

No. S 116

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

ACCOUNTING STANDARDS ORDER, 2010

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

ACCOUNTING STANDARDS ORDER, 2010-

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

PART I

PRELIMINARY

Citation, commencement and long title.

1. (1) This Order may be cited as the Accounting Standards Order, 2010 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification in the *Gazette*.

(2) The long title of this Order is "An Order to establish the Accounting Standards Council to issue accounting standards applicable to companies and other incorporated and unincorporated bodies to provide for accounting standards applicable to statutory bodies and for matters connected therewith".

Interpretation.

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

"accounting standard" means —

(a) an accounting standard made or formulated by the Council under Part IV; or

(b) an accounting standard for statutory bodies established by the Authority under Part V;

"Authority" means such person as is appointed by His Majesty the Sultan and Yang Di-Pertuan under section 3(1) to be the Authority for the purposes of this Order;

"Chairman" means the Chairman of the Council appointed under section 5(1)(a), and includes any temporary Chairman of the Council if so appointed;

"company" means any company registered or incorporated under the Companies Act (Chapter 39) and includes any company registered or incorporated outside Brunei Darussalam which establishes a place of

business in Brunei Darussalam and continues to have an established place of business within Brunei Darussalam;

"Council" means the Accounting Standards Council established under section 4;

"making or formulating", in relation to any accounting standard, includes amending and revoking the accounting standard;

"member", in relation to the Council, means a member of the Council and includes the Chairman thereof;

"Minister" means the Minister of Finance;

"statutory body" means a body established or constituted by or under any written law.

PART II

APPOINTMENT OF AUTHORITY, AUTHORISED PERSONS ETC.

Appointment of Authority and authorised persons.

3. (1) His Majesty the Sultan and Yang Di-Pertuan may, by notification published in the *Gazette*, appoint a person to be the Authority for the purposes of this Order.

(2) The Authority may authorise or appoint any person to assist in the exercise of the powers, duties and functions of the Authority under this Order, either generally or in any particular case.

(3) Any person authorised or appointed by the Authority under subsection (2) shall be deemed to be a public servant for the purposes of the Penal Code (Chapter 22).

PART III

ACCOUNTING STANDARDS COUNCIL

Establishment and functions of Accounting Standards Council.

4. (1) There shall be established a body to be known as the Accounting Standards Council whose functions shall be —

(a) to make or formulate statements of standard accounting practice (referred to in this Order as accounting standards) applicable to companies for the purposes of the Companies Act (Chapter 39); and

(b) to make or formulate accounting standards applicable to such other persons or classes of persons as are prescribed under section 9(1)(b).

(2) In addition to the functions imposed by subsection (1), the Council may undertake such other functions (not inconsistent with those specified in subsection (1)) as the Minister may, by order published in the *Gazette*, assign to the Council and, in so doing –

(a) the Council shall be deemed to be fulfilling the purposes of this Order; and

(b) the provisions of this Order shall apply to the Council in respect of those functions.

Constitution of Council.

5. (1) The Council shall consist of the following members, all of whom shall be appointed by the Minister –

(a) a Chairman; and

(b) at least 5, but not more than 10 other members.

(2) A person shall not be appointed as a member of the Council unless the person's knowledge of, or experience in, business, accounting, law or government or other relevant fields qualifies him for the appointment.

(3) The Chairman and other members of the Council shall each hold office for such period (not exceeding 2 years) and on such terms and conditions as the Minister may determine, and shall be eligible for reappointment.

(4) The Minister may appoint any member of the Council to be a temporary Chairman during the temporary incapacity from illness or otherwise, or during the temporary absence from Brunei Darussalam, of the Chairman.

(5) The Minister may, at any time, revoke the appointment of the Chairman or any other member of the Council if he considers such revocation necessary in the interest of the effective performance of the functions of the Council under this Order or in the public interest.

(6) A member of the Council may resign from his office at any time by giving not less than one month's notice in writing to the Minister.

(7) If any vacancy occurs in the membership of the Council, the Minister may, subject to subsections (1) and (2), appoint a person to fill the vacancy.

(8) The Chairman and other members of the Council may be paid such allowances and expenses as the Minister may determine.

Meetings and proceedings of Council.

6. (1) The Council shall 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 Council, 4 members shall constitute a *quorum*.

(3) The Chairman shall preside at all meetings of the Council, but if the Chairman is absent from a meeting —

(a) the temporary Chairman; or

(b) if there is no temporary Chairman, such member as the Authority may appoint,

shall preside at that meeting.

(4) Subject to the provisions of this Order, the Council may regulate its own proceedings.

Appointment of committees and delegation of powers.

7. (1) The Council may, in its discretion, appoint from among its own members or from among other persons such number of committees as it thinks fit for purposes which, in the opinion of the Council, would be more expediently carried out or managed by means of such committees.

(2) The Council may, subject to such conditions or restrictions as it thinks fit, delegate —

(a) to any of its members; or

(b) to any committee appointed by it under subsection (1),

any of the functions or powers of the Council under this Order or any other written law, except the power of delegation conferred by this section.

(3) Any function or power delegated under subsection (2) to any member or committee may be performed or exercised by that member or committee in the name and on behalf of the Council.

(4) No delegation under this section shall prevent the performance or exercise of any function or power by the Council.

Directions by Minister.

8. The Minister may give to the Council such directions, not inconsistent with the provisions of this Order, as he thinks fit as to the performance of its functions and the exercise of its powers, and the Council shall comply with such directions.

PART IV

ACCOUNTING STANDARDS FOR COMPANIES AND OTHER PERSONS

Accounting standards.

9. (1) Accounting standards made or formulated by the Council may apply —
- (a) to all companies or specified classes or descriptions of companies; and
 - (b) to such persons or such classes of persons as the Minister may prescribe.
- (2) Such accounting standards may be of general or specially limited application, and may differ according to differences in time, place or circumstance.
- (3) The Council may, from time to time, issue practice directions on the interpretation of the accounting standards made or formulated under this Part and on matters relating to them and their use in Brunei Darussalam.

Manner of making etc. accounting standards.

10. (1) In making or formulating accounting standards, the Council shall have the following objects —
- (a) the development of accounting standards that require the provision of financial information that —
 - (i) assist directors of companies and officers of other persons or classes of persons prescribed under section 9(1)(b) to discharge their duties and obligations in relation to financial reporting under the Companies Act (Chapter 39) or any other written law;
 - (ii) is relevant to assessing performance, financial position, financing and investment;
 - (iii) is relevant and reliable;

(iv) facilitates comparability; and

(v) is readily understandable; and

(b) to maintain investor confidence in the Brunei Darussalam economy (including its capital markets).

(2) In making and formulating accounting standards, the Council —

(a) shall have regard to the suitability of a proposed accounting standard for companies and different classes of persons prescribed under section 9(1)(b);

(b) may apply different accounting requirements to the different types of persons; and

(c) shall ensure that there are appropriate accounting standards for each type of persons that must comply with accounting standards.

(3) A failure to comply with this Part in relation to the making or formulation of an accounting standard shall not affect the validity of the standard.

Evidence of text of accounting standards.

11. (1) Where an accounting standard is made or formulated by the Council under this Part, the Council shall —

(a) publish a notice of the making or formulation of the accounting standard in such manner as will secure adequate publicity for such making or formulation;

(b) specify in the notice referred to in paragraph (a) —

(i) the date of such making or formulation;

(ii) the class or description of company or persons or class of persons prescribed under section 9(1)(b) or otherwise in respect of which the accounting standard is made or formulated; and

(iii) the place at and the time during which the accounting standard which is the subject of the notice may be inspected; and

(c) ensure that, so long as the accounting standard remains in force, copies of that accounting standard, and of all amendments to that accounting

standard, are available for inspection by members of the public free of charge, and for purchase by members of the public at a reasonable price.

(2) No accounting standard, no amendment thereto and no revocation thereof shall have any force or effect as an accounting standard under this Order or for the purposes of any other written law until the notice relating thereto is published in accordance with subsection (1).

(3) Without affecting any other method of proof, in any proceedings under any written law —

(a) the production of a document purporting to be a copy of a notice published by the Council under subsection (1)(a) shall be proof of such a notice until the contrary is proved; and

(b) the production of a document purporting to be an accounting standard made or formulated by the Council as in force at a specified time, or an amendment or a revocation by the Council of such an accounting standard, and to be the subject of a notice under subsection (1)(a), and that is certified by the Chairman under his hand to be a true copy of or extract from any accounting standard made or formulated, amended or revoked by the Council, shall be proof, until the contrary is proved, that —

- (i) the specified accounting standard or the amendment thereto was in force at that time or the revoked accounting standard was not in force, as the case may be; and
- (ii) the text set out in the document is the text of the accounting standard.

PART V

ACCOUNTING STANDARDS FOR STATUTORY BODIES

Authority to establish accounting standards.

12. (1) The Authority may establish one or more accounting standards about the following —

(a) the statements of standard accounting practice applicable to statutory bodies; and

(b) the content of financial statements and annual reports required to be prepared by statutory bodies.

(2) Before establishing an accounting standard under subsection (1), the Authority shall have regard to relevant accounting standards issued by the Council under this Order or by any appropriate professional bodies.

(3) The Authority may establish an accounting standard under this Part —

(a) by issuing the text of an accounting standard, which may or may not be an accounting standard made or formulated by the Council under Part IV; or

(b) by modifying the text of any accounting standard referred to in paragraph (a) to the extent necessary to take account of the legal or institutional environment for statutory bodies.

(4) An accounting standard established under subsection (1) shall apply to such periods as may be specified in the standard.

Statutory bodies to comply with accounting standards.

13. The accounts and financial statements of every statutory body specified in the Schedule shall be prepared in compliance with such accounting standards as are established under this Part and notified in writing to the statutory body by the Authority.

PART VI

MISCELLANEOUS

Power to exempt.

14. The Minister may exempt any person or classes of persons from any or all of the provisions of this Order.

Amendment of Schedule.

15. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, amend the Schedule.

Rules.

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

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

SCHEDULE

(sections 13 and 15)

STATUTORY BODIES

First column Statutory body	Second column Legislation under which established or constituted
1. Authority for Info-Communications Technology Industry of Brunei Darussalam	Authority for Info-Communications Technology Industry of Brunei Darussalam Order (S 39/01)
2. Brunei Economic Development Board	Brunei Economic Development Board Act (Chapter 104)
3. Brunei Investment Agency	Brunei Investment Agency Act (Chapter 137)
4. Brunei Monetary and Currency Board	Currency and Monetary Order, 2004 (S 16/04)
5. Dana Pengiran Muda Mahkota Al-Muhtadee Billah for Orphans	Dana Pengiran Muda Mahkota Al-Muhtadee Billah for Orphans Act (Chapter 185)
6. Majlis Ugama Islam	Religious Council and Kadis Courts Act (Chapter 77)
7. Perbadanan Tabung Amanah Islam Brunei	Perbadanan Tabung Amanah Islam Brunei Act (Chapter 163)
8. Tabung Amanah Pekerja	Tabung Amanah Pekerja Act (Chapter 167)
9. Yayasan Sultan Haji Hassanah Bolkiah	Yayasan Sultan Haji Hassanah Bolkiah Act (Chapter 166).

Made this 25th. day of Muharram, 1432 Hijriah corresponding to the 31st. day of December, 2010 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

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