegated may be exercised or performed
by such committee or the Chairman or the Chief Executive Officer or government
agency, as the case may be, in the name of the Board.

(3) The Board may, subject to such conditions or restrictions as it thinks fit, delegate to any employee thereof all or any of the Board’s functions and duties by this
Act vested in the Board, except the power to borrow money or to raise loans or grant
loans or advances to or subscribe to or underwrite the issue of stocks, shares, bonds or
debentures of business enterprises; and any power, function or duty so delegated may be
exercised or performed by such employee in the name of the Board.

(4) The Board may continue to exercise any power conferred upon it, or perform
any function or duty under this Act, notwithstanding the delegation of such power,
function or duty under this section.

Appointment of member to act on behalf of Chairman outside Brunei Darussalam.

9C. The Chairman of the Board may, with the approval of the Minister, appoint a
member of the Board to perform the functions of the Chairman outside Brunei
Darussalam in relation to such matters or class of matters as the Chairman may specify.”.

Made this 28th. day of Safar, 1422 Hijriah corresponding to the 22nd. day of May, 2001
at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
In exercise of the power conferred by section 133 of the Customs Act, the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

Citation

1. These Regulations may be cited as the Customs (Amendment) Regulations, 2001.

Substitution of regulation 4.

2. Regulation 4 of the Customs Regulations, in these Regulations called the principal Regulations, is deleted and substituted by the following —

"Customs ports, places of import and export and legal landing places.

4. The places set out in the First Schedule shall be the customs ports, places of import and export and legal landing places.”.

Substitution of First Schedule.

3. The First Schedule to the principal Regulations is deleted and substituted by the following —

"FIRST SCHEDULE
(regulation 4)

Customs ports, places of import and export and legal landing places —

Bandar Seri Begawan Bandar Seri Begawan Wharf;
Brunel International Airport, Berakas;
Kuala Lurah Customs Post;
Mail Processing Centre (MPC) Old Airport; Royal Customs and Excise Headquarters;
Sungai Lampai Jetty."
<table>
<thead>
<tr>
<th>Location</th>
<th>Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kuala Belait</td>
<td>Brunei Shell Petroleum Co. Ltd Wharf; Kuala Belait Post Office; Kuala Belait Wharf; Sungai Tujuh Customs Post.</td>
</tr>
<tr>
<td>Muara</td>
<td>Brunei Shell Depot; Muara Port; Muara Post Office; Serasa Terminal Ferry</td>
</tr>
<tr>
<td>Seria/Lumut</td>
<td>Anduki Aerodrome; Brunei Liquefied Natural Gas Terminal; Brunei Shell Petroleum Co. Ltd Single Buoy Mooring; Seria Post Office.</td>
</tr>
<tr>
<td>Temburong</td>
<td>Bangar Post Office; Bangar Wharf; Labu Customs Post; Puni Customs Post.</td>
</tr>
<tr>
<td>Tutong</td>
<td>Tutong Post Office.</td>
</tr>
</tbody>
</table>

Made this 23rd. day of Muharam, 1422 Hijriah, corresponding to the 17th. day of April, 2001.

PENGIRAN DATO PADUKA MAIDIN BIN PENGIRAN HAJI HASHIM
Permanent Secretary
Ministry of Finance
No. S 48

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

INVESTMENT INCENTIVES ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Citation, commencement and long title.
2. Order to be construed as one with the Income Tax Act (Chapter 35).
3. Interpretation.

PART II

PIONEER INDUSTRIES

4. Power and procedure for declaring an industry and a product a pioneer industry and a pioneer product.
5. Application for and issue and amendment of pioneer certificate.
6. Tax relief period of pioneer enterprise.
7. Further extension of tax relief period.
9. Restrictions on trading before end of tax relief period.
10. Power to give directions.
11. Ascertainment of income in respect of old trade or business.
13. Collector to issue statement of income.
14. Exemption from income tax.
15. Certain dividends exempted from income tax.

PART III
PIONEER SERVICE COMPANIES
17. Interpretation of this Part.
18. Application for and issue and amendment of certificate for pioneer service company.
19. Tax relief period of pioneer service company.
20. Application of sections 8 to 16 to pioneer service company.

PART IV
POST-PIONEER COMPANIES
21. Interpretation of this Part.
22. Application for and issue of certificate to post-pioneer company.
23. Tax relief period of post-pioneer company.
24. Ascertainment of income in respect of other trade or business.
25. Deduction of losses.
26. Certain dividends exempted from income tax.
27. Power to give directions.
28. Ascertainment of income in respect of qualifying activities.
29. Adjustment of capital allowances and losses.

PART V
EXPANSION OF ESTABLISHED ENTERPRISES
30. Power and procedure for declaring an industry and a product an approved industry and an approved product.
31. Issue of expansion certificate and amendment thereof.
32. Tax relief period of expanding enterprise.
33. Application of section 10 to expanding enterprise.
34. Tax relief.
35. Exemption from income tax of dividends from expanding enterprise.

PART VI
EXPANDING SERVICE COMPANIES
36. Application for and issue and amendment of certificate for expanding service company.
37. Tax relief period of expanding service company.
38. Application of certain sections to expanding service company.

PART VII
PRODUCTION FOR EXPORT
39. Power to approve a product or produce as an export product or export produce.
40. Application for the issue of export enterprise certificate.
41. Amendment of export enterprise certificate.
42. Tax relief period.
43. Power to give directions.
44. Application of Part X of Income Tax Act
45. Cognizance of export.
46. Export to be in accordance with regulations and conditions.
47. Computation of export profits.
49. Tax relief on export profits.
50. Certain dividends exempted from income tax.
51. Power of entry into premises and taking of samples.

52. No relanding of export product or export produce.

53. Powers of search, seizure and arrest by officers of customs.

54. Offence under other laws deemed to be an offence under this Order.

PART VIII

EXPORT OF SERVICES

55. Interpretation of this Part.

56. Application for and issue of certificate to export service company.

57. Tax relief period of export service company.

58. Application of certain sections to export service company.

59. Ascertainment of income of export service company.

60. Controller to issue statement of income.

61. Certification by auditor.

62. Deduction of allowances and losses.

PART IX

INTERNATIONAL TRADE INCENTIVES

63. Interpretation of this Part.

64. International trading company.

65. Tax relief period of international trading company.

66. Power to give directions.


68. Ascertainment of income in respect of other trade or business.

69. Computation of export income and exemption from tax.

70. Conditions for relief.
71. Certain dividends exempted from income tax.

72. Recovery of tax exempted.


74. Application of certain sections to international trading company.

PART X

FOREIGN LOANS FOR PRODUCTIVE EQUIPMENT

75. Application for and issue of approved foreign loan certificate.

76. Restriction on disposal of specified productive equipment.

77. Exemption of approved foreign loan interest from tax.

78. Exemption of additional interest on approved foreign loan from tax.

PART XI

INVESTMENT ALLOWANCES

79. Interpretation of this Part.

80. Capital expenditure investment allowance.

81. Investment allowance.

82. Crediting of investment allowance.

83. Prohibition to sell, lease out or dispose of assets.

84. Exemption from income tax.

85. Certain dividends exempted from income tax.

86. Recovery of tax exempted.

PART XII

WAREHOUSING AND SERVICING INCENTIVES

88. Interpretation of this Part.

89. Approved warehousing company or servicing company.

90. Tax relief period of warehousing company or servicing company.

91. Prohibition of acquisition without approval.

92. Application of certain sections to warehousing company or servicing company.


94. Computation of export earnings and exemption from tax.

95. Certain dividends exempted from income tax.

96. Recovery of tax exempted.


PART XIII

INVESTMENTS IN NEW TECHNOLOGY COMPANIES

98. Interpretation of this Part.

99. Application for and issue of certificate to technology company.

100. Deductions allowable to eligible holding company.

101. Prohibition of other trade or business.

102. Recovery of tax.

PART XIV

OVERSEAS INVESTMENT AND VENTURE CAPITAL INCENTIVES

103. Interpretation of this Part.

104. Application for and issue of certificate to venture company.
105. Application for and issue of certificate to technology investment company or overseas investment company.

106. Deduction of losses allowable to eligible holding company.

107. Prohibition of other trade or business.

108. Recovery of tax.

**PART XV**

**RELIEF FROM IMPORT DUTIES**

109. Exemption from import duties.

110. Restriction on disposal.

111. Duty to be paid if disposed.

112. Exemption from import duties on raw material.

**PART XVI**

**MISCELLANEOUS PROVISIONS**

113. Prohibition of publication of application and certificate.

114. Revocation of certificate.


116. Offences and penalties.

117. Attempts or abetments.

118. Conduct of prosecution.

119. Composition of offences.

120. Offences by companies and by employees and agents.

121. Action of officers no offence.

122. Regulations.

123. Repeal of Chapter 97, saving and transitional.

1305
In exercise of the power conferred by subsection (3) of section 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Investment Incentives Order, 2001 and shall commence on 1st June, 2001.

(2) The long title of this Order is "An Order to make new provision for encouraging the establishment and development in Brunei Darussalam of industrial and other economic enterprises, for economic expansion and for incidental and related purposes".

Order to be construed as one with the Income Tax Act (Chapter 35).

2. This Order shall, unless otherwise expressly provided for in this Order, be construed as one with the Income Tax Act.

Interpretation.

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

"approved foreign loan" means a loan which is certified under section 75 to be an approved foreign loan;

"approved product" means a product declared under section 30 to be an approved product;

"Collector" means the Collector of Income Tax appointed under the Income Tax Act (Chapter 35);

"company" means any company incorporated or registered in accordance with the provisions of any written law relating to companies;

"expanding enterprise" means any company which has been approved by the Minister and to which an expansion certificate has been issued under section 31;
"expansion certificate" means an expansion certificate issued under section 31;

"expansion day", in relation to an expanding enterprise, means the date specified in its expansion certificate under subsection (4) or (5) of section 31;

"export enterprise" means any company which has been approved by the Minister and to which an export certificate has been issued under section 40;

"export enterprise certificate" means an export enterprise certificate issued under section 40;

"export produce" means a produce of agriculture, forestry and fisheries approved under section 39 as export produce;

"export product" means a product approved under section 39 as export product;

"export year" means the year specified in the export enterprise certificate under subsection (2) of section 40 or section 41;

"foreign loan certificate" means a foreign loan certificate issued under section 75;

"high-tech park" means an area declared by the Minister to be a high-tech park;

"manufacture", in relation to a product, includes any process or method used in making or developing the product;

"Minister" means the Minister charged with the responsibility for industrial development;

"new trade or business" means the trade or business of a pioneer enterprise deemed under section 8 to have been set up and commenced on the day following the end of its tax relief period;

"officer of customs" and "senior officer of customs" have the same meanings as in the Customs Act (Chapter 36);

"old trade or business" means the trade or business of a pioneer enterprise carried on by it during its tax relief period in accordance with section 8, and which either ceases within or is deemed, under that section, to cease at the end of that period;

"pioneer certificate" means a pioneer certificate issued under section 5;

"pioneer enterprise" means any company which has been approved by the Minister and to which a pioneer certificate has been issued under section 5;

"pioneer industry" means an industry declared under section 4 to be a pioneer industry;
"pioneer product" means a product declared under section 4 to be a pioneer product;

"production date", in relation to a pioneer enterprise, means the date specified in its pioneer certificate under subsection (3) or (4) of section 5;

"productive equipment" means machinery or plant which would normally qualify for deduction under sections 16, 17 and 18 of the Income Tax Act (Chapter 35);

"repealed Act" means the Investment Incentives Act (Chapter 97) repealed by this Order;

"tax" means income tax imposed by the Income Tax Act (Chapter 35);

PART II

PIOtNEER INDUSTRIES

Power and procedure for declaring an industry and a product a pioneer industry and a pioneer product.

4. (1) Subject to subsection (2), the Minister may, if he considers it expedient in the public interest to do so, by order declare an industry, which is not being carried on in Brunei Darussalam on a scale adequate to the economic needs of Brunei Darussalam and for which in his opinion there are favourable prospects for development, to be a pioneer industry and any specific product of that industry to be a pioneer product.

(2) The Minister may revoke any order made under this section but any such revocation shall not affect the operation of any pioneer certificate issued to any pioneer enterprise before the revocation.

Application for and issue and amendment of pioneer certificate.

5. (1) Any company which is desirous of producing a pioneer product may make an application in writing to the Minister to be approved as a pioneer enterprise in such form and with such particulars as may be prescribed.

(2) Where the Minister is satisfied that it is expedient in the public interest to do so and, in particular, having regard to the production or anticipated production of the pioneer product from all sources of production in Brunei Darussalam, he may approve that company a pioneer enterprise and issue a pioneer certificate to the company, subject to such terms and conditions as he thinks fit.

(3) Every pioneer certificate issued under this section shall specify —
(a) the date on or before which it is expected that the pioneer enterprise will commence to produce in marketable quantities the product specified in the certificate; and

(b) the rate of production of that product which it is expected will be attained on or before that date,

and that date shall be deemed to be the production day of the pioneer enterprise for the purposes of this Order.

(4) The Minister may, in his discretion, upon the application of any pioneer enterprise, amend its pioneer certificate by substituting for the production day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Order shall have effect as if the date so substituted were the production day in relation to that pioneer enterprise.

Tax relief period of pioneer enterprise.

6. (1) The tax relief period of a pioneer enterprise shall commence on its production day and shall continue for a period of —

(a) 5 years, where its fixed capital expenditure is not less than $500,000 but is less than $2.5 million;

(b) 8 years, where its fixed capital expenditure is more than $2.5 million;

(c) 11 years, where it is located in a high tech park.

(2) Where the tax relief period of a pioneer enterprise is 5 years and the Minister is satisfied that it has incurred by the end of the year following the end of that period fixed capital of not less than $2.5 million, the Minister may extend its tax relief period to 8 years from the production day.

(3) In this section, “fixed capital expenditure” in relation to a pioneer enterprise, means capital expenditure incurred by the pioneer enterprise on its factory building (excluding land) or on plant, machinery or other apparatus used in Brunei Darussalam in connection with and for the purposes of the pioneer enterprise.

Further extension of tax relief period.

7. (1) The Minister may, subject to such terms and conditions as he may impose, extend the tax relief period of a pioneer enterprise (other than a pioneer enterprise that is located in a high-tech park) for such further period or periods as he may determine except that the tax relief period of the pioneer enterprise shall not in aggregate exceed 11 years.

(2) The Minister may, subject to such terms and conditions as he may impose, extend the tax relief period of a pioneer enterprise that is located in a high-tech park for such
further period or periods not exceeding 5 years at any one time as he may determine except that the tax relief period of the pioneer enterprise shall not in aggregate exceed 20 years.

Provisions governing old and new trade or business.

8. For the purposes of the Income Tax Act (Chapter 35) and this Order —

(a) the old trade or business of a pioneer enterprise shall be deemed to have permanently ceased at the end of its tax relief period;

(b) the pioneer enterprise shall be deemed to have set up and commenced a new trade or business on the day immediately following the end of its tax relief period;

(c) the pioneer enterprise shall make up accounts of its old trade or business for a period not exceeding one year, commencing on its production day, for successive periods of one year thereafter and for the period not exceeding one year ending at the date when its tax relief period ends; and

(d) in making up the first accounts of its new trade or business the pioneer enterprise shall take as the opening figures for those accounts the closing figures in respect of its assets and liabilities as shown in its last accounts in respect of its tax relief period, and its next accounts of its new trade or business shall be made up by reference to the closing figures in such first accounts any subsequent accounts shall be similarly made up by reference to the closing figures of the preceding accounts of its new trade or business.

Restrictions on trading before end of tax relief period.

9. (1) During its tax relief period, a pioneer enterprise shall not carry on any trade or business other than the trade or business relating to the relevant pioneer product, unless the Minister has given his permission in writing therefor.

(2) Where the carrying on of a separate trade or business has been permitted under subsection (1), separate accounts shall be maintained in respect of that trade or business and in respect of the same accounting period.

(3) Where the carrying on of such separate trade results in a loss in any accounting period, the loss shall be brought into the computation of the income of the pioneer enterprise for that period unless the Collector, having regard to all the circumstances of the case, is satisfied that the loss was not incurred for the purpose of obtaining a tax advantage.

(4) Where the carrying on of such separate trade results in a profit in any accounting period, and the profit, computed in accordance with the provisions of the Income Tax Act as modified by this section, amounts to less than 5% on the full sum receivable from the sale of goods or the provision of services, the statutory income from that source shall be deemed to
be 5% (or such lower rate as the Minister may specify in any particular case) of the full sum so receivable and the income of the pioneer enterprise shall be abated accordingly.

(5) Where in the opinion of the Collector the carrying on of such separate trade is subordinate and incidental to the carrying on of the trade or business relating to the relevant pioneer product, the income or loss arising from such activities shall be deemed to form part of the income or loss of the pioneer enterprise.

(6) In this section, "relevant pioneer product" means the pioneer product specified in its pioneer certificate.

Power to give directions.

10. For the purposes of the Income Tax Act and this Order, the Collector may direct that —

(a) any sums payable to a pioneer enterprise in any accounting period which, but for the provisions of this Order, might reasonably and properly have been expected to be payable, in the normal course of business, after the end of that period shall be treated —

(i) as not having been payable in that period but as having been payable on such date, after that period as the Collector thinks fit; and

(ii) where that date is after the end of the tax relief period of the pioneer enterprise, as having been so payable, on that date, as a sum payable in respect of its new trade or business;

(b) any expense incurred by a pioneer enterprise within one year after the end of its tax relief period which, but for the provisions of this Order, might reasonable and properly have been expected to be incurred, in the normal course of business, during its tax relief period shall be treated as not having been incurred within that year but as having been incurred —

(i) for the purposes of its old trade or business; and

(ii) on such date, during its tax relief period, as the Collector thinks fit.

Ascertainment of income in respect of old trade or business.

11. (1) The income of a pioneer enterprise in respect of its old trade or business shall be ascertained in accordance with the provisions of the Income Tax Act after making such adjustments as may be necessary in consequence of any direction given under section 10.

(2) In determining the income of a pioneer enterprise referred to in subsection (1), the allowances provided for in sections 13, 14, 15, 16, 17 and 18 of the Income Tax Act shall be taken into account.
(3) Where the tax relief period of a pioneer enterprise referred to in subsection (1) expires during the basis period for any year of assessment, for the purpose of determining the income in respect of its old trade or business and its new trade or business for that year of assessment, there shall be deducted allowances provided for in sections 13, 14, 15, 16, 17 and 18 of the Income Tax Act; and for the purpose of computing such allowances —

(a) the allowances for that year of assessment shall be computed as if the old trade or business of the pioneer enterprise had not been deemed to have permanently ceased at the end of the tax relief period; and

(b) the allowances computed in accordance with paragraph (a) shall be apportioned between the old trade or business and the new trade or business of the pioneer enterprise in such manner as appears to the Collector to be reasonable in the circumstances.

(4) Where in any year of assessment full effect cannot, by reason of an insufficiency of profits for that year of assessment, be given to the allowances mentioned in subsection (2), then the balance of the allowances shall be added to, and be deemed to form part of, the corresponding allowances, if any, for the next succeeding year of assessment, and, if no such corresponding allowances fall to be made for that year, shall be deemed to constitute the corresponding allowances for that year, and so on for subsequent years of assessment.

Application of Part X of Income Tax Act (Chapter 35).

12. Part X of the Income Tax Act (relating to returns of income) shall apply in all respects as if the income of a pioneer enterprise in respect of its old trade or business were chargeable to tax.

Collector to issue statement of income.

13. For each year of assessment, the Collector shall issue to the pioneer enterprise a statement showing the amount of income for that year of assessment, and Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply with the necessary modifications, as if that statement were a notice of assessment given under those provisions.

Exemption from income tax.

14. (1) Subject to subsection (6) of section 15, where any statement issued under section 13 has become final and conclusive, the amount of the income shown by the statement shall not form part of the statutory income of the pioneer enterprise for any year of assessment and shall be exempt from tax.

(2) The Collector may, in his discretion and before such a statement has become final and conclusive, declare that a specified part of the amount of such income is not in
dispute and such an undisputed amount of income is exempt from tax, pending such a statement becoming final and conclusive.

Certain dividends exempted from income tax.

15.  (1) As soon as any amount of income of a pioneer enterprise has been exempt under section 14, that amount shall be credited to an account to be kept by the pioneer enterprise for the purposes of this section.

(2) Where that account is in credit at the date on which any dividends are paid by the pioneer enterprise out of income which has been exempted, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

(3) So much of the amount of any dividends so debited to that account as are received by a shareholder of the pioneer enterprise shall, if the Collector is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

(4) Notwithstanding subsection (3), where a dividend is paid on any share of a preferential nature, it shall not be so exempt in the hands of the shareholder.

(5) Any dividends debited to that account shall be treated as having been distributed to the shareholders of the pioneer enterprise or any particular class of those shareholders in the same proportions as the shareholders were entitled to payment of dividends giving rise to the debit.

(6) The pioneer enterprise shall deliver to the Collector a copy of that account, made up to a date specified by him, whenever called upon to do so by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining the account.

(7) Notwithstanding section 14 and subsections (1) to (6), where it appears to the Collector that —

(a) any amount of exempted income of a pioneer enterprise; or

(b) any dividend exempted in the hands of any shareholder, including any dividend paid by a holding company to which subsection (10) applies,

ought not to have been exempted by reason of any direction made under section 10 or the revocation under section 114 of a pioneer certificate issued to the pioneer enterprise, the Collector may subject to section 62 of the Income Tax Act —

(i) make such assessment or additional assessment upon the pioneer enterprise or any such shareholder as may appear to be necessary in order to counteract any profit obtained from any such amount; or
(ii) direct the pioneer enterprise to debit its account, kept in accordance with subsection (1), with such amount as the circumstances require.

(8) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, with the necessary modifications, to any direction given under subsection (7) as if it were a notice of assessment given under those provisions.

(9) Section 36 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is debited to the account required to be kept for the purposes of this section.

(10) Where an amount has been received by way of dividend from a pioneer enterprise by a shareholder and the amount is exempt from tax under this section, if that shareholder is a company (referred to in this section as the holding company) which holds, throughout its tax relief period, the beneficial interest in all the issued shares of the pioneer enterprise (or in not less than such proportion of those shares as the Minister may require at the time when the pioneer certificate is issued to that pioneer enterprise) any dividends paid by the holding company to its shareholders, to the extent that the Collector is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders; and section 36 of the Income Tax Act shall not apply in respect of any dividend or part thereof so exempt.

(11) Any holding company may, with the approval of the Minister and subject to such terms and conditions as he may impose, pay such exempt dividends to its shareholders even if it has not held the requisite shareholding in the pioneer enterprise for the whole of the tax relief period.

Carry forward of loss and allowance.

16. (1) Where a pioneer enterprise has, during its tax relief period, incurred a loss for any year, that loss shall be deducted as provided for in subsection (2) of section 30 of the Income Tax Act but only against the income of the pioneer enterprise as ascertained under section 11, except that the balance of any such loss which remains unabsorbed at the end of its tax relief period is available to the new trade or business in accordance with that Act.

(2) Notwithstanding paragraph (a) of section 8, the balance of any allowance as provided for in section 11 which remains unabsorbed at the end of the tax relief period of the pioneer enterprise is available to the new trade or business in accordance with the Income Tax Act.
PART III

PIioneer SERVICE COMPANIES

Interpretation of this Part.

17. For the purposes of this Part, unless the context otherwise requires —

"commencement day", in relation to a pioneer service company, means the date
specified under subsection (3) or (4) of section 18 in the certificate issued to that
company under that section;

"pioneer service company" means a company which has been issued with a certificate
under section 18;

"qualifying activity" means any of the following —

(a) any engineering or technical services including laboratory, consultancy and
research and development activities;
(b) computer-based information and other computer related services;
(c) the development or production of any industrial design;
(d) services and activities which relate to the provision of leisure and recreation;
(e) publishing services;
(f) services which relate to the provision of education;
(g) medical services;
(h) services and activities which relate to agricultural technology;
(i) services and activities which relate to the provision of warehousing facilities;
(j) services which relate to the organisation or management of exhibitions and
conferences;
(k) financial services;
(l) business consultancy, management and professional services;
(m) venture capital fund activity;
(n) operation or management of any mass rapid transit system;
(o) services provided by an auction house;
(p) maintaining and operating a private museum; and

(q) such other services or activities as the Minister may prescribe.

Application for and issue and amendment of certificate for pioneer service company.

18. (1) Where a company is engaged in any qualifying activity, the company may apply in the prescribed form to the Minister for approval as a pioneer service company.

(2) The Minister may, if he considers it expedient in the public interest to do so, approve the application and issue the company with a certificate subject to such terms and conditions as he thinks fit.

(3) Every certificate issued under this section shall specify a date as the commencement day from which the company shall be entitled to tax relief under this Part.

(4) The Minister may in his discretion, upon the application of the company, amend its certificate by substituting for the commencement day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the commencement day in relation to that certificate.

Tax relief period of pioneer service company.

19. The tax relief period of a pioneer service company, in relation to any qualifying activity specified in any certificate issued to that company under section 18, shall commence on the commencement day and shall continue for a period of 8 years or such longer period, not exceeding 11 years, as the Minister may determine.

Application of sections 8 to 16 to pioneer service company.

20. Sections 8 to 16 shall apply to a pioneer service company under this Part and for the purposes of such application —

(a) any reference to a pioneer enterprise shall be read as a reference to a pioneer service company;

(b) any reference to a pioneer product shall be read as a reference to a qualifying activity;

(c) any reference to the production day of a pioneer enterprise shall be read as a reference to the commencement day of a pioneer service company;

(d) any reference to a pioneer certificate shall be read as a reference to a certificate issued under section 18.
PART IV

POST-PIONEER COMPANIES

Interpretation of this Part.

21. For the purposes of this Part, unless the context otherwise requires —

"commencement day", in relation to a post-pioneer company, means the date specified under subsection (3) of section 22 in the certificate issued to that company under that section;

"pioneer company" means a company certified by a pioneer certificate to be a pioneer company under the repealed Act;

"post-pioneer company" means a company which has been issued with a certificate under subsection (2) of section 22;

"qualifying activity", in relation to a post-pioneer company, means its trade or business in respect of which tax relief had been granted under Part II, III or VII and any other trade or business approved by the Minister.

Application for and issue of certificate to post-pioneer company.

22. (1) Any company which is —

(a) a pioneer company on or after 1st. May, 1975;

(b) a pioneer enterprise or a pioneer service company;

(c) an export enterprise which had been a pioneer enterprise immediately before its tax relief period as an export enterprise,

may apply in the prescribed form to the Minister for approval as a post-pioneer company.

(2) The Minister may, if he considers it expedient in the public interest to do so, approve the application and issue the company with a certificate subject to such terms and conditions as he may impose.

(3) Every certificate issued to a post-pioneer company under this section shall specify —

(a) a date as the commencement day from which the company shall be entitled to tax relief under this Part;

(b) its qualifying activities; and
(c) the concessionary rate of tax to be levied for the purposes of this Part.

(4) The Minister may, in his discretion, upon an application of a post-pioneer company, amend its certificate by substituting for the commencement day specified therein such other date as he thinks fit and thereupon the provisions of this Part shall have effect as if that date were the commencement day in relation to that certificate.

(5) Notwithstanding section 35 of the Income Tax Act, tax at such concessionary rate, not being less than 10% as the Minister may specify, shall be levied and paid for each year of assessment upon the income derived by a post-pioneer company during its tax relief period from its qualifying activities.

Tax relief period of post-pioneer company.

23. (1) The tax relief period of a post-pioneer company shall commence on its commencement day and shall continue for a period not exceeding 6 years as the Minister may determine.

(2) The Minister may, subject to such terms and conditions as he may impose, extend the tax relief period of a post-pioneer company for such further period or periods as he may determine except that the tax relief period of the company shall not in the aggregate exceed 11 years.

Ascertainment of income in respect of other trade or business.

24. (1) Where during its tax relief period a post-pioneer company carries on any trade or business other than its qualifying activities, separate accounts shall be maintained in respect of that other trade or business and in respect of the same accounting period and the income from that other trade or business shall be computed and assessed in accordance with the Income Tax Act with such adjustments as the Collector thinks reasonable and proper.

(2) Where in the opinion of the Collector the carrying on of such other trade or business is subordinate or incidental to the carrying on of the qualifying activities of the post-pioneer company, the income or losses arising from such other trade or business shall be deemed to form part of the income or loss of the post-pioneer company in respect of its qualifying activities.

Deduction of losses.

25. The Minister may, in relation to post-pioneer companies, by regulations provide for —

(a) the manner in which expenses, capital allowances and donations allowable under the Income Tax Act are to be deducted; and

(b) the deduction of capital allowances and of losses otherwise than in accordance with sections 20 and subsection (2) of section 30 of the Income Tax Act.
Certain dividends exempted from income tax.

26. (1) As soon as any amount of income of a post-pioneer company has been subject to tax at the concessionary rate under section 22, the net amount of the income after deduction of the tax shall be credited to a special account (referred to in this section as the account) to be kept by the post-pioneer company for the purposes of this section.

(2) Where the account is in credit at the date on which any dividends are paid by the post-pioneer company out of the net amount of the income credited to that account, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

(3) So much of the amount of any dividends so debited to the account as are received by a shareholder of the post-pioneer company shall, if the Collector is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

(4) Notwithstanding subsection (3), where a dividend is paid on any share of a preferential nature, it shall not be so exempt in the hands of the shareholder.

(5) Section 36 of the Income Tax Act shall not apply in respect of any dividends or part thereof which are debited to the account.

(6) Where an amount of dividends debited to the account has been received by a shareholder, and that shareholder is a company (referred to in this section as the holding company) which holds, throughout its tax relief period, the beneficial interest in all the issued shares of the post-pioneer company (or in not less than such proportion of those shares as the Minister may require at the time when the post-pioneer certificate is issued to the post-pioneer company) any dividends paid by the holding company to its shareholders, to the extent that the Collector is satisfied that those dividends are paid out of such amount, shall be exempt from tax in the hands of those shareholders; and section 36 of the Income Tax Act shall not apply to any such dividends or part thereof so exempt.

(7) Any holding company may, with the approval of the Minister and subject to such terms and conditions as he may impose, pay such exempt dividends to its shareholders even if it has not held the requisite shareholding in the post-pioneer company for the whole of the tax relief period.

(8) The post-pioneer company shall deliver to the Collector a copy of the account made up to any date specified by him whenever called upon to do so by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining the account.

(9) Notwithstanding subsections (1) to (7), where it appears to the Collector that —

(a) any income of a post-pioneer company which has been subject to tax at the concessionary rate under section 22; or
any dividend, including a dividend paid by a holding company under subsection (6), which has been exempted from tax in the hands of any shareholder,

ought not to have been so taxed or exempted for any year of assessment, the Collector may subject to section 62 of the Income Tax Act —

(i) make such assessment or additional assessment upon the company or any such shareholder as may be necessary in order to make good any loss of tax; or

(ii) direct the company to debit the account with such amount as the circumstances require.

Power to give directions.

27. For the purposes of the Income Tax Act and this Order, the Collector may direct that —

(a) any sums payable to a post-pioneer company in the tax relief period which might reasonably and properly have been expected to be payable, in the normal course of business, after the end of that period shall be treated as not having been payable in that period but as having been payable on such date, after that period, as the Collector thinks fit; and

(b) any expense incurred by a post-pioneer company within one year after the end of its tax relief period which might reasonably and properly have been expected to be incurred, in the normal course of business, during its tax relief period shall be treated as not having been incurred within that year but as having been incurred for the purposes of its qualifying activities and on such date, during its tax relief period, as the Collector thinks fit.

Ascertainment of income in respect of qualifying activities.

28. (1) The qualifying income of a post-pioneer company shall, subject to subsection (2) and section 29, be ascertained in accordance with the provisions of the Income Tax Act after making such adjustments as may be necessary in consequence of any direction given under section 27.

(2) In determining the qualifying income of the post-pioneer company for the basis period for any year of assessment —

(a) the allowance provided for in sections 13, 14, 15, 16, 17 and 18 of the Income Tax Act shall be taken into account;

(b) the allowances referred to in paragraph (a) for that year of assessment shall firstly be deducted against the qualifying income, and any unabsorbed
allowances shall be deducted against the other income of the company subject to tax at the rate of tax under section 35 of the Income Tax Act in accordance with section 29;

(c) the balance, if any, of the allowances after the deduction in paragraph (b) shall be available for deduction for any subsequent year of assessment in accordance with section 20 of the Income Tax Act and shall be made in the manner provided in paragraph (b);

(d) any loss incurred for that basis period shall be deducted in accordance with section 29 against the other income of the company subject to tax at the rate of tax under section 35 of the Income Tax Act; and

(e) the balance, if any, of the losses after the deduction in paragraph (d) shall be available for deduction for any subsequent year of assessment in accordance with section 30 of the Income Tax Act firstly against the qualifying income, and any balance of the losses shall be deducted against the other income of the company subject to tax at the rate of tax under section 35 of the Income Tax Act in accordance with section 29.

Adjustment of capital allowances and losses.

29. (1) Where, for any year of assessment, there are any unabsorbed allowances or losses in respect of the qualifying income of a post pioneer company, and there is any chargeable normal income of the company, those unabsorbed allowances and losses shall be deducted against the chargeable normal income in accordance with the following provisions —

(a) in the case where those unabsorbed allowances or losses do not exceed that chargeable normal income multiplied by the adjustment factor, that chargeable normal income shall be reduced by an amount arrived at by dividing those unabsorbed allowances or losses by the adjustment factor, and those unabsorbed allowances or losses shall be nil; and

(b) in any other case, those unabsorbed allowances or losses shall be reduced by an amount arrived at by multiplying that chargeable normal income by the adjustment factor, and those unabsorbed allowances or losses so reduced shall be added to, and be deemed to form part of, the corresponding allowances or losses in respect of the qualifying income, for the next succeeding year of assessment in accordance with section 20 or 30 (as the case may be) of the Income Tax Act, and that chargeable normal income shall be nil.

(2) Where, for any year of assessment, there are any unabsorbed allowances or losses in respect of the normal income of a post-pioneer company, and there is any chargeable qualifying income of the company, those unabsorbed allowances or losses shall be deducted against that qualifying income in accordance with the following provisions —
(a) in the case where those unabsorbed allowances or losses do not exceed that chargeable qualifying income multiplied by the adjustment factor, that chargeable qualifying income shall be reduced by an amount arrived at by dividing those unabsorbed allowances or losses by the adjustment factor, and those unabsorbed allowances or losses shall be nil; and

(b) in any other case, those unabsorbed allowances or losses shall be reduced by an amount arrived at by multiplying that chargeable qualifying income by the adjustment factor, and those unabsorbed allowances or losses so reduced shall be added to, and be deemed to form part of, the corresponding allowances or losses in respect of the normal income, for the next succeeding year of assessment in accordance with section 20 or 30 (as the case may be) of the Income Tax Act, and that chargeable qualifying income shall be nil.

(3) Where a post pioneer company ceases to derive any qualifying income in the basis period for any year of assessment but derives normal income in that basis period, subsection (1) shall apply, with the necessary modifications, to any unabsorbed allowances or losses in respect of the qualifying income of the company for any year of assessment subsequent to that year of assessment.

(4) Where a post pioneer company ceases to derive any normal income in the basis period for any year of assessment but derives qualifying income in that basis period, subsection (2) shall apply, with the necessary modifications, to any unabsorbed allowances or losses in respect of the normal income of the company for any year of assessment subsequent to that year of assessment.

(5) Nothing in subsections (1) to (4) shall be construed as affecting the application of section 20 or 30 of the Income Tax Act unless otherwise provided in this section.

(6) In this section —

"adjustment factor", in relation to any year of assessment, means the factor ascertained in accordance with the formula

\[
\frac{A}{B}
\]

where A is the rate of tax under section 35 of the Income Tax Act for that year of assessment; and

B is the concessionary rate of tax for that year of assessment at which the qualifying income is subject to tax;

"allowances" means the allowances under section 13, 14, 16, 16A, 17, 18 or 20 including unabsorbed allowances which arose in any year of assessment prior to the year of assessment 2002;
"chargeable normal income" means normal income after deducting expenses, donations, allowances or losses allowable under the Income Tax Act against the normal income;

"chargeable qualifying income" means the qualifying income after deducting expenses, donations, allowances or losses allowable under the Income Tax Act against the qualifying income;

"losses" means losses which are deductible under section 30 of the Income Tax Act including unabsorbed losses incurred in respect of any year of assessment prior to the year of assessment 2002;

"normal income" means income subject to tax at the rate of tax under section 35 of the Income Tax Act;

"unabsorbed allowances or losses in respect of the qualifying income" means the balance of such allowances or losses after deducting expenses, donations, allowances or losses allowable under the Income Tax Act against the qualifying income;

"unabsorbed allowances or losses in respect of the normal income" means the balance of such allowances or losses after deducting expenses, donations, allowances or losses allowable under the Income Tax Act against the qualifying income;

"qualifying income" means the income of a post-pioneer company in respect of its qualifying activities.

PART V

EXPANSION OF ESTABLISHED ENTERPRISES

Power and procedure for declaring an industry and a product an approved industry and an approved product.

30. (1) Subject to subsection (2), where the Minister is satisfied that the increased manufacture of the product of any industry would be of economic benefit to Brunei Darussalam, he may, if he considers it expedient in the public interest to do so, by order, declare that industry to be an approved industry and the product thereof to be an approved product for the purposes of this Part.

(2) The Minister may revoke any order made under this section but any such revocation shall not affect the operation of any expansion certificate issued to any expanding enterprise before the revocation.
Issue of expansion certificate and amendment thereof.

31. (1) Any company intending to incur new capital expenditure for the purpose of the manufacture or increased manufacture of an approved product may —

(a) where the expenditure exceeds $1 million; or

(b) where the expenditure is less than $1 million but exceeds $500,000, and will result in an increase of not less than 30% in value at the original cost of all the productive equipment of the company,

make an application in writing to the Minister to be approved as an expanding enterprise, in such form and with such particulars as may be prescribed.

(2) Where the Minister is satisfied that it is expedient in the public interest to do so, he may approve that company as an expanding enterprise and issue an expansion certificate to the company, subject to such terms and conditions as he thinks fit.

(3) In this Part, "new capital expenditure" means expenditure incurred by a company in the purchase of productive equipment which is intended to increase its production or profitability.

(4) Any expenditure incurred in the purchase of productive equipment which is not new shall be deemed not to be new capital expenditure unless it is proved to the satisfaction of the Minister that —

(a) the purchase of the productive equipment is economically justifiable; and

(b) the purchase price represents a fair open market value of the productive equipment.

(5) Every expansion certificate issued under this section shall specify the date on or before which the productive equipment shall be put into operation and that date shall be deemed to be the expansion day for the purpose of this Part.

(6) The Minister may, in his discretion, upon the application of any expanding enterprise, amend its expansion certificate by substituting for the expansion day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the expansion day in relation to that expanding enterprise.

Tax relief period of expanding enterprise.

32. (1) The tax relief period of an expanding enterprise shall commence on its expansion day or if the expansion day falls within the tax relief period specified in any certificate previously issued to the enterprise under Part II or VII for the same or similar product, commence on the day immediately following the expiry of that tax relief period and shall —
(a) where such expanding enterprise has incurred new capital expenditure not exceeding $1 million, continue for a period of 3 years; and

(b) where such expanding enterprise has incurred new capital expenditure exceeding $1 million, continue for a period of 5 years.

(2) The Minister may, where he is satisfied that it is expedient in the public interest to do so and subject to such terms and conditions as he may impose, extend the tax relief period of an expanding enterprise for such further period or periods, not exceeding 3 years at any one time, as he may determine, except that the tax relief period of the expanding enterprise shall not in the aggregate exceed 15 years.

Application of section 10 to expanding enterprise.

33. Section 10 shall apply, with the necessary modifications, to an expanding enterprise as it applies to a pioneer enterprise.

Tax relief.

34. (1) Subject to the provisions of this Order, an expanding enterprise is entitled, during its tax relief period, to relief in the manner provided by this section.

(2) The income of the expanding enterprise in respect of its trade or business to which its expansion certificate relates (referred to in this Part as the expansion income) shall be ascertained, for any accounting period during its tax relief period, in accordance with the provisions of the Income Tax Act and any regulations made under this Order.

(3) In determining the income of the expanding enterprise, the allowances provided for in sections 13, 14, 15, 16, 17 and 18 of the Income Tax Act shall be taken into account.

(4) Where an expanding enterprise carries on trading activities other than those to which its expansion certificate relates, the expansion income to be ascertained for the purposes of this section shall be determined in such manner as appears to the Collector to be reasonable in the circumstances.

(5) Where in the opinion of the Collector the carrying on of such trading activities is subordinate or incidental to the carrying on of the trade or business to which its expansion certificate relates, the income or loss arising from such activities shall be deemed to form part of the expansion income of the expanding enterprise.

(6) The expansion income so ascertained shall be compared with the average corresponding income (referred to in this section as the pre-relief income) of the expanding enterprise as determined in subsection (8) and relief shall be given to the following extent —

(a) where the pre-relief income equals or exceeds the expansion income, no relief shall be given;
(b) where the expansion income exceeds the pre-relief income, the amount of
the excess shall not form part of the statutory income of the expanding
enterprise for any year of assessment and shall be exempt from tax.

(7) The amount of exempt income shall not, unless the Minister in his discretion
otherwise decides, exceed the sum which bears the same proportion to the expansion income
as the new capital expenditure on productive equipment bears to the total of such new capital
expenditure and the value at original cost of the productive equipment owned or used by the
expanding enterprise prior to its expansion.

(8) For the purposes of subsection (6), the average corresponding income of an
expanding enterprise, in relation to a certificate issued under section 31, shall be determined
by taking one-third of the total of the corresponding income of the expanding enterprise for
the 3 years immediately preceding the expansion day specified in that certificate.

(9) Where an expanding enterprise has carried on the trade or business to which its
certificate relates for less than 3 years immediately prior to its expansion day or where the
expanding enterprise has no corresponding income for any of those 3 years, the Minister may
specify such amount to be its average corresponding income as he thinks fit.

(10) Where an expanding enterprise has been approved as a pioneer enterprise or as
an export enterprise or as both, the total amount of income exempted under this section and
Part II or VII shall not exceed 100% of the expansion income.

Exemption from income tax of dividends from expanding enterprise.

35. (1) As soon as any amount of expansion income has become exempt under section
34, that amount shall be credited to an account to be kept by the expanding enterprise for the
purposes of this section.

(2) Where that account is in credit at the date on which any dividends are paid by the
expanding enterprise out of income which has been exempted, an amount equal to those
dividends or to that credit, whichever is the less, shall be debited to the account.

(3) So much of the amount of any dividends so debited to that account as are
received by a shareholder of the expanding enterprise shall, if the Collector is satisfied with
the entries in the account, be exempt from tax in the hands of the shareholder.

(4) Notwithstanding subsection (3), where a dividend is paid on any share of a
preferential nature, it shall not be so exempt in the hands of the shareholder.

(5) Any dividends debited to that account shall be treated as having been distributed
to the shareholders of the expanding enterprise or any particular class of those shareholders in
the same proportions as the shareholders were entitled to payment of the dividends giving
rise to the debit.
The expanding enterprise shall deliver to the Collector a copy of that account, made up to a date specified by him, whenever called upon to do so by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining the account.

Notwithstanding section 34 and subsections (1) to (6) where it appears to the Collector that —

(a) any amount of exempted income of an expanding enterprise; or

(b) any dividend exempted in the hands of any shareholder, including any dividend paid by a holding company to which subsection (10) applies,

ought not to have been exempted by reason of a direction under section 10 (as applied to this Part by section 33) or the revocation under section 114 of an expansion certificate issued to the expanding enterprise, the Collector may, subject to section 62 of the Income Tax Act —

(i) make such assessment or additional assessment upon the expanding enterprise or any such shareholder as may appear to be necessary in order to counteract any profit obtained from any such amount; or

(ii) direct the expanding enterprise to debit its account, kept in accordance with subsection (1), with such amount as the circumstances require.

Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, with the necessary modifications, to any direction given under subsection (7) as if it were a notice of assessment given under those provisions.

Section 36 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is debited to the account required to be kept for the purposes of this section.

Where an amount has been received by way of dividend from an expanding enterprise by a shareholder and the amount is exempt from tax under this section, if that shareholder is a company (referred to in this section as the holding company) which holds, at the time any dividend is declared, the beneficial interest in all the issued shares of the expanding enterprise (or in not less than such proportion of those shares as the Minister may approve), any dividends paid by the holding company to its shareholders, to the extent that the Collector is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders; and section 36 of the Income Tax Act shall not apply in respect of any dividend or part thereof so exempt.
PART VI

EXPANDING SERVICE COMPANIES

Application for and issue and amendment of certificate for expanding service company.

36. (1) Where a company engaged in any qualifying activity as defined in section 17 intends to substantially increase the volume of that activity, it may make an application in writing to the Minister to be approved as an expanding service company.

(2) Where the Minister is satisfied that it is expedient in the public interest to do so, he may approve that company as an expanding service company and issue a certificate to the company, subject to such terms and conditions as he thinks fit.

(3) Every certificate issued under this section shall specify a date (not earlier than 1st. January, 2001) on or before which the expansion of the qualifying activity shall commence and that date shall be deemed to be the expansion day for the purpose of this Part.

Tax relief period of expanding service company.

37. (1) The tax relief period of an expanding service company shall —

(a) commence on its expansion day; or

(b) if the expansion day falls within the tax relief period specified in any certificate previously issued to the company for the same or similar qualifying activity under Part III, commence on the day immediately following the expiry of that tax relief period,

and shall continue for such period, not exceeding 11 years, as the Minister may, in his discretion, determine.

(2) The Minister may, where he is satisfied that it is expedient in the public interest to do so and subject to such terms and conditions as he may impose, extend the tax relief period of an expanding enterprise for such further period or periods, not exceeding 5 years at any one time, as he may determine, except that the tax relief period of the expanding enterprise shall not in the aggregate exceed 20 years.

Application of certain sections to expanding service company.

38. Subsection (6) of section 31 and sections 33 to 35 shall apply to an expanding service company under this Part and for the purposes of such application —

(a) any reference to an expanding enterprise shall be read as a reference to an expanding service company;
(b) any reference to an expansion certificate shall be read as a reference to a certificate issued under subsection (2) of section 36;

(c) subsection (7) of section 34 shall not have effect.

PART VII

PRODUCTION FOR EXPORT

Power to approve a product or produce as an export product or export produce.

39. The Minister may, if he considers it expedient in the public interest to do so, approve any product manufactured in Brunei Darussalam or any produce of agriculture, forestry or fisheries as an export product or export produce for the purposes of this Part.

Application for the issue of export enterprise certificate.

40. (1) The Minister may, on the application in the prescribed form of any company which is manufacturing or proposes to manufacture any export product or is engaged or proposes to engage in agriculture, forestry and fishery activities, either wholly or partly for export, approve the company as an export enterprise and issue to the company an export enterprise certificate subject to such terms and conditions as he thinks fit.

(2) Every export enterprise certificate issued under this section shall specify the accounting period in which it is expected that the export sales of the export product or export produce —

(a) will be not less than 20% of the value of its total sales; and

(b) will not be less than $20,000,

and that accounting period shall be deemed to be the export year of the export enterprise for the purposes of this Part.

(3) For the purposes of this Part —

"export sales" means export sales (f.o.b.) whether made directly by the export enterprise or through an agent or independent contractor;

"f.o.b." means free on board.

Amendment of export enterprise certificate.

41. The Minister may, in his discretion, upon the application of the export enterprise, amend its export enterprise certificate by substituting for the export year specified therein such other earlier or later accounting period as he thinks fit and thereupon the provisions of
this Part shall have effect as if the accounting period so substituted were the export year in relation to that export enterprise.

Tax relief period.

42. (1) The tax relief period of an export enterprise shall —

(a) not being a pioneer enterprise, commence from its export year and shall continue for a period of 8 years inclusive of the export year; or

(b) being a pioneer enterprise, commence on the first day of its export year or, if the export year falls within the period of its old trade or business, on the date of the commencement of its new trade or business, and shall continue for a period of 6 years and shall not in the aggregate exceed 11 years.

(2) Notwithstanding subsection (1), where an export enterprise has incurred or is intending to incur a fixed capital expenditure of —

(a) not less than $50 million; or

(b) not less than $500,000 but less than $50 million and —

(i) more than 40% of the paid-up capital of the export enterprise is held by citizens and persons to whom a Resident Permit has been granted under regulations made under the Immigration Act (Chapter 17); and

(ii) in the opinion of the Minister the export enterprise will promote or enhance the economic or technological development of Brunei Darussalam,

its tax relief period —

(A) where the export enterprise is not a pioneer enterprise, shall commence from its export year and continue for a period of 15 years inclusive of the export year; or

(B) where the export enterprise is a pioneer enterprise, shall commence from its export year or, if the export year falls within the period of its old trade or business, from the date of the commencement of its new trade or business, and continue for such period as together with its tax relief period as a pioneer enterprise will extend in the aggregate to 15 years.

(3) The Minister may, where he is satisfied that it is expedient in the public interest to do so and subject to such terms and conditions as he may impose, extend the tax relief period of any export enterprise for such further period as he thinks fit.
In subsection (2), "fixed capital expenditure" means capital expenditure which has been or is intended to be incurred by the export enterprise, in connection with its export product, on its factory building (excluding land) in Brunei Darussalam, and on any new plant or new machinery used in Brunei Darussalam and, subject to the approval of the Minister, on any secondhand plant or secondhand machinery used in Brunei Darussalam.

Power to give directions.

43. Section 10 shall apply, with the necessary modifications, to an export enterprise as it applies to a pioneer enterprise.


44. (1) Part X of the Income Tax Act (relating to returns of income) shall apply in all respects as if the whole of the income of an export enterprise in respect of its export profits were chargeable to tax.

(2) The annual return of income shall be accompanied by a separate export statement showing the quantity and value at f.o.b. prices of its export product or export produce exported during the accounting period in respect of which the return is furnished, together with such further evidence as, in the opinion of the Collector, is necessary to verify the accuracy of the export statement.

Cognizance of export.

45. For the purposes of tax relief to an export enterprise, the Collector may take cognizance of the export of any export product or export produce when the export has been made in accordance with the provisions of the Customs Act (Chapter 36) or any regulations made thereunder, as the case may be, but if the Collector is satisfied that in the course of the export of the product or produce a breach of the provisions of this Order or any regulations made thereunder has been committed, he may refuse to take cognizance of the export of the product or produce and refuse a claim for tax relief in respect of the export.

Export to be in accordance with regulations and conditions.

46. No export product or export produce shall be exported by an export enterprise except in accordance with such regulations as are prescribed and under such conditions as may be approved by the Controller of Customs.

Computation of export profits.

47. (1) The income of an export enterprise in respect of its trade or business to which its export enterprise certificate relates shall be ascertained (after making any necessary adjustments in consequence of a direction under section 10, as applied to this Part by section 43) for any accounting period during its tax relief period in accordance with the provisions of
the Income Tax Act, before taking into account the allowances provided for in sections 13, 14, 15, 16, 17 and 18 of that Act.

(2) The total export profits of an export enterprise shall be deemed to be that part of the income so ascertained which bears the same proportion to that income as the total value of the export sales (f.o.b.) of its export product or export produce whether made, directly or indirectly, by sale to an independent exporter (referred to in this Part as the export sales) bears to the total value of the sums receivable in respect of —

(a) its domestic sales of manufactured products or produce at ex-factory prices;

(b) its export sales (f.o.b.) of its export product and export produce;

(c) its export sales (f.o.b.) of other products; and

(d) all other sales and provisions of service,

(referred to in this Part as the total sales).

(3) Where a company exports any products or produce to which its export enterprise certificate relates, the amount of its export profit arising from the export of those products or produce which will qualify for the relief provided by section 49 is the excess of that profit over a fixed sum to be determined in the following manner —

(a) in the case of a company which has previously exported those products or produce, the average annual export profit of the company shall be ascertained in the manner provided by subsection (5); and

(b) in the case of a company which has not prior to its application under section 38 exported those products or produce for 3 years immediately preceding its application, the fixed sum shall be such an amount as the Minister may determine having regard to the total sales of the company and the percentage of the total sales of other major export enterprises exporting like articles.

(4) Where such a company is a pioneer enterprise, subsection (3) shall apply notwithstanding that the company was deemed to commence a new trade or business at the end of its tax relief period as a pioneer enterprise.

(5) For the purposes of this section —

(a) "average annual export profit" means a sum equal to one-third of the total export profits of the company from the export of those products or produce ascertained in the manner provided by subsection (2) during the 3 years immediately preceding the date of its application under section 40; and

(b) where a company has adopted an accounting period ending on a date other than 31st. December, the Collector may make such adjustment on a time
Conditions for relief.

48. (1) The tax relief provided under this Part applies to an export enterprise during its tax relief period subject to the following conditions —

(a) in respect of the first year of assessment, for which the export year forms the basis period, the export sales shall amount, in proportion, to not less than 20% of the total sales and, in value, to not less than $20,000 during that accounting period;

(b) in respect of subsequent years of assessment, subject to the export sales having satisfied that minimum proportion and value in the export year or where a direction has been made by the Minister under subsection (2) in respect of that year, the export sales shall amount in value to not less than $20,000 during the relevant accounting period; and

(c) where the minimum requirements as to proportion and value have not been satisfied in the export year, and no direction has been made by the Minister under subsection (2), the relief provided by this Part shall apply for the first time only in respect of a year of assessment where during the relevant accounting period the minimum requirements as to proportion and value have both been satisfied or where a direction to this effect has been made by the Minister under subsection (2), and thereafter shall continue to be available where during the relevant accounting period the minimum requirement as to value has been satisfied.

(2) Notwithstanding subsection (1), where, in its export year, the export sales of an export enterprise amount in value to $20,000 or more, but in proportion, to less than 20% of the total sales, and the Minister is satisfied, on the representations of the enterprise that the failure to realise that proportion of the total sales was due to causes beyond the control of the enterprise, or having regard to the quantum of its output and sales other than export sales, it is reasonable and expedient in the public interest to do so, the Minister may direct that the relief provided under this Part shall apply in respect of the year of assessment corresponding to its export year or in respect of any subsequent year of assessment during its tax relief period.

Tax relief on export profits.

49. (1) Where an amount of the export profit of an export enterprise qualifies under sections 47 and 48 for the relief provided by this section (referred to in this section as the qualifying export profit), there shall be deducted from that amount such part of the allowances provided for in sections 13, 14, 15, 16, 17 and 18 of the Income Tax Act as may be attributable to the qualifying export profit; and the part of the allowances so attributable to the qualifying export profit shall be deemed to be such amount which bears the same proportion to the total allowances deductible by the export enterprise under sections 13, 14,
15, 16, 17 and 18 of the Income Tax Act as the amount of the qualifying export profit bears to the income of the export enterprise ascertained under subsection (1) of section 47.

(2) For each year of assessment the Collector shall issue to the export enterprise a statement for that year of assessment showing the balance of the qualifying export profit after deduction of the allowances under subsection (1) and the provisions of Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, with the necessary modifications, as if such a statement were a notice of assessment given under those provisions.

(3) Subject to subsection (7) of section 50, where any statement issued under subsection (2) has become final and conclusive, an amount equal to 100% of the balance of such qualifying export profit shall not form part of the statutory income of the export enterprise for that year of assessment and shall be exempt from tax.

Certain dividends exempted from income tax.

50. (1) As soon as any amount of export income has become exempt under section 49, that amount shall be credited to an account to be kept by the export enterprise for the purposes of this section.

(2) Where that account is in credit at the date on which any dividends are paid by the export enterprise out of income which has been exempted, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

(3) So much of the amount of any dividends so debited to that account as are received by a shareholder of the export enterprise shall, if the Collector is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

(4) Notwithstanding subsection (3), where a dividend is paid on any share of a preferential nature, it shall not be so exempt in the hands of the shareholder.

(5) Any dividends debited to that account shall be treated as having been distributed to the shareholders of the export enterprise or any particular class of the shareholders in the same proportions as the shareholders were entitled to payment of the dividends giving rise to the debit.

(6) The export enterprise shall deliver to the Collector a copy of that account, made up to a date specified by him, whenever called upon to do so by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining the account.

(7) Notwithstanding section 49 and subsections (1) to (6) where it appears to the Collector that —

(a) any amount of exempted income of an export enterprise; or
(b) any dividend exempted in the hands of any shareholder, including any dividend paid by a holding company to which subsection (10) applies,

ought not to have been exempted by reason of a direction under section 10, as applied to this Part by section 43, having been made with respect to the export enterprise, after any income of that enterprise has been exempted under the provisions of this Order or the revocation under section 114 of a certificate issued to the export enterprise, the Collector may, subject to section 62 of the Income Tax Act —

(i) make such assessment or additional assessment upon the export enterprise or any such shareholders as may appear to be necessary in order to counteract any profit obtained from any such amount which ought not to have been exempted; or

(ii) direct the export enterprise to debit its account, kept in accordance with subsection (1), with such amount as the circumstances require.

(8) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, with the necessary modifications, to any direction given under subsection (7) as if it were a notice of assessment given under those provisions.

(9) Section 36 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is debited to the account required to be kept for the purposes of this section.

(10) Where an amount has been received by way of dividend from an export enterprise by a shareholder and the amount is exempt from tax under subsections (1) to (9), if that shareholder is a company (referred to in this section as the holding company) which holds, at the time any dividend is declared, the beneficial interest in all the issued shares of the export enterprise (or in not less than such proportion of those shares as the Minister may approve), any dividends paid by the holding company to its shareholders, to the extent that the Collector is satisfied that those dividends are paid out of that amount, shall be exempt from tax in the hands of those shareholders; and section 36 of the Income Tax Act shall not apply in respect of any dividend or part thereof so exempt.

Power of entry into premises and taking of samples.

51. Any officer, authorised by the Collector or any senior officer of customs or any officer of customs authorised by a senior officer of customs for the purpose, shall at all times have access to any premises of an export enterprise or of an independent exporter of any export product or export produce or any place where any export product or export produce is stored, for the purpose of checking the production, storage and packing of the export product or export produce and all records and accounts thereof, and for such other purpose as may be deemed necessary, and may take samples of any goods therefrom.
No relanding of export product or export produce.

52. No export product or export produce shall, unless the Controller of Customs otherwise authorises, be relanded at any time in Brunei Darussalam after they have been exported.

Powers of search, seizure and arrest by officers of customs.

53. Notwithstanding any written law to the contrary, if there is reasonable cause to believe that an offence has been or is being committed under section 46 or 52 of this Order or any regulations made thereunder in relation to any export product or export produce, sections 90 and 91 and Part XII of the Customs Act (Chapter 36) (relating to search, seizure and arrest) shall apply, insofar as they are applicable, as if the export product or export produce were goods that were dutiable and uncustomed goods or goods liable to forfeiture under the Customs Act, and as if the offence had been or were being committed under that Act.

Offence under other laws deemed to be an offence under this Order.

54. Where an export product or export produce is the subject-matter of an offence committed under the Customs Act (Chapter 36), or any regulations made thereunder, and the Collector is satisfied that, if the offence had not been detected, the export enterprise concerned in the commission of such an offence would have been able to claim relief from tax to which it was not entitled, then such an offence shall be deemed to be an offence under this Order whether a claim for tax relief has been made or not and may be dealt with accordingly but so that no person shall be punished more than once for the same offence.

PART VIII

EXPORT OF SERVICES

Interpretation of this Part.

55. For the purposes of this Part, unless the context otherwise requires —

"commencement day", in relation to an export service company or export service firm, means the date specified under subsection (3) of section 56 in the certificate issued to that company or firm under that section;

"export service company" means a company which has been issued with a certificate under subsection (2) of section 56;

"qualifying services” means any of the following services undertaken with respect to overseas projects for persons who are neither residents of nor permanent establishments in Brunei Darussalam —

(a) technical services including construction, distribution, design and engineering services;
(b) consultancy, management, supervisory or advisory services relating to any technical matter or to any trade or business;

(c) fabrication of machinery and equipment and procurement of materials, components an equipment;

(d) data processing, programming, computer software development, telecommunications and other computer services;

(e) professional services including accounting, legal, medical and architectural services;

(f) educational and training services; and

(g) any other services as the Minister may prescribe.

Application for and issue of certificate to export service company.

56. (1) Where a company is engaged in any qualifying service, the company may apply in the prescribed form to the Minister for approval as an export service company.

(2) The Minister may if he considers it expedient in the public interest to do so, approve the application and issue the company with a certificate, subject to such terms and conditions as he may impose.

(3) Every certificate issued to an export service company under this section shall specify —

(a) a date as the commencement day from which the company shall be entitled to tax relief under this Part;

(b) its qualifying services; and

(c) its base amount of income for the purpose of subsection (2) of section 59.

(4) The Minister may, in his discretion, upon the application of an export service company, amend its certificate by substituting for the commencement day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the commencement day in relation to that certificate.

Tax relief period of export service company.

57. (1) The tax relief period of an export service company shall commence on its commencement day and shall continue for such period, not exceeding 11 years, as the Minister may, in his discretion, determine.
(2) The Minister may, where he is satisfied that it is expedient in the public interest to do so and subject to such terms and conditions as he may impose, extend the tax relief period of any export service company or firm for such further periods, not exceeding 3 years at any one time, as he may determine, except that the tax relief period of the export service company shall not in the aggregate exceed 20 years.

Application of certain sections to export service company.

58. (1) Section 10 shall apply, with the necessary modifications, to an export service company as it applies to a pioneer enterprise.

(2) Section 50 shall apply, with the necessary modifications, to an export service company as it applies to an export enterprise.

(3) Sections 68 and 69 shall apply, with the necessary modifications, to an export service company as they apply to an international trading company and for the purposes of such application, the reference in subsection (2) of section 68 to the export sales of qualifying manufactured goods, Brunei Darussalam domestic produce and qualifying commodities shall be read as a reference to the provision of qualifying services.

Ascertainment of income of export service company.

59. (1) The income of an export service company in respect of its qualifying services shall be ascertained (after making such adjustments as may be necessary in consequence of a direction under section 10 as made applicable by section 58) for any accounting period during its tax relief period in accordance with the Income Tax Act, and, in particular, the following provisions shall apply —

(a) income from sources other than the qualifying services shall be excluded and separately assessed;

(b) there shall be deducted in arriving at the income derived from the qualifying services —

(i) all direct costs and expenses incurred in respect of the qualifying services;

(ii) all indirect expenses which are reasonably and properly attributable to the qualifying services;

(c) the allowances provided for in sections 13 to 18 of the Income Tax Act attributable to income derived from the qualifying services during the tax relief period shall be taken into account; and

(d) for the purposes of subparagraph (ii) of paragraph (b) and paragraph (c), the amounts attributable to the qualifying services shall be determined on such basis as the Collector thinks reasonable and proper.
(2) The amount of income ascertained under subsection (1) which will qualify for the relief under section 60 shall be the excess of the amount of the income ascertained under subsection (1) over a base amount of income to be determined by the Minister.

Controller to issue statement of income.

60. (1) For each year of assessment, the Collector shall issue to an export service company or firm a statement for that year of assessment showing the amount of income ascertained under subsection (2) of section 59 which will qualify for the relief provided by this section, and Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, with the necessary modifications, as if that statement were a notice of assessment given under those provisions.

(2) Subject to subsection (7) of section 50, where any statement issued under subsection (1) has become final and conclusive, 100% of the amount of the qualifying income referred to in subsection (1) shall not form part of the statutory income of the export service company or firm for the year of assessment to which the income relates and shall be exempt from tax.

Certification by auditor.

61. The Controller may require an auditor to certify the income derived by an export service company from its qualifying services and any direct costs and expenses incurred therefor.

Deduction of allowances and losses.

62. The Minister may by regulations provide, in relation to an export service company, for the deduction of —

(a) any unabsorbed allowances provided for under sections 13 to 18 of the Income Tax Act attributable to income derived from qualifying services by it during its tax relief period otherwise than in accordance with section 20 of that Act; and

(b) losses incurred by it during its tax relief period otherwise than in accordance with subsection (2) of section 30 of the Income Tax Act.

PART IX

INTERNATIONAL TRADE INCENTIVES

Interpretation of this Part.

63. For the purposes of this Part, unless the context otherwise requires —
"commencement day", in relation to an international trading company, means the date specified in the certificate issued to the company as the date from which that company shall be entitled to tax relief under this Part;

"export sales" means export sales free on board but shall exclude the cost of samples, gifts, test-market materials, trade exhibits and other promotional materials;

"international trading company" means a company which has been issued with a certificate under section 64;

"qualifying commodities" means any commodity in respect of which one or more certificates of origin or other documents have been issued by the Minister for the purpose of the export of such commodity;

"qualifying manufactured goods" means Brunei Darussalam manufactured goods in respect of which one or more certificates of origin or other documents indicating that the goods are manufactured in Brunei Darussalam have been issued by the Minister for the purpose of the export of such goods;

"relevant export sales" means the export sales of an international trading company in respect of qualifying manufactured goods and Brunei Darussalam domestic produce or in respect of qualifying commodities, as the case may be;

"Brunei Darussalam domestic produce" means prawns, fish (including aquarium fish), chicken, ornamental plants and orchids produced in Brunei Darussalam and such other domestic produce as may be approved by the Minister.

**International trading company.**

64. (1) Where a company is engaged in —

(a) international trade in qualifying manufactured goods or Brunei Darussalam domestic produce and the export sales of those goods or produce separately or in combination exceed or are expected to exceed $3 million per annum; or

(b) entrepot trade in any qualifying commodities and the export sales of those qualifying commodities exceed or are expected to exceed $5 million per annum,

the company may apply in the prescribed form to the Minister for approval as an international trading company.

(2) The Minister may, if he considers it expedient in the public interest to do so, approve the application and issue the company with a certificate subject to such terms and conditions as he thinks fit.
(3) The Minister may issue separate certificates to an international trading company for the purposes of paragraphs (a) and (b) of subsection (1).

(4) Every certificate issued under this section shall specify a date as the commencement day from which the company shall be entitled to tax relief under this Part.

(5) The Minister may, in his discretion upon the application of an international trading company, amend its certificate by substituting for the commencement day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the commencement day in relation to that certificate.

(6) A company shall furnish to the Minister at the time of application to be an international trading company a statement of all its associated companies and export agents and the activities they are engaged in and such other particulars as may be required; and where there is any change in the particulars, the company shall notify the Minister as soon as possible of the change.

**Tax relief period of international trading company.**

65. The tax relief period of an international trading company, in relation to any certificate issued to that company, shall commence on the commencement day and shall continue for a period of 8 years.

**Power to give directions**

66. For the purposes of the Income Tax Act and this Order, the Collector may direct that —

(a) any sums payable to an international trading company in any accounting period which, but for the provisions of this Order might reasonably and properly have been expected to be payable, in the normal course of business, after the end of that period shall be treated as not having been payable in that period but as having been payable on such date, after that period, as the Collector thinks fit and, where that date is after the end of the tax relief period of the international trading company, as having been so payable on that date as a sum payable in respect of its post tax relief trade or business; and

(b) any expenses incurred by an international trading company within one year after the end of its tax relief period which, but for the provisions of this Order might reasonably and properly have been expected to be incurred, in the normal course of business, during its tax relief period shall be treated as not having been incurred within that year but as having been incurred on such date, during its tax relief period, as the Collector thinks fit.

67. (1) Part X of the Income Tax Act (relating to returns of income) shall apply in all respects as if the whole of the income of an international trading company were chargeable to tax.

(2) The annual return of income shall be accompanied by such evidence as, in the opinion of the Collector, is necessary to verify the income derived from the export sales of qualifying manufactured goods, Brunei Darussalam domestic produce and qualifying commodities.

Ascertainment of income in respect of other trade or business.

68. Where during its tax relief period an international trading company carries on any trade or business which is distinct from the trade or business which includes its relevant export sales, separate accounts shall be maintained in respect of that distinct trade or business and in respect of the same accounting period, and the income from that distinct trade or business shall be computed and assessed in accordance with the provisions of the Income Tax Act with such adjustments as the Collector thinks reasonable and proper.

Computation of export income and exemption from tax.

69. (1) The total income of an international trading company, in respect of its trade or business which includes its relevant export sales, shall be ascertained (after making such adjustments as may be necessary in consequence of any direction given under section 66), for any accounting period during its tax relief period in accordance with the provisions of the Income Tax Act, and, in particular, the following provisions shall apply —

(a) income from any commissions and other non-trading sources shall be excluded and separately assessed;

(b) the allowances provided for in sections 13, 14, 15, 16, 17, and 18 (where applicable) of the Income Tax Act shall be taken into account, and where in any year of assessment full effect cannot, by reason of an insufficiency of profits for that year of assessment, be given to those allowances, section 20 of the Income Tax Act shall apply;

(c) the amount of any unabsorbed allowances in respect of any year of assessment immediately preceding the tax relief period which would otherwise be available under section 20 of the Income Tax Act shall be taken into account;

(d) section 30 of the Income Tax Act shall apply in respect of any loss incurred prior to or during its tax relief period;
(e) any unabsorbed allowances granted under sections 13, 14, 16 and 17 of the Income Tax Act and losses incurred in respect of any distinct trade or business shall be brought into the computation;

(f) any unabsorbed allowances granted under sections 13, 14, 16 and 17 of the Income Tax Act and losses incurred in respect of the trade or business referred to in this subsection shall, during the tax relief period, only be deducted against the income derived from that trade or business;

(g) subject to sections 20 and 30 of the Income Tax Act, any allowances and losses which remain unabsorbed at the end of the tax relief period shall be available for deduction in its post tax relief period.

(2) The amount of the export income of an international trading company which will qualify for the relief for any year of assessment shall be deemed to be such amount which bears to the total income ascertained under subsection (1) the same proportion as the excess of the total value of the relevant export sales over the relevant base export value bears to the total amount of the sums received or receivable in respect of its total sales; and subject to section 70, one-half of the amount of the export income which qualifies for the relief as ascertained in this subsection shall not form part of the chargeable income of the international trading company for that year of assessment and shall be exempt from tax.

(3) The relevant base export value referred to in subsection (2) shall be —

(a) for the basis period for the first year of assessment within the tax relief period of an international trading company, a sum equal to one-third of the total value of the relevant export sales during the 3 years immediately preceding the date of its application to be an international trading company; and

(b) for the basis period for any subsequent year of assessment within the tax relief period, a sum equal to one-third of the total value of the relevant export sales during the 3 qualifying years immediately preceding that basis period.

(4) For the purposes of paragraph (b) of subsection (3), a "qualifying year" is a year in which the export sales —

(a) in respect of qualifying manufactured goods or Brunei Darussalam domestic produce exceed $3 million; and

(b) in respect of qualifying commodities exceed $5 million.

(5) Where an international trading company —

(a) was engaged in the trading of qualifying manufactured goods, Brunei Darussalam domestic produce or qualifying commodities for less than 3 years immediately preceding its application under this Part;
(b) during its tax relief period has acquired any sales in respect of qualifying manufactured goods, Brunei Darussalam domestic produce or qualifying commodities from any person or has acquired the beneficial interest, directly or indirectly, of any company engaged in similar trade or business; or

(c) has less than 3 qualifying years for the purpose of determining its relevant base export value under paragraph (b) of subsection (3), the Minister may specify such other relevant base export value for one or more basis periods as he thinks fit having regard to the circumstances of the case.

Conditions for relief.

70. The tax relief provided under section 69 shall, for a year of assessment, apply only if an international trading company has complied with the conditions stipulated under this Part and such other conditions as may be specified in its certificate.

Certain dividends exempted from income tax.

71. (1) As soon as any amount of chargeable income of an international trading company has become exempt under section 69, that amount shall be credited to a tax exempt account to be kept by the company for the purposes of this Part.

(2) Where a tax exempt account is in credit at the date on which any dividends are paid by a company, out of income which has been so exempted, an amount equal to those dividends or to that credit, whichever is the less, shall be debited to the account.

(3) So much of the amount of any dividends so debited to the tax exempt account as is received by a shareholder of the company shall, if the Collector is satisfied with the entries in the account, be exempt from tax in the hands of the shareholder.

(4) Notwithstanding subsection (3), where a dividend is paid on any share of a preferential nature, it shall not be exempt from tax in the hands of the shareholder.

(5) Any dividends debited to the tax exempt account shall be treated as having been distributed to the shareholders of the company or any particular class of those shareholders in the same proportions as the shareholders were entitled to payment of the dividends giving rise to the debit.

(6) The company shall deliver to the Collector a copy of the tax exempt account, made up to a date specified by him, whenever called upon to do so by notice in writing sent by him to its registered office, until such time as he is satisfied that there is no further need for maintaining the account.

(7) Where an amount has been received by way of dividend from a company by a shareholder and the amount is exempt from tax under this Part, if that shareholder is a company, any dividends paid by that company to its shareholders, to the extent that the
Collector is satisfied that those dividends are paid out of that amount, shall be exempt from
tax in the hands of those shareholders.

**Recovery of tax exempted.**

72. Notwithstanding any other provisions of this Part, where it appears to the Collector
that —

(a) any amount of exempted income of an international trading company; or

(b) any dividend exempted in the hands of any shareholder,

ought not to have been exempted by reason of a direction made under section 66 or the
revocation under section 114 of the certificate issued under section 64 to the company, the
Collector may subject to section 62 of the Income Tax Act —

(i) make such assessment or additional assessment upon the company or any
such shareholder as may appear to be necessary in order to recover such tax
as may have been exempted under this Part; or

(ii) direct the company to debit its tax exempt account with such amount as the
circumstance require.

**Application of Parts XI and XII of Income Tax Act.**

73. (1) Parts XI and XII of the Income Tax Act (relating to objection and appeals) and
any regulations made thereunder shall apply, with the necessary modifications, to any
direction given under section 72 as if it were a notice of assessment given under those
provisions.

(2) Section 36 of the Income Tax Act shall not apply in respect of any dividend or
part thereof which is exempted from tax under this Part.

**Application of certain sections to international trading company.**

74. Sections 45, 51, 52, 53 and 54 shall apply, with the necessary modifications, to an
international trading company as they apply to an export enterprise and the reference to
export product or export produce in those sections shall be read as a reference to qualifying
manufactured goods, Brunei Darussalam domestic produce or qualifying commodities.
PART X
FOREIGN LOANS FOR PRODUCTIVE EQUIPMENT

Application for and issue of approved foreign loan certificate.

75. (1) Where a company engaged in any industry is desirous of raising a loan of not less than $200,000 from a non-resident person (referred to in this Part as a foreign lender) by means of a financial agreement whereby credit facilities are granted for the purchase of productive equipment for the purposes of its trade or business, the company may apply to the Minister for a certificate certifying that foreign loan to be an approved foreign loan.

(2) The Minister may, where he thinks it expedient to do so, consider an application for a foreign loan certificate in respect of a foreign loan of less than $200,000.

(3) The application shall be in such form and with such particulars as may be prescribed, and shall be accompanied by a copy of the financial agreement.

(4) Where the Minister is satisfied as to the bona fides of such an application and that it is expedient in the public interest to do so, he may issue a certificate certifying the loan specified in the application as an approved foreign loan.

(5) Every certificate issued under subsection (4) shall be in such form and contain such particulars as may be prescribed, and shall be subject to such terms and conditions as the Minister thinks fit.

Restriction on disposal of specified productive equipment.

76. Any productive equipment purchased and financed from an approved foreign loan shall not be sold, transferred, or otherwise disposed of without the prior written permission of the Minister, unless the loan has been repaid in full.

Exemption of approved foreign loan interest from tax.

77. (1) Notwithstanding section 37 of the Income Tax Act, the Minister may, subject to subsection (2), if he is satisfied that it is expedient in the public interest to do so, by an endorsement to that effect on the approved foreign loan certificate, exempt from tax any interest on an approved foreign loan payable to a foreign lender.

(2) Where a company has contravened section 76 or any conditions imposed by the Minister under subsection (4) of section 75, the amount which, but for subsection (1), would have been deductible by the company from the interest paid by it to the foreign lender under section 37 of the Income Tax Act shall be deemed to have been deducted from that interest and shall be a debt due from the company to the Government and be recoverable in the manner provided by section 76 of the Income Tax Act.
(3) No action shall be taken by the Collector to recover any debt under subsection (2) without the prior sanction of the Minister.

Exemption of additional interest on approved foreign loan from tax.

78. (1) Subject to subsection (3), section 77 shall apply to any additional interest payable on an approved foreign loan by reason of any arrangement whereby the period within which the loan must be repaid in full has been extended.

(2) The rate of interest payable in respect of any such extended period shall not, without the prior sanction of the Minister, be higher than the rate of interest specified in the certificate relating to the approved foreign loan.

(3) Any company making any such arrangement shall give notice thereof in writing to the Minister within 30 days from the date on which the arrangement is made.

PART XI

INVESTMENT ALLOWANCES

Interpretation of this Part.

79. (1) For the purposes of this Part, unless the context otherwise requires —

"approved project" means a project approved by the Minister under subsection (2) of section 80;

"construction operations" means —

(a) construction, alteration, repair, extension or demolition of buildings and structures;

(b) construction, alteration, repair, extension or demolition of any works forming, or to form, part of any land; or

(c) any operations which form an integral part of, or are preparatory to, or are for renderings complete the operations described in paragraph (a) or (b) including site clearance, earth-moving excavation, laying of foundations, site restoration, landscaping and the provision of drains and of roadways and other access works;

"fixed capital expenditure" means capital expenditure to be incurred on an approved project by a company on factory building (excluding land) in Brunei Darussalam, on the acquisition of any know-how or patent rights, and on any new productive equipment (and, subject to the approval of the Minister, on any secondhand productive equipment) to be used in Brunei Darussalam, and the
reference to factory building in this definition shall, in relation to a project under paragraph (b), (c), (d), (f) or (g) of subsection (1) of section 80, include a building or structure specially designed and used for carrying out that project;

"investment day", in relation to a company, means the date specified in its certificate as the date from which the company shall qualify for the investment allowance;

"research and development" has the same meaning as in the Income Tax Act (Chapter 35).

(2) For the purposes of this Part, fixed capital expenditure shall not be deemed to be incurred by a company unless —

(a) in the case of any factory building or productive equipment to be constructed or installed on site, the expenditure is attributable to payment against work done in the construction of the building or the construction or installation of the productive equipment;

(b) in the case of any productive equipment, other than that to be constructed or installed on site, the company has received delivery of the equipment in Brunei Darussalam.

Capital expenditure investment allowance.

80. (1) Where a company proposes to carry out a project —

(a) for the manufacture or increased manufacture of any product;

(b) for the provision of specialised engineering or technical services;

(c) for research and development;

(d) for construction operation;

(e) for the recycling of domestic and industrial waste;

(f) in relation to any qualifying activity as defined in section 17;

(g) for the promotion of the tourist industry (other than a hotel) in Brunei Darussalam,

the company may apply in the prescribed form to the Minister for the approval of an investment allowance in respect of the fixed capital expenditure for the project.

(2) Where the Minister considers it expedient, having regard to the economic, technical and other merits of the project, he may approve the project and issue the company
with a certificate which shall qualify the company for an investment allowance (as stipulated in the certificate) in respect of the fixed capital expenditure for the approved project subject to such terms and conditions as he thinks fit.

(3) Every certificate issued under this section shall specify a date as the investment day from which the company shall be entitled to investment allowance under this Part.

(4) The Minister may, in his discretion upon the application of a company amend its certificate by substituting for the investment day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the investment day in relation to that certificate.

**Investment allowance.**

**81.** (1) The investment allowance granted under section 80 shall be a specified percentage not exceeding 100% of the amount (which may be subject to a specified maximum) of fixed capital expenditure incurred on each item specified by the Minister under subsection (2) on an approved project if the fixed capital expenditure is incurred —

(a) within such period (referred to in this Order as the qualifying period), not exceeding 5 years, commencing from the investment day as the Minister may determine; and

(b) in the case of a project under paragraph (g) of subsection (1) of section 80, within such period (hereinafter referred to as the qualifying period), not exceeding 11 years, commencing from the investment day as the Minister may determine.

(2) The Minister —

(a) shall specify the items of the fixed capital expenditure for the purposes of subsection (1); and

(b) may specify the maximum amount of the investment allowance granted for the approved project.

(3) Where any question arises as to whether a particular item qualifies as one of the items under paragraph (a) of subsection (2), it shall be determined by the Minister whose decision shall be final.

(4) In subsection (1), "specified" means specified by the Minister.

**Crediting of investment allowance.**

**82.** (1) Where in the basis period for a year of assessment a company has incurred fixed capital expenditure, the company shall be given for that year of assessment an investment
allowance in respect of such amount of the fixed capital expenditure as qualifies for the investment allowance under the terms and conditions of its certificate and in accordance with section 81.

(2) Where any investment allowance is given to a company for an approved project, the investment allowance shall be kept in an account to be called “investment allowance account” which shall be kept by the company for the purposes of this Part.

Prohibition to sell, lease out or dispose of assets.

83. (1) During its qualifying period or within 2 years after the end of its qualifying period, a company shall not, without the written approval of the Minister, sell, lease out or otherwise dispose of any assets in respect of which an investment allowance has been given.

(2) Where during its qualifying period or within 2 years after the end of its qualifying period, a company has sold, leased out or otherwise disposed any asset in respect of which an investment allowance has been given, an amount equal to the aggregate of the investment allowance given in respect of that asset shall be recovered.

(3) Where that account is insufficient to give full effect to the recovery, an assessment or additional assessment in respect of the amount unrecovered shall be made upon the company or any shareholder of the company and the tax exempt account, kept in accordance with section 71 (as made applicable by section 85), shall be debited accordingly.

(4) Notwithstanding subsections (2) and (3), the Minister may waive wholly or partly the recovery of the investment allowance.

Exemption from income tax.

84. (1) Where for any year of assessment the investment allowance account of a company is in credit and the company has for that year of assessment any chargeable income —

(a) an amount of the chargeable income, not exceeding the credit in the investment allowance account, shall be exempt from tax and the investment allowance account shall be debited with such amount; and

(b) any remaining balance in the investment allowance account shall be carried forward to be used by the company in the first subsequent year of assessment when the company has chargeable income, and so on for subsequent year of assessment until the credit in the investment allowance account has been fully used.

(2) Any amount of chargeable income of a company debited from the investment allowance account shall be exempt from tax.
Certain dividends exempted from income tax.

85. Section 71 shall apply, with the necessary modifications, to a company which has been granted an investment allowance under this Part as it applies to an international trading company and the reference to section 69 in that section shall be read as a reference to section 84.

Recovery of tax exempted.

86. Notwithstanding any other provisions in this Part, where it appears to the Collector that —

(a) any amount exempted income of a company; or

(b) any dividend exempted in the hands of any shareholder,

ought not to have been exempted by reason of the revocation under section 114 of the certificate issued under section 80 to the company, the Collector may subject to section 62 of the Income Tax Act —

(i) make such assessment or additional assessment upon the company or any such shareholder as may appear to be necessary in order to recover such tax as may have been exempted under this Part; or

(ii) direct the company to debit its tax exempt account with such amount as the circumstances require.

Application of Parts XI and XII of Income Tax Act.

87. (1) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, with the necessary modifications, to any direction given under section 86 as if it were a notice of assessment given under those provisions.

(2) Section 36 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is exempted from tax under this Part.

PART XII

WAREHOUSING AND SERVICING INCENTIVES

Interpretation of this Part.

88. For the purposes of this Part, unless the context otherwise requires —
"commencement day", in relation to a warehousing company or a servicing company, means the date specified in its certificate as the date from which that company shall be entitled to tax relief under this Part;

"earnings" means —

(a) in relation to a warehousing company, the consideration received or receivable from the sales of goods (including the provisions of services connected with or related to such sales) or the commissions received or receivable therefrom; and

(b) in relation to a service company, the consideration received or receivable from the provision of services;

"eligible goods or services", in relation to a warehousing company or a servicing company, means the eligible goods or services specified in the certificate issued to that company under subsection (3) of section 89;

"export earnings" means —

(a) in relation to a warehousing company, the consideration received or receivable from export sales free on board of eligible goods (including the provision of services connected with or related to such sales) or the commissions received or receivable therefrom; and

(b) in relation to a servicing company, the consideration received or receivable from the provision of eligible services to persons outside Brunei Darussalam who are not resident in Brunei Darussalam.

"fixed capital expenditure" means capital expenditure to be incurred on any building (excluding land) and on any new productive equipment (and, subject to the approval of the Minister, on any secondhand productive equipment) to be used in Brunei Darussalam;

"servicing company" means a company which has been approved as a servicing company under section 89;

"warehousing company" means a company which has been approved as a warehousing company under section 89.

Approved warehousing company or servicing company.

89. (1) Any company intending to incur fixed capital expenditure of not less than $2 million for —

(a) the establishment or improvement of warehousing facilities wholly or mainly for the storage and distribution of manufacture goods to be sold and
may apply in the prescribed form to the Minister for approval as a warehousing company or a servicing company.

(2) Where the Minister considers it expedient in the public interest to do so, he may approve the application and issue a certificate to the company subject to such terms and conditions as he thinks fit.

(3) Every certificate issued under this section shall specify —

(a) a date as the commencement day from which the company shall be entitled to tax relief under this Part; and

(b) the eligible goods or services for the purpose of tax relief under this Part.

(4) The Minister may, in his discretion, upon the application of a warehousing company or a servicing company, amend its certificate by substituting for the commencement day specified therein such earlier or later date as he thinks fit and thereupon the provisions of this Part shall have effect as if the date so substituted were the commencement day in relation to that certificate.

**Tax relief period of warehousing company or servicing company.**

90. (1) The tax relief period of a warehousing company or a servicing company shall commence on its commencement day and shall continue for such period, not exceeding 11 years, as the Minister may, in his discretion, determine.

(2) The Minister may, where he is satisfied that it is expedient in the public interest to do so and subject to such terms and conditions as he may impose, extend the tax relief period of any warehousing company or servicing company for such further period or periods, not exceeding 3 years at any one time, as he may determine, except that the tax relief period of the warehousing company or servicing company shall not in the aggregate exceed 20 years.

**Prohibition of acquisition without approval.**

91. (1) During its tax relief period, a warehousing company shall not acquire any sales and a servicing company shall not acquire any services from any other person in connection with its trade or business without the written approval of the Minister.
(2) Where the Minister permits a warehousing company or a servicing company to acquire such sales or services, he may vary the base export earnings as determined under subsection (3) of section 94 and impose such terms and conditions as he thinks fit.

Application of certain sections to warehousing company or servicing company.

92. (1) Sections 66 and 68 shall apply, with the necessary modifications, to a warehousing company or a servicing company as they apply to an international trading company, and the reference in section 68 to relevant export sales shall be read as a reference to export of eligible goods or provision of eligible services.

(2) Sections 45, 46, 51, 52, 53 and 54 shall apply, with the necessary modifications, to a warehousing company as they apply to an export enterprise and the reference to export product or export produce in those sections shall be read as a reference to eligible goods.


93. (1) Part X of the Income Tax Act (relating to returns of income) shall apply in all respects as if the whole of the income of a warehousing company or a servicing company were chargeable to tax.

(2) The annual return of income shall be accompanied by such evidence as, in the opinion of the Collector, is necessary to verify the income derived by a warehousing company or a servicing company.

Computation of export earnings and exemption from tax.

94. (1) The total income of a warehousing company or a servicing company in respect of its trade or business which includes its export of eligible goods or provision of eligible services shall be ascertained (after making such adjustments as may be necessary in consequence of any direction given under section 66 as made applicable by section 92), for any accounting period during its tax relief period in accordance with the provisions of the Income Tax Act, and, in particular, the following provisions shall apply —

(a) income from other non-trading sources shall be excluded and separately assessed;

(b) the allowances provided for in sections 13, 14, 15, 16, 17 and 18 (where applicable) of the Income Tax Act shall be taken into account notwithstanding that no claim for those allowances has been made, and where in any year of assessment full effect cannot, by reason of an insufficiency of profits for that year of assessment, be given to those allowances, section 20 of the Income Tax Act shall apply;

(c) the amount of any unabsorbed allowances in respect of any year of assessment immediately preceding the tax relief period which would
otherwise be available under section 20 of the Income Tax Act shall be taken into account;

\((d)\) section 30 of the Income Tax Act shall apply in respect of any loss incurred prior to or during its tax relief period;

\((e)\) any unabsorbed allowances granted under sections 13, 14, 16, 17 and 18 of the Income Tax Act and losses incurred in respect of any distinct trade or business shall be brought into the computation;

\((f)\) any unabsorbed allowances granted under sections 13, 14, 16, 17 and 18 of the Income Tax Act and losses incurred in respect of the trade or business referred to in this subsection shall, during the tax relief period, only be deducted against the income derived from that trade or business; and

\((g)\) subject to sections 20 and 30 of the Income Tax Act, any allowances and losses which remain unabsorbed at the end of the tax relief period shall be available for deduction in its post tax relief period.

(2) The amount of the export income of a warehousing company or a servicing company which will qualify for the relief for any year of assessment shall be deemed to be such amount which bears to the total income ascertained under subsection (1) the same proportion as the excess of the total amount of the export earnings of that company over its base export earnings bears to the total amount of its earnings; and one-half of the amount of the export income which qualifies for the relief as ascertained in this subsection shall not form part of the chargeable income of the company for the year of assessment and shall be exempt from tax.

(3) The base export earnings referred to in subsection (2) shall be where a warehousing company or a servicing company has been carrying on its trade or business —

\((a)\) for 3 or more years immediately preceding the date of its application under this Part, an amount equal to one-third of the export earnings for the 3 years immediately preceding the date of its application under this Part; and

\((b)\) for less than 3 years immediately preceding the date of its application under this Part, such amount as the Minister may specify having regard to the export earnings of other warehousing companies or servicing companies, as the case may be.

Certain dividends exempted from income tax.

95. Section 71 shall apply, with the necessary modifications, to a warehousing company or a servicing company as it applies to an international trading company and the reference to section 69 in subsection (1) of section 71 shall be read as a reference to section 94.
Recovery of tax exempted.

96. Notwithstanding any other provisions of this Part, where it appears to the Collector that —

(a) any amount of exempted income of a warehousing company or a servicing company; or

(b) any dividend exempted in the hand of any shareholder,

ought not to have been exempted by reason of a direction made under section 66 (as made applicable by section 92) or the revocation under section 114 of the certificate issued under section 89 to the warehousing company or the servicing company, the Collector may subject to section 62 of the Income Tax Act —

(i) make such assessment or additional assessment upon the company or any such shareholder as may appear to be necessary in order to recover such tax as may have been exempted under this Part; or

(ii) direct the company to debit its tax exempt account with such amount as the circumstances may require.

Application of Parts XI and XII of Income Tax Act.

97. (1) Parts XI and XII of the Income Tax Act (relating to objections and appeals) and any regulations made thereunder shall apply, with the necessary modifications, to any direction given under section 96 as if it were a notice of assessment given under those provisions.

(2) Section 36 of the Income Tax Act shall not apply in respect of any dividend or part thereof which is exempted from tax under this Part.

PART XIII

INVESTMENTS IN NEW TECHNOLOGY COMPANIES

Interpretation of this Part.

98. For the purposes of this Part, unless the context otherwise requires —

"eligible holding company", in relation to a technology company, means a company incorporated in Brunei Darussalam —

(a) which is resident in Brunei Darussalam;

(b) which holds shares in the technology company; and
(c) in respect of which not less than 30% of the paid-up capital is beneficially owned by citizens or persons to whom a Resident Permit has been granted under regulations made under the Immigration Act (Chapter 17) throughout the whole of the qualifying period of the technology company, unless the Minister otherwise decides;

"qualifying period", in relation to a technology company, means a period of 3 years from the day it commences, for the purposes of the Income Tax Act (Chapter 35), to carry on its relevant trade or business;

"relevant trade or business", in relation to a technology company, means the trade or business to which the certificate, issued to the company under subsection (2) of section 99, relates;

"technology company" means a company approved as a technology company under subsection (2) of section 99.

Application for and issue of certificate to technology company.

99. (1) Any company incorporated in Brunei Darussalam which is desirous of using in Brunei Darussalam a new technology in relation to a product, process or service may make an application in the prescribed form to the Minister to be approved as a technology company.

(2) Where the Minister is satisfied that the technology, if introduced in Brunei Darussalam, would promote or enhance the economic or technological development in Brunei Darussalam, he may approve the company as a technology company and issue a certificate to that company subject to such conditions as he thinks fit.

(3) Every certificate issued under this section shall specify a percentage, not exceeding 30%, of such amount of the paid-up capital of the technology company as is held by any eligible holding company for the purpose of determining the deduction under section 100.

Deductions allowable to eligible holding company.

100. (1) Where a technology company has incurred an overall loss in respect of its relevant trade or business at the end of its qualifying period, it may, within 6 years from that date, by notice in writing to the Collector elect for the overall loss (less any amount which has been deducted up to the date of the notice) and the amount of any unabsorbed capital allowances (less any amount which has been deducted up to the date of the notice) to be made available to an eligible holding company as a deduction against the statutory income of the eligible holding company.

(2) The deduction to be made available to an eligible holding company under subsection (1) shall be an amount to be ascertained by multiplying the overall loss (less any amount which has been deducted up to the date of the notice) or the unabsorbed capital
allowances (less any amount which has been deducted up to the date of the notice), as the case may be, by the percentage of the paid-up capital of the technology company held by that eligible holding company throughout the whole of the qualifying period of the technology company.

(3) The deduction shall not in the aggregate exceed such percentage as may be specified in the certificate issued to the technology company under section 99 of the paid-up capital of the technology company held by the eligible holding company (excluding any shares acquired from other shareholders of the technology company) as at the end of such qualifying period.

(4) Notwithstanding subsections (2) and (3), where the percentage of the paid-up capital of the technology company held by an eligible holding company is increased at any time during the qualifying period of the technology company, the Minister may, upon the application by the eligible holding company, if he considers it just and reasonable to do so, increase the amount of the deduction available under subsection (2) up to 50% of the paid-up capital of the technology company held by the eligible holding company as at the end of such qualifying period.

(5) Where any deduction is made available to an eligible holding company in accordance with this section, any overall loss or unabsorbed capital allowances to the extent of the deductions so made available shall cease to be deductible by the technology company under section 20 or 30 of the Income Tax Act (Chapter 35), and those sections shall apply to the eligible holding company in respect of the deduction made available as if the eligible holding company was carrying on the trade or business in respect of which the overall loss or the unabsorbed capital allowances were made.

(6) The overall loss or unabsorbed capital allowances made available to an eligible holding company under this section shall first be deducted against the statutory income of the eligible holding company for the year of assessment immediately following the year in which the notice given under subsection (1).

(7) In this section —

“overall loss”, in relation to a technology company, means the amount by which the total of the losses exceed the total of the statutory income arising from its relevant trade or business for the whole of its qualifying period ascertained in accordance with the provisions of the Income Tax Act and subject to such regulations as may be prescribed under this Order;

“unabsorbed capital allowances”, in relation to a technology company, means the balance of any allowance provided for in sections 13, 14, 15, 16, 17 and 18 of the Income Tax Act which remain unabsorbed at the end of the qualifying period of the company in respect of capital expenditure incurred for the purpose of its relevant trade or business before the end of the qualifying period.

(8) For the purposes of the Income Tax Act and this Part, the Collector may direct that —
(a) any sums payable to a technology company before or after its qualifying period which, but for the provisions of this Part, might reasonably and properly have been expected to be payable to the technology company, in the normal course of business, during its qualifying period shall be treated as having been payable on such date within the qualifying period, as the Collector thinks fit; and

(b) any expense incurred by a technology company during its qualifying period which, but for the provisions of this Part, might reasonably and properly have been expected to be incurred, in the normal course of business, before or after the qualifying period shall be treated as not having been incurred within the qualifying period but as having been incurred on such date before or after that qualifying period, as the Collector thinks fit.

**Prohibition of other trade or business.**

**101.** (1) During its qualifying period, a technology company shall not, without the written approval of the Minister, carry on any trade or business other than its relevant trade or business.

(2) Where the carrying on of a separate trade or business has been approved under subsection (1), separate accounts shall be maintained in respect of that trade or business.

**Recovery of tax.**

**102.** Notwithstanding anything in this Part, where it appears to the Collector that any deduction under section 100 ought not to have been given to an eligible holding company by reason of any direction under subsection (8) of section 100 or the revocation under section 114 of a certificate issued to a technology company, the Collector may, subject to section 62 of the Income Tax Act, make such assessment or additional assessment upon the eligible holding company or any of its shareholders as may be necessary in order to recover any tax which should have been payable by the eligible holding company.

**PART XIV
OVERSEAS INVESTMENT AND VENTURE CAPITAL INCENTIVES**

**Interpretation of this Part.**

**103.** For the purposes of this Part, unless the context otherwise requires —

"eligible holding company", in relation to a venture company, a technology investment company or an overseas investment company, means a company incorporated in Brunei Darussalam —

(a) which is resident in Brunei Darussalam;
(b) which has invested not less than 60% of its shareholders’ fund in Brunei Darussalam;

(c) which holds not less than 30% of the shares in the venture company, the technology investment company or the overseas investment company; and

(d) in respect of which not less than 30% of the paid-up capital is beneficially owned by citizens or person to whom a Resident Permit has been granted under regulations made under the Immigration Act (Chapter 17) throughout the period during which it holds shares in the venture company, the technology investment company or the overseas investment company, unless the Minister otherwise decides;

"overseas investment company” means a company approved as an overseas investment company under subsection (4) of section 105;

"technology investment company” means a company approved as a technology investment company under subsection (2) of section 105;

"venture company” means a company approved as a venture company under subsection (2) of section 104;

"shareholders’ fund” means the aggregate amount of a company’s paid up capital (in respect of preference shares and ordinary shares and not including any amount in respect of bonus shares to the extent they were issued out of capital reserves created by revaluation of fixed assets), reserves (other than any capital reserve which was created by revaluation of fixed assets and provisions for depreciation, renewals or replacements and diminution in value of assets), balance of share premium account (not including any amount credited therein at the instance of issuing bonus shares at premium out of capital reserve created by revaluation of fixed assets), and balance of profit and loss appropriation account.

Application for and issue of certificate to venture company.

104. (1) Any company incorporated in Brunei Darussalam which is desirous of developing or using in Brunei Darussalam a new technology in relation to a product, process or service may make an application in the prescribed form to the Minister to be approved as a venture company.

(2) Where the Minister is satisfied that the technology, if introduced in Brunei Darussalam, would promote or enhance the economic or technological development of Brunei Darussalam, he may approve the company as a venture company and issue a certificate to the company subject to such terms and conditions as he may impose.
Application for and issue of certificate to technology investment company or overseas investment company.

105. (1) Any company, incorporated and resident in Brunei Darussalam, desirous of investing in an overseas company which is developing or using a new technology in relation to a product, process or service may make an application in the prescribed form to the Minister to be approved as a technology investment company.

(2) Where the Minister is satisfied in respect of any application under subsection (1) that the technology, if introduced in Brunei Darussalam would promote or enhance the economic or technological development of Brunei Darussalam, he may approve the company as a technology investment company and issue a certificate to the company subject to such terms and conditions as he may impose.

(3) Any company, incorporated and resident in Brunei Darussalam, desirous of investing in an overseas company for the purpose of acquiring for use in Brunei Darussalam any technology from the overseas company or for the purpose of gaining access to any overseas market for its eligible holding company or any subsidiary thereof, may make an application in the prescribed form to the Minister to be approved as an overseas investment company.

(4) Where the Minister is satisfied in respect of any application under subsection (3) that the technology acquired, if introduced in Brunei Darussalam or the access which would be gained to any overseas market, would promote or enhance the technological or economic development of Brunei Darussalam, he may approve the company as an overseas investment company and issue a certificate to the company subject to such terms and conditions as he may impose.

Deduction of losses allowable to eligible holding company.

106. (1) Where any eligible holding company has incurred any loss arising from —

(a) the sale of shares held by it in a venture company; or

(b) the liquidation of a venture company,

the loss shall be allowed as a deduction against the statutory income of the company in accordance with subsection 2 of section 30 of the Income Tax Act as if the loss were incurred from a trade or business carried on by it.

(2) Where any eligible holding company has incurred any loss arising from —

(a) the sale of shares held by it in a technology investment company or an overseas investment company; or

(b) the liquidation of a technology investment company or an overseas investment company,
the loss shall be allowed as a deduction against its statutory income in accordance with subsection (2) of section 30 of the Income Tax Act as if the loss were incurred from a trade or business carried on by it.

(3) Notwithstanding subsections (1) and (2), no deduction shall be allowed in respect of any loss referred to in those subsection if —

(a) the shares in respect of which the loss was incurred were held by an eligible holding company in a venture company, or by an eligible holding company in a technology investment company or in an overseas investment company, for a period of less than 3 years from the date of issue of the shares, unless the loss was incurred as a result of the liquidation of the venture company, technology investment company or overseas investment company; or

(b) the sale of shares or liquidation occurred after 8 years from the date of approval under this Part of the venture company, technology investment company or overseas investment company.

(4) For the purposes of subsections (1) and (2), the loss shall be the excess of the purchase price of the shares —

(a) over the proceeds from the sale; and where the open market value at the date of the sale (or the value of net asset backing as determined by the Collector in the case of a company not quoted on any stock exchange) of the shares is greater than the sale proceeds, that value shall be deemed to be the proceeds from the sale; or

(b) over the proceeds from the liquidation,

as the case may be.

Prohibition of other trade or business.

107. (1) A venture company shall not, without the written approval of the Minister, carry on any trade or business other than the trade or business to which its certificate relates.

(2) A technology investment company and an overseas investment company shall not carry on any trade or business.

Recovery of tax.

108. Notwithstanding anything in this Part, where it appears to the Collector that any deduction under section 106 ought not to have been given to an eligible holding company by reason of the revocation under section 114 of a certificate issued to a venture company, a technology investment company or an overseas investment company, the Collector may, subject to section 62 of the Income Tax Act, make such assessment or additional assessment
upon the eligible holding company (or any of its shareholders) as may be necessary in order to recover any tax which should have been payable by the eligible holding company (or any of its shareholders).

PART XV

RELIEF FROM IMPORT DUTIES

Exemption from import duties.

109. (1) Notwithstanding the provision of section 11 of the Customs Act (Chapter 36) or any written laws or regulations in force, the Minister may, subject to such terms and conditions as he thinks fit, exempt a pioneer enterprise or an export enterprise from the payment of the whole or any part of any customs duty which may be payable on any machinery, equipment, component parts and accessories including prefabricated factory or building structures to be installed as necessary part of parts of the factory:

Provided that similar machinery, equipment, component parts, accessories or building structures of approximately equal price and equal quality are not being produced or available within Brunei Darussalam.

Restriction on disposal.

110. No machinery, equipment, component parts and accessories imported under section 109 shall be sold, transferred, mortgaged or otherwise disposed of or used for other purposes than those specified or allowed by the Minister without the written approval of the Minister.

Duty to be paid if disposed.

111. (1) Any machinery, equipment, component parts and accessories imported under section 109 which are sold, transferred, mortgaged or otherwise disposed of under section 110 shall be subject to payment of customs duty imposed under the Customs Act (Chapter 36).

(2) For the purpose of determining the duty imposed under subsection (1), all machinery, equipment, component parts and accessories shall be assessed and valued by the Controller of Customs and duties shall be payable on the assessed value.

Exemption from import duties on raw material.

112. Notwithstanding the provision of section 11 of the Customs Act or any written laws or regulations in force, a pioneer enterprise and an export enterprise shall be exempt from the payment of import duties on raw materials imported for use in the pioneer enterprise to be used in the production of a pioneer product specified in the pioneer certificate:
Provided that such raw materials are not available or produced within Brunei Darussalam.

PART XVI

MISCELLANEOUS PROVISIONS

Prohibition of publication of application and certificate.

113. (1) The contents of any application made by, or of any certificate issued to, any company under any of the provisions of this Order shall not, except at the instance of the company, be published.

(2) The Minister may cause to be published by notification in the Gazette the name of any company to which any such certificate has been issued or whose certificate has been revoked, and the industry and product or produce to which the certificate relates.

Revocation of certificate.

114. (1) Where the Minister is satisfied that any company to which a certificate has been issued under the provisions of this Order has contravened or has failed to comply with any of the provisions of this Order or any regulations made thereunder, or of any terms or conditions imposed on the certificate, he may, by notice in writing, require the company within 30 days from the date of service of the notice to show cause why the certificate should not be revoked; and if the Minister is satisfied that, having regard to all the circumstances of the case it is expedient to do so, he may revoke the certificate.

(2) Where a certificate is revoked under subsection (1), the Minister shall specify the date, which may be the date of the certificate, from which its revocation shall be operative and the provisions of this Order shall cease to have effect in relation to the certificate from that date.

Provisions of Income Tax Act (Chapter 35) not affected.

115. Except as otherwise provided, nothing in this Order shall exempt any company to which a certificate has been issued under the provisions of this Order from making any return to the Collector or from complying with the provisions of the Income Tax Act in any respect so as to establish the liability to tax, if any, of the company.

Offences and penalties.

116. (1) Any person who contravenes or fails to comply with section 46 or 52 or any regulations made under this Order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000, to imprisonment for a term not exceeding 2 years or both.
(2) Any person who —

(a) obstructs or hinders any senior officer of customs or officer of customs acting in the discharge of his duty under this Order or any regulations made thereunder; or

(b) fails to produce to a senior officer of customs or officer of customs any invoices, bills of lading, certificates of origin or of analysis or any other documents relating to the export of any export product or export produce which the officer may require, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000, to imprisonment for a term not exceeding 12 months or both.

(3) Any person required by a senior officer of customs or officer of customs to give information on any subject into which it is the officer’s duty to inquire and which it is in the person’s power to give, who refuses to give such information or furnishes as true information that which he knows or has reason to believe is false shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000, or imprisonment for a term not exceeding 12 months or both.

(4) When any such information is proved to be untrue or incorrect, in whole or in part, it is no defence to allege that the information, or any part thereof, was furnished inadvertently, without criminal intent or fraudulent intent, or was misinterpreted or not fully interpreted by an interpreter provided by the informant.

(5) Nothing in subsection (3) shall oblige a person to furnish any information which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

Attempts or abetments.

117. Any person who attempts to commit any offence punishable under section 46, 52 or 116 or any regulations made under this Order or abets the commission of any such offence shall be liable to the punishment provided for that offence.

Conduct of prosecution.

118. Any prosecution in respect of an offence under section 46, 52 or 116 or any regulations made under this Order may be conducted by an officer authorised by the Controller of Customs.

Composition of offences.

119. (1) Any officer authorised by the Collector or any senior officer of customs may compound any offence which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed the offence a sum not exceeding $1,000.
(2) On payment of that sum, the person reasonably suspected of having committed an offence, if in custody, shall be discharged, any property seized shall be released and no further proceedings shall be taken against that person or property.

Offences by companies and by employees and agents.

120. (1) Where an offence under section 46, 52 or 116 or any regulations made under this Order has been committed by a company, any person who at the time of the commission of the offence was a director, secretary or other similar officer of the company, or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under section 46, 52 or 116 to any punishment, penalty or forfeiture for any act, omission, neglect or default, he shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any employee or agent, or of the employee of an agent, provided that the act, omission, neglect or default was committed by the employee in the course of his employment or by the agent when acting on behalf of that person or by the employee of the agent when acting in the course of his employment in such circumstance that had the act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

Action of officers no offence.

121. Nothing done by an officer of the Government in the course of his duties shall be deemed to be offence under this Order.

Regulations.

122. (1) The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may make such regulations as may be necessary or expedient for the purpose of carrying out the provisions of this Order.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to all or any of the following matters —

(a) any matters required by this Order to be prescribed;

(b) the procedure relating to applications for and the issue of certificates under this Order;

(c) the terms and conditions to be imposed on any certificate issued under this Order; and
(d) the furnishing of such information, including progress and sales reports and statements of accounts, as may be required for the purposes of this Order.

(3) The Minister may in writing authorise any person or authority to prescribe such forms as are required to be or may be prescribed under this Order.

Repeal of Chapter 97, saving and transitional.

123. (1) The Investment Incentives Act is repealed.

(2) Anything done under the Investment Incentives Act (repealed by this Order) shall, upon the commencement of this Order, continue to be of full force and effect until other provisions has been made therefor under this Order.

Made this 28th. day of Safar, 1422 Hijriah corresponding to the 22nd. day of May, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
In exercise of the power conferred by subsection (1) of section 5 of the Law Revision Act, the Attorney General hereby makes the following Order —

Citation and commencement.

1. This Order may be cited as the Law Revision Order No. 2 of 2001 and shall be deemed to have commenced on the 1st. day of February, 2001.

Inclusion of pages.

2. The inclusion in the Laws of the pages specified in the third column of the Schedule with reference to the written laws specified in the second column thereof is hereby authorised.

SCHEDULE (paragraph 2)

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>182</td>
<td>Public Health (Food) Regulations, 2000 (S 80/2000)</td>
<td>1 to 161</td>
</tr>
</tbody>
</table>

Made this 26th. day of Rabiulakhir, 1422 Hijriah corresponding to the 18th. day of July, 2001.

DATO PADUKA AWANG HAJI KIFRAWI BIN
DATO PADUKA HAJI KIFLI
ATTORNEY GENERAL,
BRUNEI DARUSSALAM.
PHARMACISTS REGISTRATION ORDER, 2001
(S 21/2001)

Notification under section 1(1)

In exercise of the power conferred by section 1(1), the Minister of Health with the approval of His Majesty the Sultan and Yang Di-Pertuan hereby appoints the 1st. July, 2001 as the date on which the Pharmacists Registration Order, 2001 shall be deemed to have commenced.

Dated this 20th. day of Rabiulakhir, 1422 Hijriah corresponding to the 12th. day of July, 2001.

DATO SERI LAILA JASA AWANG HAJI AHMAD BIN DATO PADUKA MAT NOOR
Permanent Secretary,
Ministry of Health,
Brunei Darussalam.
In exercise of the power conferred by subsection (2) of section 50 of the Broadcasting Act, the Minister responsible for broadcasting matters, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

Citation.

1. These Regulations may be cited as the Broadcasting (Compoundable Offence) Regulations, 2001.

Compoundable offence.

2. The contravention or failure to comply with subsection (1) of section 23 of the Act being an offence punishable under section 41 of the Act, in so far as it relates to broadcasting apparatus which is a TVRO system as defined in the Broadcasting (TVRO System) Regulations, 2000 (S 2/2001) and so far as no exemption has been granted in respect thereof by the Minister under subsection (4) of section 23 of the Act, is hereby prescribed as an offence which may be compounded by the Minister under subsection (1) of section 50 of the Act.

Made this 3rd. day of Jamadilawal, 1422 Hijriah corresponding to the 24th. day of July, 2001.

PEHIN ORANG KAYA LAILA SETIA BAKTI DIRAJA DATO LAILA UTAMA
Haji Awang Isa bin Pehin Datu Perdana Menteri
Dato Laila Utama Haji Ibrahim
Minister responsible for broadcasting matters,
Prime Minister’s Office,
Brunei Darussalam.
AIR NAVIGATION ACT
(CHAPTER 113)

AIR NAVIGATION (BIRTHS, DEATHS AND MISSING PERSONS ON AIRCRAFT) REGULATIONS, 2001

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.

2. Interpretation.

3. Returns relating to births and deaths by owners of aircraft.

4. Records to be kept by Director.

5. Transmission of copies of entries to Registrar of Births and Deaths.

6. Rectification of entries of births, deaths and missing persons.

7. Air Register Book.

8. Offence.


FIRST SCHEDULE — RETURN FOR PURPOSE OF REGISTRATION OF BIRTH

SECOND SCHEDULE — RETURN FOR PURPOSE OF REGISTRATION OF DEATH

THIRD SCHEDULE — RECORD OF BIRTH

FOURTH SCHEDULE — RECORD OF DEATH

FIFTH SCHEDULE — RECORD OF MISSING PERSON
In exercise of the power conferred by section 3 of the Air Navigation Act, the Minister of Communications hereby makes the following Regulations —

Citation.

1. These Regulations may be cited as the Air Navigation (Births, Deaths and Missing Persons on Aircraft) Regulations, 2001.

Interpretation.

2. In these Regulations, unless the context otherwise requires —

"aircraft" means an aircraft registered in the register of Brunei Darussalam aircraft maintained by the Director;

"Director" means the Director of Civil Aviation;

"journey", in relation to a traveller, is deemed to have commenced when he entered an aircraft for the purpose of the journey and to continue until he alights therefrom on the completion of the journey, notwithstanding any intermediate stop;

"missing person" means a person with respect to whom there are reasonable grounds for believing that he has died in consequence of an accident to an aircraft;

"person in command" of an aircraft means, in a case where a person other than the pilot is in command, that person, and in any other case, the pilot;

"traveller" includes a member of the crew.

Returns relating to births and deaths by owners of aircraft.

3. (1) The owner of an aircraft shall, as soon as practicable but not later than 14 days after the occurrence in any part of the world of a birth or death in the aircraft, or of a death outside Brunei Darussalam of a traveller on the aircraft who died on the journey in consequence of an accident, transmit to the Director a return of such birth or death in the form, and containing the particulars, prescribed in the First Schedule (in the case of a birth) or in the Second Schedule (in the case of a death):
Provided that if any such particulars are not known to the owner of the aircraft and cannot be readily ascertained by him, he shall transmit so many of them as he has been able to ascertain.

(2) The person in command of an aircraft shall forthwith on the occurrence in any part of the world of a birth or death in the aircraft, or of the death outside Brunei Darussalam of a traveller on the aircraft who died on the journey in consequence of an accident, record in the journey log book, or other appropriate document relating to the aircraft, the particulars referred to in sub-regulation (1) relating to such birth or death and shall make such record available to the owner as soon as practicable:

Provided that if any such particulars are not known to the person in command of the aircraft and cannot be readily ascertained by him, he shall record and make available to the owner so many of them as he has been able to ascertain.

(3) Where an aircraft has been demised, let or hired out for a period exceeding 14 days by the owner, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, these Regulations shall have effect as if for references to the owner there were substituted references to the person to whom the aircraft was demised, let or hired out.

**Records to be kept by Director.**

4. The Director shall keep —

(a) a separate record of births in the form set out in the Third Schedule in which he shall record the particulars reported to him of any birth in any part of the world in an aircraft;

(b) a separate record of deaths in the form set out in the Fourth Schedule in which he shall record the particulars reported to him of any death in any part of the world in an aircraft, and of deaths outside Brunei Darussalam of any traveller on an aircraft who died on the journey in consequence of an accident to an aircraft; and

(c) a separate record in the form set out in the Fifth Schedule of any person reported to him as a missing person.

**Transmission of copies of entries to Registrar of Births and Deaths.**

5. (1) The Director shall within 7 days of the completion of an entry in any record kept under these Regulations transmit a certified copy of such entry to the Registrar of Births and Deaths.

(2) The Registrar of Births and Deaths shall file and preserve in a book called the Air Register Book of Births and Deaths to be kept by him for that purpose any certified copy of an entry transmitted to him under sub-regulation (1).
Rectification of entries of births, deaths and missing persons.

6. (1) If the Director is satisfied that there is an error or omission in an entry made in the records of births, deaths or missing persons kept under these Regulations, he shall, in accordance with evidence of the true facts relating to the entry, rectify it in such manner as he may consider appropriate.

(2) Within 7 days after the rectification of any such entry or omission, the Director shall transmit a certified copy of such rectified entry to the Registrar of Births and Deaths.

(3) The Registrar of Births and Deaths shall file and preserve in the Air Register Book of Births and Deaths any certified copy of a rectified entry transmitted to him under sub-regulation (2).

Air Register Book.

7. The Births and Deaths Registration Act (Chapter 79) shall have effect as if the Air Register Book of Births and Deaths were a registration book furnished in accordance with subsection (1) of section 4 of that Act.

Offence.

8. (1) Any person who fails to comply with any requirement of these Regulations is guilty of an offence and liable on conviction to a fine not exceeding $5,000.

(2) Where an offence under these Regulations committed by a body corporate 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 body, or of a person purporting to act in any such capacity, he, as well as the body corporate, is also guilty of the offence and liable to be proceeded against and punished accordingly.

Stillborn children.

9. Nothing in these Regulations applies to a stillborn child.

FIRST SCHEDULE

RETURN FOR PURPOSE OF REGISTRATION OF BIRTH

1. Registration marking of aircraft

2. Date of birth

3. Place of birth, either actual or approximate
**FIRST SCHEDULE — (continued)**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>Name</td>
</tr>
<tr>
<td>5.</td>
<td>Sex</td>
</tr>
<tr>
<td>6.</td>
<td>Name, address, occupation and nationality of father</td>
</tr>
<tr>
<td>7.</td>
<td>Name, address and nationality of mother</td>
</tr>
<tr>
<td>8.</td>
<td>Name and address of informant</td>
</tr>
<tr>
<td>9.</td>
<td>Signature of informant and date</td>
</tr>
</tbody>
</table>

Signature and rank of person completing return

Date

---

**SECOND SCHEDULE**

**RETURN FOR PURPOSE OF REGISTRATION OF DEATH**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Registration marking of aircraft</td>
</tr>
<tr>
<td>2.</td>
<td>Date of death</td>
</tr>
<tr>
<td>3.</td>
<td>Actual or approximate position of aircraft at time of death</td>
</tr>
<tr>
<td>4.</td>
<td>Name</td>
</tr>
<tr>
<td>5.</td>
<td>Sex</td>
</tr>
<tr>
<td>6.</td>
<td>Age</td>
</tr>
<tr>
<td>7.</td>
<td>Address, occupation and nationality (if known)</td>
</tr>
<tr>
<td>8.</td>
<td>Cause of death (if known)</td>
</tr>
<tr>
<td>9.</td>
<td>Name and address of informant</td>
</tr>
</tbody>
</table>
SECOND SCHEDULE — (continued)

10. Signature of informant and date ...................................................

.................................................................

Signature and rank of person completing return

.................................................................

Date

.................................................................

THIRD SCHEDULE regulation 4(a)

RECORD OF BIRTH

1. Name of child (if the name has not been decided it must be notified by the parent or guardian as soon as it has been decided) ...................................................

2. Sex

.................................................................

3. Name, address, occupation and nationality of father

.................................................................

4. Name, address and nationality of mother

.................................................................

5. Date of birth

.................................................................

6. Actual or approximate position of aircraft at time of birth

.................................................................

7. Registration marking of aircraft

.................................................................

8. Name and address of informant

.................................................................

9. Signature of informant and date

.................................................................

8. Name and address of informant

.................................................................

Signature and rank of person completing record

.................................................................

Date

.................................................................
FOURTH SCHEDULE  regulation 4(b)

RECORD OF DEATH

1. Name .................................................................
2. Address, occupation and nationality  .................................................................
3. Date of death .................................................................
4. Actual or approximate position of aircraft at time of death  .................................................................
5. Sex .................................................................
6. Age .................................................................
7. Cause of death .................................................................
8. Registration marking of aircraft .................................................................
9. Name and address of informant .................................................................
10. Signature of informant and date .................................................................

Signature and rank of person completing record .................................................................

Date .................................................................

FIFTH SCHEDULE  regulation 4(c)

RECORD OF MISSING PERSON

1. Registration marking of aircraft .................................................................
2. Date of accident .................................................................
3. Place of accident, either actual or approximate .................................................................
4. Name of missing person .................................................................
5. Address of missing person .................................................................
FIFTH SCHEDULE — (continued)

6. Sex of missing person ..................................................

7. Age of missing person ..................................................

8. Occupation, rank or title (if any) and nationality of missing person ..................................................

9. Grounds for presumption of death ..................................................

10. Name, description and address of informant ..................................................

11. Signature of informant and date ..................................................

                        Signature and rank of person completing record ..................................................

                        Date ..................................................

Made this 2nd. day of Jamadilawal, 1422 Hijriah corresponding to the 23rd. day of July, 2001.

PEHIN ORANG KAYA AMAR PAHLAWAN DATO SERI SETIA
AWANG HAJI ZAKARIA BIN DATU MAHAWANGSA HAJI SULAIMAN
Minister of Communications,
Brunei Darussalam.
AIR NAVIGATION ACT
(CHAPTER 113)

AIR NAVIGATION (MORTGAGING OF AIRCRAFT) ORDER, 2001

ARRANGEMENT OF SECTIONS

Section

1. Citation.
2. Interpretation.
3. Mortgage of aircraft.
4. Registration of mortgages.
5. Priority notices.
6. Procedure in certain cases.
7. Registration of mortgages and priority notices.
8. Amendment of entries in Register.
10. Rectification of Register.
11. Inspection of Register and copies of entries.
12. Removal of aircraft from aircraft register.
13. Register as notice of facts appearing in it.
16. Indemnity.
17. Offence.
<table>
<thead>
<tr>
<th>Schedule</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>FIRST SCHEDULE</td>
<td>APPLICATION FOR ENTRY OF AIRCRAFT MORTGAGE</td>
</tr>
<tr>
<td>SECOND SCHEDULE</td>
<td>APPLICATION FOR ENTRY OF PRIORITY NOTICE</td>
</tr>
<tr>
<td>THIRD SCHEDULE</td>
<td>NOTICE OF CHANGE IN REGISTERED PARTICULARS</td>
</tr>
<tr>
<td>FOURTH SCHEDULE</td>
<td>NOTICE OF DISCHARGE OF REGISTERED MORTGAGE</td>
</tr>
</tbody>
</table>
In exercise of the power conferred by section 4 of the Air Navigation Act, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

**Citation.**

1. This Order may be cited as the Air Navigation (Mortgaging of Aircraft) Order, 2001.

**Interpretation.**

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

   "aircraft register" means the register of Brunei Darussalam aircraft maintained by the Director;

   "Director" means the Director of Civil Aviation;

   "mortgage" means the mortgage of an aircraft and includes a mortgage which extends to any store of spare parts for that aircraft, but does not otherwise include a mortgage created as a floating charge;

   "owner" means the person shown as the owner of an aircraft on the form of application for registration of that aircraft in the aircraft register;

   "prescribed fee" means a fee prescribed by any law relating to airport fees and charges;

   "priority notice" means a notice of intention referred to in sub-paragraph (1) of paragraph 5;

   "Register" means the Register of Aircraft Mortgages.

**Mortgage of aircraft.**

3. An aircraft registered in the aircraft register, or such an aircraft together with any store of spare parts for that aircraft, may be made security for a loan or other valuable consideration.

**Registration of mortgages.**

4. (1) Any mortgage of an aircraft registered in the aircraft register may be entered in the Register kept by the Director.
(2) An application to enter a mortgage in the Register shall be made to the Director by or on behalf of the mortgagee in the form set out in the First Schedule and shall be accompanied by a copy of the mortgage, which the applicant shall certify to be a true copy, and the prescribed fee.

Priority notices.

5. (1) A notice of intention to make an application to enter a contemplated mortgage in the Register may be entered in the Register.

(2) An application to enter a priority notice in the Register shall be made to the Director by or on behalf of the prospective mortgagee in the form set out in the Second Schedule, and shall be accompanied by the prescribed fee.

Procedure in certain cases.

6. (1) Where two or more aircraft are the subject of one mortgage or where the same aircraft is the subject of two or more mortgages, separate applications shall be made in respect of each aircraft or of each mortgage, as the case may be.

(2) Where a mortgage is in a language other than the English language, the application to enter that mortgage in the Register shall be accompanied by a copy of the mortgage and by a translation thereof, which the applicant shall certify as being, to the best of his knowledge and belief, a true translation.

Registration of mortgages and priority notices.

7. (1) When an application to enter a mortgage or priority notice in the Register has been made, the Director shall enter it in the Register by placing the application form therein and by noting on it the date and time of the entry.

(2) Applications shall be entered in the Register in the order of their receipt by the Director.

(3) The Director shall notify the applicant of the date and time of the entry of the mortgage or the priority notice in the Register and of the register number of the entry, and shall send a copy of the notification to the mortgagor and the owner.

Amendment of entries in Register.

8. (1) Any change in the person appearing in the Register as mortgagee or as mortgagor, in the name or address of such person or in the description of the mortgaged property shall be notified to the Director by or on behalf of the mortgagee, in the form set out in the Third Schedule.
(2) On receipt of the form duly completed and signed by or on behalf of the mortgagor and the mortgagee and on payment of the prescribed fee, the Director shall enter the notification in the Register and shall thereupon notify the mortgagor, the mortgagee and the owner that he has done so.

Discharge of mortgages.

9. On receipt of the form set out in the Fourth Schedule duly completed and signed by or on behalf of the mortgagee and of a copy of the document of discharge or receipt for the mortgage money, or of any other document which shows to the satisfaction of the Director that the mortgage has been discharged and on payment of the prescribed fee, the Director shall enter the form in the Register and mark the relevant entries in the Register “Discharged”, and shall thereupon notify the mortgagor, the mortgagee and the owner that he has done so.

Rectification of Register.

10. The High Court may order such amendment to be made to the Register as it may consider necessary or expedient for correcting any error therein. On being served with such an order, the Director shall make the necessary amendment to the Register.

Inspection of Register and copies of entries.

11. (1) Any person may, on application to the Director and on payment of the prescribed fee, inspect any entry in the Register specified in the application.

(2) The Director shall, on the application of any person and on payment of the prescribed fee, supply to the applicant a copy, certified by him as a true copy, of the entries in the Register specified in the application.

(3) The Director shall, on the application of any person and on payment of the prescribed fee, notify the applicant whether or not there are any entries in the Register relating to any aircraft specified in the application by reference to its nationality and registration marks.

(4) A document purporting to be a copy of an entry in the Register shall be admissible as evidence of that entry if it purports to be certified as a true copy by the Director.

(5) Nothing done under sub-paragraph (2) or (3) shall affect the priority of any mortgage.

Removal of aircraft from aircraft register.

12. The removal of an aircraft from the aircraft register shall not affect the rights of any mortgagee under any registered mortgage, and entries shall continue to be made in the
Register in relation to that mortgage as if the aircraft had not been removed from the aircraft register.

**Register as notice of facts appearing in it.**

13. All persons shall at all times be taken to have express notice of all facts appearing in the Register, but the registration of a mortgage shall not be evidence of its validity.

**Priority of mortgages.**

14. (1) Subject to this paragraph, a mortgage entered in the Register shall have priority over any other mortgage of or charge on that aircraft, other than another mortgage entered in the Register:

Provided that mortgages made before the commencement of this Order, whether entered in the Register or not, shall up to such commencement have the same priority as they would have had if this Order had not been made.

(2) Subject to sub-paragraphs (3) to (5), where two or more mortgages have been entered in the Register, those mortgages shall as between themselves have priority according to the times at which they were respectively entered in the Register:

Provided that where a priority notice has been entered in the Register and the contemplated mortgage referred to therein was made and entered in the Register within 14 days thereafter that mortgage shall be deemed to have priority from the time when the priority notice was registered.

(3) In reckoning the period of 14 days under sub-paragraph (2), there shall be excluded Fridays, Sundays and public holidays.

(4) The priorities provided for by this paragraph shall have effect notwithstanding any express, implied or constructive notice affecting the mortgagee.

(5) Nothing in this paragraph shall be construed as giving a registered mortgage any priority over any possessory lien in respect of work done on the aircraft, whether before or after the making or registration of the mortgage, on the express or implied authority of any person lawfully entitled to possession of the aircraft or over any right to detain the aircraft under any law.

**Application of Bills of Sale Act and registration of charges provisions of Companies Act.**

15. (1) The Bills of Sale Act (Chapter 70), in so far as it relates to bills of sale and other documents given by way of security for the payment of money, shall not apply to any mortgage registered in the aircraft register made after the commencement of this Order.
(2) Paragraph (h) of subsection (2) of section 80 of the Companies Act (Chapter 39) shall have effect as if after "ship" where it first appears there were inserted "or aircraft":

Provided that nothing in this paragraph shall render invalid, as against the liquidator or any creditor of the company, any mortgage or charge created by a company before the commencement of this Order which would not have been invalid against the liquidator or such creditor if this Order had not been made.

Indemnity.

16. (1) Subject to sub-paragraph (2), any person who suffers loss by reason of any error or omission in the Register or of any inaccuracy in a copy of an entry in the Register supplied under sub-paragraph (2) of paragraph 11 or in a notification made under sub-paragraph (3) of that paragraph shall be indemnified by the Government.

(2) No indemnity shall be payable under this paragraph —

(a) where the person who has suffered loss has himself caused or substantially contributed to the loss by his fraud or has derived title from a person so committing fraud;

(b) on account of costs or expenses incurred in taking or defending any legal proceedings without the written consent of the Director.

Offence.

17. (1) Any person who, in furnishing any information for the purpose of this Order, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 6 months, a fine not exceeding $10,000 or both.

(2) Where an offence under this Order committed by a body corporate 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 body, or of a person purporting to act in any such capacity, he, as well as the body corporate, is also guilty of the offence and liable to be proceeded against and punished accordingly.
FIRST SCHEDULE
paragraph 4(2)

APPLICATION FOR ENTRY OF AIRCRAFT MORTGAGE

I hereby apply for the mortgage, particulars of which are given below, to be entered in the Register of Aircraft Mortgages.

1. Date of mortgage.
2. Description of mortgaged aircraft (including type, nationality, registration marks and aircraft serial number) and of any store of spare parts for that aircraft to which the mortgage extends. Any description of the store of spare parts must include an indication of their character and approximate number, and must give the place or places where they are stored. The description of the mortgaged property may, if necessary, be continued on a separate sheet signed by the applicant.

3. The sum secured by the mortgage. Where the sum secured is of a fluctuating amount, this should be stated and the upper and lower limits (if any) should be mentioned.

4. Does mortgage require the mortgagee to make further advances: If so, of what amount?

5. Name and address of mortgagor.

6. Register number of priority notice (if any).

Signed

……………………………………………………………………………………………………

(Name in block capitals)

……………………………………………………………………………………………………
on behalf of …………………………………………………………………………………

(name of mortgagee) (delete where inapplicable)

of ……………………………………………………………………………………………

(address of mortgagee).
APPLICATION FOR ENTRY OF PRIORITY NOTICE

I hereby give notice that I am contemplating entering into a mortgage, particulars of which are given below, and that if I do enter into it I shall apply for it to be entered in the Register of Aircraft Mortgages. I hereby apply for this notice to be entered in that Register.

1. Description of aircraft which is the subject of the contemplated mortgage (including type, nationality, registration marks and aircraft serial number) and of any store of spare parts for that aircraft to which it is contemplated that the mortgage will extend. The description of the property which is the subject of the contemplated mortgage may, if necessary, be continued on a separate sheet signed by the applicant.

2. The sum to be secured by the contemplated mortgage. Where the sum to be secured is of a fluctuating amount, this should be stated and the upper and lower limits (if any) should be mentioned.

3. Is it contemplated that mortgage will require the mortgagee to make further advances? If so, of what amount?

4. Name and address of prospective mortgagor.

Signed

………………………………………………………………………………………………………

(Name in block capitals)

………………………………………………………………………………………………………

on behalf of ……………………………………………………………………………………

(name of mortgagee) (delete where inapplicable)

of …………………………………………………………………………………………………

(address of mortgage).
THIRD SCHEDULE  
paragraph 8(1)

NOTICE OF CHANGE IN REGISTERED PARTICULARS

I hereby give notice that the particulars shown in the Register of Aircraft Mortgages under Register number .......................... should be amended as follows —

(a) Signed ..............................................................

(Name in block capitals) ..............................................................

on behalf of ..............................................................

(insert name of mortgagee) (delete where inapplicable)

(b) Signed ..............................................................

(Name in block capitals) ..............................................................

on behalf of ..............................................................

(insert name of person shown in Register as mortgagee) (applicable only where the change in particulars is a change in the person appearing in Register as mortgagee)

(c) Signed ..............................................................

(Name in block capitals) ..............................................................

on behalf of ..............................................................

(insert name of mortgagor) (delete where inapplicable)
NOTICE OF DISCHARGE OF REGISTERED MORTGAGE

I hereby confirm that the mortgage entered in the Register of Aircraft Mortgages under Register number ………………… has been discharged.

Signed  ………………………………………………………………………

(Name in block capitals) ………………………………………………………
on behalf of ………………………………………………………………………

(name of mortgagee) (delete where inapplicable)

I agree that this mortgage has been discharged.

Signed  ………………………………………………………………………

(Name in block capitals) ………………………………………………………
on behalf of ………………………………………………………………………

(name of mortgagee).

Made this 2nd day of Jamadilawal, 1422 Hijriah corresponding to the 23rd day of July, 2001.

PEHIN ORANG KAYA AMAR PAHLAWAN DATO SERI SETIA
AWANG HAJI ZAKARIA BIN DATU MAHAWANGSA HAJI SULAIMAN
Minister of Communications,
Brunei Darussalam.
CENSUS ACT
(CHapter 78)

(Section 3)

CENSUS (DIRECTION TO TAKE CENSUS) NOTIFICATION, 2001

In exercise of the powers conferred upon him by section 3 of the Census Act (Chapter 78), the Minister of Foreign Affairs with the approval of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam hereby makes the following Notification —

Citation and commencement.

1. These Notification may be cited as the Census (Direction To Take Census) Notification, 2001 and shall come into force on the 11th. day of June, 2001.

Direction.

2. It is hereby directed that a census of population and housing be taken throughout Brunei Darussalam from the commencement of this Notification, in order to ascertain the social, civil and economic condition of the inhabitants of the country.

Made this 2nd. day of July, 2001.

BY COMMAND

HIS ROYAL HIGHNESS PRINCE MOHAMED BOLKIAH
IBNI AL-MARHUM SULTAN HAJI OMAR ‘ALI SAIFUDDIEN
SA’ADUL KHAI RI WADDIEN
Minister of Foreign Affairs,
Brunei Darussalam.
CENSUS RULES, 2001

In exercise of the powers conferred upon him by section 6 of the Census Act (Chapter 78), the Minister of Foreign Affairs with the approval of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam hereby makes the following Rules —

Citation and commencement.

1. These Rules may be cited as the Census Rules, 2001 and shall come into force on the 11th. day of June, 2001.

Census officers to obtain particulars for census.

2. Census officers shall obtain information concerning the particulars prescribed in Appendix I of these Rules for the purposes of taking census of the population and housing throughout Brunei Darussalam in accordance with the provisions of the Act and any Rules made thereunder.

Forms of Schedules.

3. The information concerning the particulars prescribed in Appendix I of these Rules shall be obtained by using the appropriate forms of schedules prescribed in Appendix II to these Rules.

APPENDIX I

Matters in respect of which particulars are required.

A. LIVING QUARTERS CHARACTERISTICS.

A 01. Type of living quarters
A 02. Owner of living quarters
A 03. Main construction material of outer walls
A 04. Main construction material of roof
A 05. Number of bedrooms
A 06. Type of toilet facility
A 07. Type of lighting
A 08. Type of water supply
A 09. Main method of garbage removal/disposal
A 10. Method by which this living quarters was owned and the relevant year
A 11. Main method of financing the construction/purchase of this living quarters

B. HOUSEHOLD CHARACTERISTICS.

B 01. Type of household
B 02. Type of cooking fuel
B 03. Occupancy status of living quarters
B 04. Is this household paying housing rental ?
B 05. Monthly rental paid

C. HOUSEHOLD EQUIPMENT.

C 01. Number of transport equipment owned
C 02. Does this household own a computer ?
C 03. Number of computers owned
C 04. Are any of these computers connected to the Internet ?
C 05. Number of household equipment owned

D(a). PERSONAL CHARACTERISTICS. (For all household members.)

D 01. Name
D 02. Colour and No. of Brunei Darussalam I.C.
D 03. Gender
D 04. a. Age at last birthday
   b. Date of birth
D 05. Relationship to the head of household
D 06. Marital status
D 07. Religion
D 08. Race
D 09. Residential status
D 10. Citizenship
D 11. Country of birth
D 12. Year of first arrival in Brunei Darussalam
D 13. Place of usual residence in Brunei Darussalam
D 14. Place or residence 5 years ago (in August, 1996)

D(b). LITERACY, EDUCATION, RECREATION AND HEALTH. (For household member aged 3 years and over.)
D 15. Is the person able to read and write with understanding (literate) ?
D 16. Languages that the person is able to read and write
D 17. Language/dialect that the person uses in conversation on a day-to-day basis
D 18. Is this person still studying full-time ?
D 19. Level of education being attended
D 20. Name of school/college/university being attended
D 21. Highest level of education/qualification attained
D 22. Field of qualification (for degree, diploma and certificate only)
D 23. Does the person know how to use a computer?

D 24. Did the person use a computer last week?

D 25. Does the person know how to use the Internet?

D 26. Did the person use the Internet last week?

D 27. Was the person involved in sports activities during the last 6 months?

D 28. Please specify three kinds of sports activities that the person was involved in during the last 6 months according to priority

D 29. Has the person ever received medical/health service last month?

D 30. Where did the person receive the medical/health service?

D 31. Is the person a smoker?

D(c). WOMAN FERTILITY. (For married women.)

D 32. Age at first marriage

D 33. Number of children born alive

D 34. Number of children still alive

D 35. Number of children dead

D 36. Month and year of birth of the last child

D 37. Is the last-born child still alive?

D(d). ECONOMIC ACTIVITY. (For household members aged 15 years and over.)

D 38. Activity status of the person

D 39. Occupation status of the person

D 40. Main occupation of the person

D 41. Name and address of employer/company of the person

D 42. Industry
D 43. Gross monthly income from main occupation

D 44. Bonus received in the last 12 months

D 45. What was the occupation of the person’s father when the person was 15 years old?

D 46. a. Occupation/business activity of the person as a sideline, if any
   
   b. Gross monthly income from occupation/business activity as a sideline

D 47. Gross monthly income from:

   a. House/building rental

   b. Retirement pension from previous full-time employment

   c. Social welfare benefits

   d. Student allowance/scholarship

   e. Others, specify

APPENDIX II
Forms of schedules
Made this 2nd. day of July, 2001.

BY COMMAND

HIS ROYAL HIGHNESS PRINCE MOHAMED BOLKIAH
IBNI AL-MARHUM SULTAN HAJI OMAR ‘ALI SAIFUDDIEN
SA’ADUL KHAIRI WADDIEN
Minister of Foreign Affairs,
Brunei Darussalam.
SCHEDULE 1

DEPARTMENT OF ECONOMIC PLANNING AND DEVELOPMENT
PRIME MINISTER'S DEPARTMENT
BRUNEI DARUSSALAM

POPULATION AND HOUSING CENSUS 2001
HOUSING SCHEDULE

<table>
<thead>
<tr>
<th>Census District</th>
<th>Mukim</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kampung / Locality</td>
<td>Enumeration Area</td>
</tr>
<tr>
<td>Living Quarters No.</td>
<td>Household No.</td>
</tr>
</tbody>
</table>

Number of household members who spent the night of 21 / 22 August 2001 (Census Night) in this living quarters. (Please record their names and information in Schedule 2.)

Name of Head of Household : ________________________________________________________________
Address of Living Quarters : ________________________________________________________________
Postal Code : __________ Lot / EDR / TOL No. : ___________________________________________
Telephone : House : __________ Office : __________ Mobile : __________

DATE AND TIME TO FILL IN SCHEDULE 1 AND SCHEDULE 2

<table>
<thead>
<tr>
<th>Visit Number</th>
<th>Date</th>
<th>Time</th>
<th>Duration (Minutes)</th>
<th>Outcome of Visit</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Visit</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Second Visit</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Third Visit</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A. LIVING QUARTERS CHARACTERISTICS.
(Please mark ✓ the boxes beside the appropriate codes and fill in the spaces provided.)

A 01. Type of living quarters

<table>
<thead>
<tr>
<th>A 02. Owner of living quarters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detached</td>
</tr>
<tr>
<td>Terrace</td>
</tr>
<tr>
<td>Flat</td>
</tr>
<tr>
<td>Long house</td>
</tr>
<tr>
<td>Others, specify</td>
</tr>
</tbody>
</table>

Continued on the next page...
### A. LIVING QUARTERS CHARACTERISTICS (continued).

(Please mark ✓ the boxes beside the appropriate codes and fill in the spaces provided.)

<table>
<thead>
<tr>
<th>A 03. Main construction material of outer walls</th>
<th>A 04. Main construction material of roof</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brick / Cement 1</td>
<td>Metal 1</td>
</tr>
<tr>
<td>Cement / Wood 3</td>
<td>Tile 2</td>
</tr>
<tr>
<td>Others 4</td>
<td>Others 3</td>
</tr>
<tr>
<td>Brick / Cement 1</td>
<td>Metal 1</td>
</tr>
<tr>
<td>Cement / Wood 3</td>
<td>Tile 2</td>
</tr>
<tr>
<td>Others 4</td>
<td>Others 3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A 05. Number of bedrooms (including ama's quarters):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A 06. Type of toilet facility</th>
<th>A 07. Type of lighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Septic tank 1</td>
<td>Electricity 1</td>
</tr>
<tr>
<td>River latrine 2</td>
<td>Generator 2</td>
</tr>
<tr>
<td>Hole latrine 3</td>
<td>Gasoline 3</td>
</tr>
<tr>
<td>Others 4</td>
<td>Others 4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A 08. Type of water supply</th>
<th>A 09. Main method of garbage removal / disposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Piped water 1</td>
<td>Government 1</td>
</tr>
<tr>
<td>Well / Spring 2</td>
<td>Private 2</td>
</tr>
<tr>
<td>River 3</td>
<td>Self 3</td>
</tr>
<tr>
<td>Others 4</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A 10 - A 11: Questions for the living quarters occupied by the owner only.</th>
</tr>
</thead>
<tbody>
<tr>
<td>A 10. Method by which this living quarters was owned and the relevant year.</td>
</tr>
<tr>
<td>Constructed (completed) 1 ☑ Year 1 Bought 2 ☑ Year 2</td>
</tr>
<tr>
<td>Housing Scheme 3 ☑ Year 4 ☑ Others 4</td>
</tr>
</tbody>
</table>

| A 11. Main method of financing the construction / purchase of this living quarters. |
| Government loan 1 ☑ Bank loan 2 ☑ Employer loan 3                            |
| Resettlement Scheme 4 ☑ Own financing 5 ☑ Others 6                           |

### B. HOUSEHOLD CHARACTERISTICS. (For every household in this living quarters, except institutional.)

<table>
<thead>
<tr>
<th>B 01. Type of household</th>
<th>QUESTION B01B FOR OFFICE USE ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-person 1 ☑ Nuclear 2</td>
<td></td>
</tr>
</tbody>
</table>

| B 02. Type of cooking fuel. (Please mark more than one box, if applicable.) |
|-----------------------------|-----------------------------|
| a. Cylinder gas (LPG) ☑     | b. Electricity ☑            |
| d. Gasoline ☑               | e. Wood / Charcoal ☑        |
| f. Others ☑                 |                             |

<table>
<thead>
<tr>
<th>B 03. Occupancy status of living quarters</th>
<th>B 04. Is this household paying housing rental?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner-occupier 1 ☑ Yes, with furniture 1</td>
<td></td>
</tr>
<tr>
<td>Rented 2 ☑ Yes, without furniture 2</td>
<td></td>
</tr>
<tr>
<td>Provided by Government 3 ☑ No 3 ☑</td>
<td>C 01 C 01</td>
</tr>
<tr>
<td>Provided by employer (non-Government) 4</td>
<td></td>
</tr>
<tr>
<td>Others, specify 5 ☑</td>
<td></td>
</tr>
</tbody>
</table>

| B 05. Monthly rental paid | B 05 | |
|---------------------------|------|
|                            | B 5  |

### C. HOUSEHOLD EQUIPMENT.

<table>
<thead>
<tr>
<th>C 01. Number of transport equipment owned:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Motorcar</td>
</tr>
<tr>
<td>b. Motorcycle / Scooter</td>
</tr>
<tr>
<td>c. Boat</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C 02. Does this household own a computer?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes 1 ☑</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C 03. Number of computers owned:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Desktop computer</td>
</tr>
<tr>
<td>b. Laptop computer</td>
</tr>
<tr>
<td>c. Palmtop computer</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C 04. Is any of these computers connected to the Internet?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes 1 ☑</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C 05. Number of household equipment owned:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Telephone</td>
</tr>
<tr>
<td>b. Mobile telephone</td>
</tr>
<tr>
<td>c. Pager</td>
</tr>
<tr>
<td>d. Television</td>
</tr>
<tr>
<td>e. VCD / DVD player</td>
</tr>
<tr>
<td>f. Decoder (Krisia)</td>
</tr>
<tr>
<td>g. Astro</td>
</tr>
<tr>
<td>h. Air-conditioner</td>
</tr>
<tr>
<td>i. Freezer</td>
</tr>
</tbody>
</table>
### SCHEDULE 2

#### POPULATION AND HOUSING CENSUS 2001

**POPULATION SCHEDULE**

<table>
<thead>
<tr>
<th>Census District</th>
<th>Malam</th>
<th>Kampung / Locality</th>
<th>Enumeration Area</th>
<th>Living Quarters No.</th>
<th>Household No.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**D (a) PERSONAL CHARACTERISTICS. (For all household members.)**

(Choose mark ☑ the boxes beside the appropriate codes and fill in the spaces as well as the boxes marked with ☑ provided.)

<table>
<thead>
<tr>
<th>D 01. Name</th>
<th>D 02. Colour (Y / P / O / G / O) and No. of Brunei Darussalam I.C.</th>
<th>D 03. Gender</th>
<th>D 04. a. Age at last birthday</th>
<th>D 04. b. Date of birth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serial number of household member</td>
<td>Colour No.</td>
<td>Male ☑</td>
<td>Female ☑</td>
<td>years.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D 05. Relationship to the head of household</th>
<th>D 06. Marital status</th>
<th>D 07. Religion</th>
<th>D 08. Race</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head ☑</td>
<td>1 Sibling ☑</td>
<td>2 Child ☑</td>
<td>3 Grandchild ☑</td>
</tr>
<tr>
<td>Parent ☑</td>
<td>5 Grandparent ☑</td>
<td>6 Adopted child ☑</td>
<td>7 Other relative ☑</td>
</tr>
<tr>
<td>Domestic helper ☑</td>
<td>9 Other relation ☑</td>
<td>10 No relation ☑</td>
<td>11 Others ☑</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D 08. Race</th>
<th>D 09. Residential status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Malay ☑</td>
<td>1 Malay ☑</td>
</tr>
<tr>
<td>Chinese ☑</td>
<td>2 Chinese ☑</td>
</tr>
<tr>
<td>Others ☑</td>
<td>3 Others ☑</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei Darussalam ☑</td>
<td>01 Permanent resident ☑</td>
<td>02 Other country, specify ☑</td>
</tr>
<tr>
<td>03 Permanent resident ☑</td>
<td>04 Temporary resident ☑</td>
<td>05 Other country, specify ☑</td>
</tr>
</tbody>
</table>

**D (b) LITERACY, EDUCATION, RECREATION AND HEALTH. (For household members aged 3 years and over.)**

**D 15. Is the person able to read and write with understanding (literate)?**

- Yes ☑
- No ☑

**D 16. Language that the person is able to read and write. (Please mark more than one box, if applicable.)**

- Malay ☑
- English ☑
- Chinese ☑
- Arabic ☑
- Others ☑

**D 17. Language / dialect that the person uses in conversation on a day-to-day basis. (Please mark more than one box, if applicable.)**

- Brunei Malay ☑
- Standard Malay ☑
- Kg. Ar (Brunei) ☑
- Orian ☑
- Bidayu ☑
- Berau ☑
- Tung ☑
- others, specify ☑

**D 18. Is the person still studying full time?**

- Yes ☑
- No ☑

**D 19. Level of education being attended**

- D 20. Name of school / college / university being attended

**D 21. Highest level of education / qualification attained**

**D 22. Field of qualification (for degree, diploma and certificate only).**

**D 23. Does the person know how to use a computer?**

- Yes ☑
- No ☑

**D 24. Did the person use a computer last week?**

- Yes ☑
- No ☑

**D 25. Does the person know how to use Internet?**

- Yes ☑
- No ☑

**D 26. Did the person use Internet last week?**

- Yes ☑
- No ☑

Continued on the next page...
D (d). LITERACY, EDUCATION, RECREATION AND HEALTH
(continued).
(Please mark ☑ the boxes beside the appropriate codes and fill in the spaces as well as the boxes marked with ☐ provided)

<table>
<thead>
<tr>
<th>D 27</th>
<th>Was the person involved in sports activities during the last 6 months?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑</td>
<td>Yes</td>
</tr>
<tr>
<td>☐</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D 28</th>
<th>Please specify three kinds of sports activities that the person was involved in during the last 6 months according to priority:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D 29</th>
<th>Has the person ever received medical/handicapped service last month?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑</td>
<td>Yes</td>
</tr>
<tr>
<td>☐</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D 30</th>
<th>Where did the person receive the medical/handicapped service?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government hospital</td>
<td>1</td>
</tr>
<tr>
<td>Government health center / clinic</td>
<td>2</td>
</tr>
<tr>
<td>Private clinic</td>
<td>4</td>
</tr>
<tr>
<td>Private hospital</td>
<td>5</td>
</tr>
<tr>
<td>Others</td>
<td>6</td>
</tr>
<tr>
<td>Others specify</td>
<td>7</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D 31</th>
<th>Is the person a smoker?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑</td>
<td>Yes</td>
</tr>
<tr>
<td>☐</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

D (e). WOMAN FERTILITY. (For ever-married women.)

<table>
<thead>
<tr>
<th>D 32</th>
<th>Age at first marriage</th>
</tr>
</thead>
<tbody>
<tr>
<td>D 33</td>
<td>Number of children born alive</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D 34</th>
<th>Number of children still alive</th>
</tr>
</thead>
<tbody>
<tr>
<td>D 35</td>
<td>Number of children dead</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D 36</th>
<th>Month and year of birth of the last child</th>
</tr>
</thead>
<tbody>
<tr>
<td>D 37</td>
<td>Is the last-born child still alive?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D 38</th>
<th>Activity status of the person. (Please mark the activity of the person during the REFERENCE WEEK.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Working</td>
<td>1</td>
</tr>
<tr>
<td>Activity looking to work</td>
<td>2</td>
</tr>
<tr>
<td>Housewife</td>
<td>3</td>
</tr>
<tr>
<td>46</td>
<td></td>
</tr>
<tr>
<td>Full time</td>
<td>5</td>
</tr>
<tr>
<td>Student</td>
<td>6</td>
</tr>
<tr>
<td>46</td>
<td></td>
</tr>
<tr>
<td>46</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D 39</th>
<th>Occupation status of the person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee</td>
<td>1</td>
</tr>
<tr>
<td>Own account</td>
<td>2</td>
</tr>
<tr>
<td>Employer</td>
<td>3</td>
</tr>
<tr>
<td>44</td>
<td></td>
</tr>
<tr>
<td>Family work</td>
<td>4</td>
</tr>
</tbody>
</table>

| D 40 | Main occupation of the person. (Please specify in detail.) |

| D 41 | Name and address of employer / company of the person. (Please specify in detail.) |

| D 42 | Industry. (Please specify in detail the type of goods or services produced by the person's employer / company) |

<table>
<thead>
<tr>
<th>D 43</th>
<th>Gross monthly income from main occupation (BS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>44</td>
<td>Bonus received in the last 12 months (BS)</td>
</tr>
<tr>
<td>BS</td>
<td>BS</td>
</tr>
</tbody>
</table>

| D 45 | What was the occupation of the person's father when the person was 15 years old? |

The following questions D 46 - 47 refer to the economic activity of the person in the last 12 months.

| D 46 | Occupation / business activity of the person as a sideline, if any. (Please specify in detail.) |

| D 47 | Gross monthly income from occupation / business activity as a sideline (BS) |

| a | House / building rental |
| b | Retirement pension from previous full-time employment |
| c | Social welfare benefits |
| d | Student allowance / scholarship |
| e | Others, specify |

THIS QUESTIONNAIRE IS THE PROPERTY OF THE DEPARTMENT OF ECONOMIC PLANNING AND DEVELOPMENT, PRIME MINISTER'S DEPARTMENT.
No. S 62

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

LEGAL PROFESSION ACT (AMENDMENT) ORDER, 2001

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

Citation.

1. This Order may be cited as the Legal Profession Act (Amendment) Order, 2001.

Amendment of section 2 of Chapter 132.

2. Section 2 of the Legal Profession Act (Chapter 132), in this Order referred to as the Act, is amended, in the definition of "legal officer", by adding "or any qualified person who has been retained by or who appears in any case (as defined in subsection (6) of section 7) on the instructions of the Government."

Amendment of section 17.

3. Section 17 of the Act is amended by repealing subsection (2) and by substituting the following therefor —

"(2) Notwithstanding anything contained in this Act, the following persons shall be deemed to be advocates and solicitors —

(a) any person who holds the office of Attorney General, Solicitor General, Deputy Public Prosecutor or any other office which His Majesty has by notice in the Government Gazette declared to be an office to which this subsection applies, for so long as he continues to hold such office; and

(b) any qualified person who has been retained by or who appears in any case (as defined in subsection (6) of section 7) on the instructions of the Government."

Made this 9th. day of Jamadilakhir, 1422 Hijriah corresponding to the 28th. day of August, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

INCOME TAX (PETROLEUM) (AMENDMENT) ORDER, 2001

ARRANGEMENT OF SECTIONS

Section
1. Citation and commencement.
2. Amendment of section 2 of Chapter 119.
3. Amendment of section 3.
4. Substitution of section 5.
6. Amendment of section 11.
7. Amendment of section 19.
8. Insertion of new sections 21A and 21B.
9. Amendment of section 29.
10. Amendment of section 32.
11. Amendment of section 33.
12. Amendment of section 37.
13. Amendment of section 38.
14. Amendment of section 47.
CONSTITUTION OF BRUNEI DARUSSALAM
(Order under section 83(3))

INCOME TAX (PETROLEUM) (AMENDMENT) ORDER, 2001

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

Citation and commencement.

1. This Order may be cited as the Income Tax (Petroleum) (Amendment) Order, 2001 and shall commence on the 1st. day of October, 2001.

Amendment of section 2 of Chapter 119.

2. Section 2 of the Income Tax (Petroleum) Act, in this Order referred to as the Act, is amended in subsection (1), —

(a) by deleting the definition of "company" and by substituting ""company" means a company incorporated or registered in Brunei Darussalam under the Companies Act (Chapter 39) or under any law in force elsewhere;" therefor; and

(b) by inserting the new definition ""Minister" means the Minister of Finance;" immediately after the definition of "disposal" and "disposed of".

Amendment of section 3.

3. Section 3 of the Act is amended, in subsection (1), by deleting "in Council" from the second line.

Substitution of section 5.

4. Section 5 of the Act is repealed and substituted by the following —

"Rules.

5. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules generally for the carrying out of the provisions of this Act, including the specifications of forms of returns, claims, statements and notices under this Act.".

Substitution of section 6.

5. Section 6 of the Act is repealed and substituted by the following —
"Service and signature of notices.

6. (1) Except where it is provided by this Act that service shall be effected either personally or by registered post, a notice may be served on a person either personally or by being sent through the post.

(2) Where a notice is served by ordinary or registered post, it shall be deemed to have been served on the day succeeding the day on which the notice would have been received in the ordinary course of post if the notice is addressed —

(a) in the case of a company incorporated in Brunei Darussalam, to the registered office of the company;

(b) in the case of a company incorporated outside Brunei Darussalam, either to the individual authorised to accept service of process under the Companies Act (Chapter 39), the manager or some other person resident in Brunei Darussalam employed in the management of petroleum operations carried on by such company or the registered office of the company wherever it may be situated.

(3) Where the person to whom there has been addressed a letter containing a notice given under this Act is informed that there is a registered letter waiting for him at a post office and such person refuses or neglects to take delivery of such registered letter, such notice shall be deemed to have been served upon him on the date on which he was informed that there was a registered letter waiting for him at that post office.

(4) Every notice to be given by the Collector under this Act shall be signed by the Collector or by a person authorised by him in that behalf under section 3, and every such notice shall be valid if the signature of the Collector or of such person is duly printed or written thereon.

(5) Any notice under this Act requiring the attendance of any person or witness before the Collector shall be signed by the Collector or by a person duly authorised by him as aforesaid."

Amendment of section 11.

6. Section 11 of the Act is amended by repealing subsections (1) and (2) and by substituting the following therefor —

'(1) Where the Collector is satisfied that the purpose or effect of any arrangement is directly or indirectly —

(a) to alter the incidence of any tax which is payable by, or which would otherwise have been payable by, any person;
(b) to relieve any person from any liability to pay tax or to make a return under this Act; or

(c) to reduce or avoid any liability imposed or which would otherwise have been imposed on any person by this Act,

he may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the arrangement and make such adjustment as he considers appropriate, including the computation or recomputation of gains or profits, and the imposition of liability to tax, so as to nullify any tax advantage obtained or obtainable from or under that arrangement.

(2) In subsection (1), "arrangement" includes any scheme, trust, grant, covenant, agreement, disposition and transaction, and all steps by which it is carried into effect."

Amendment of section 19.

7. Section 19 of the Act is amended by inserting "in such form and manner as the Collector may determine" immediately after "Collector" in the sixth line.

Insertion of new sections 21A and 21B.

8. The Act is amended by inserting the following two new sections immediately after section 21 —

"Power to call for statements of bank etc.

21A. The Collector may give notice in writing to any person requiring him to furnish within the time limited by such notice, not being less than 30 days from the date of service of such notice, a statement containing particulars of —

(a) all banking accounts, whether current or deposit, business or private, in that person’s own name or in the name or names of his wife or wives, or in any other name, in which he is or has been interested, or on which he has or has had the power to operate, jointly or solely, and which are in existence or which have existed at any time during the period stated in the notice;

(b) all savings and loan accounts, deposits, building society and co-operative society accounts, in regard to which he has, or has had, any interest or power to operate jointly or solely during the period stated in the notice;

(c) all assets, other than those referred to in paragraph (a) or (b), which he and his wife or wives possess, jointly or solely, or has possessed during the period stated in the notice;
(d) all sources of income not referred to in paragraph (a), (b) or (c) and the income derived therefrom during the period stated in the notice;

(e) all facts bearing upon his liability to income tax to which he is, or has been, liable.

Power of access to buildings and documents etc.

21B. (1) The Collector and any officer authorised in writing by him in that behalf shall at all times have full and free access to all land, buildings, places, books, documents and other papers for any of the purposes of this Act and may, without fee or reward, inspect, copy or make extracts from any such books, documents or papers.

(2) The Collector may take possession of any books, documents or papers to which he has access under subsection (1) where in his opinion —

(a) the inspection, copying thereof or extraction therefrom cannot reasonably be performed without taking possession;

(b) the books, documents or papers may be interfered with or destroyed unless possession is taken; or

(c) the books, documents or papers may be required as evidence in proceedings for an offence under this Act or in proceedings for the recovery of tax or liabilities as may be demanded by the Collector for the purposes of this Act.

(3) Where in the opinion of the Collector it is necessary for the purpose of ascertaining income in respect of the gains or profits from any business for any period to examine any books, accounts or records kept otherwise than in the Malay or English languages, he may by notice require any person carrying on that business during any period to furnish within the time stated in the notice (not being less than 30 days from the date of service of the notice) a translation into the Malay or English languages of those books, accounts or records.”.

Amendment of section 29.

9. Section 29 of the Act is amended, in subsection (11), by deleting "His Majesty in Council" from the first line and by substituting "The Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan," therefor.

Amendment of section 32.

10. Section 32 of the Act is amended by deleting "2 months" from the fourth line and by substituting "30 days" therefor.
Amendment of section 33.

11. Section 33 of the Act is amended, in subsection (1), —

   (a) in paragraph (b), by deleting "2 months" from the third line and by substituting "30 days" therefor;

   (b) by inserting, immediately after paragraph (b), the following new paragraph —

   "(ba) notwithstanding the provisions of paragraphs (a) and (b), if the amount of tax outstanding is not paid within 60 days of the imposition of the penalty provided for in paragraph (a), an additional penalty of 1% of the tax outstanding shall be payable for each completed month that the tax remains unpaid, but the total additional penalty shall not exceed 12% of the amount of tax outstanding, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of tax of such additional penalty;".

Amendment of section 37.

12. Section 37 of the Act is amended —

   (a) in paragraph (a) of subsection (1), by inserting "Section 21A," immediately after "Section 21," in the fourth line;

   (b) in paragraph (b) of subsection (1), by adding "or" immediately after the semicolon;

   (c) by inserting immediately after paragraph (b) of subsection (1) the following new paragraph —

   "(c) obstructs or hinders any officer acting in the discharge of his duty under this Act or any rules made thereunder;";

   (d) in subsection (2), by deleting "he shall have been personally served with such notice" from the last two lines and by substituting "such notice has been served on him either personally or by registered post" therefor.

Amendment of section 38.

13. Section 38 of the Act is amended by repealing subsection (2).
Amendment of section 47.

14. Section 47 of the Act is amended, in subsection (1), by deleting "His Highness in Council" from the first line and by substituting "the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan," therefor.

Made this 13th. day of Rejab, 1422 Hijriah corresponding to the 1st. day of October, 2001 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM
In exercise of the powers conferred by subsections (1) and (2) of section 5 of the Law Revision Act, the Attorney General hereby makes the following Order —

Citation and commencement.

1. This Order may be cited as the Law Revision Order No. 3 of 2001 and shall commenced on the 1st. day of October, 2001.

Substitution of pages.

2. The removal from the Laws of the pages specified in the third column of Part A of the Schedule bearing on the face thereof or overleaf the legend specified in the fourth column thereof with reference to the written laws specified in the first and second columns thereof is hereby directed, and the inclusion in the Laws, in respective substitution of the pages so directed to be removed, of the pages specified in the third column of Part B of the Schedule bearing on the face thereof or overleaf the legend specified in the fourth column thereof with reference to those written laws is hereby authorised.

SCHEDULE

PART A

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Pages</th>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Criminal Procedure Code</td>
<td>1 to 350</td>
<td>B.L.R.O. 1/1984</td>
</tr>
<tr>
<td>22</td>
<td>Penal Code</td>
<td>1 to 166</td>
<td>B.L.R.O. 1/1984</td>
</tr>
<tr>
<td>27</td>
<td>Misuse of Drugs Act</td>
<td>1 to 70</td>
<td>B.L.R.O. 1/1984</td>
</tr>
</tbody>
</table>
## PART B

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Pages</th>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Criminal Procedure Code</td>
<td>1 to 306</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td></td>
<td>Youthful Offenders (Places of Detention) Rules</td>
<td>1 to 36</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td></td>
<td>Criminal Procedure (Allowance to Witnesses) Rules</td>
<td>1 to 4</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td></td>
<td>Magistrates’ Courts (Pleading Guilty by Letter) Rules</td>
<td>1 to 4</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td></td>
<td>Notification under section 11(1) conferring special jurisdiction on magistrates</td>
<td>1 to 2</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td></td>
<td>Resolution under section 183(2) permitting plea of guilty by post</td>
<td>1 to 2</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td>22</td>
<td>Penal Code</td>
<td>1 to 198</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td>27</td>
<td>Misuse of Drugs Act</td>
<td>1 to 44</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td></td>
<td>Misuse of Drugs Regulations</td>
<td>1 to 34</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td></td>
<td>Misuse of Drugs (Board of Visitors for Approved Institutions) Regulations</td>
<td>1 to 6</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td></td>
<td>Misuse of Drugs (Approved Institutions and Treatment and Rehabilitation) Regulations</td>
<td>1 to 8</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td></td>
<td>Misuse of Drugs (Approved Institutions) (Discipline) Regulations</td>
<td>1 to 10</td>
<td>B.L.R.O. 3/2001</td>
</tr>
<tr>
<td></td>
<td>Notification of approved institutions under section 2</td>
<td>1 to 2</td>
<td>B.L.R.O. 3/2001</td>
</tr>
</tbody>
</table>
Made this 16th. day of Syaaban, 1422 Hijriah corresponding to the 3rd. day of November, 2001.

DATO PADUKA AWANG HAJI KIFRAWI BIN
DATO PADUKA HAJI KIFLI
ATTORNEY GENERAL,
BRUNEI DARUSSALAM.