

ZO-940704

LAWS
OF
MALAYSIA

CENTRAL BANK OF MALAYSIA ORDINANCE, 1958

(F.M. No. 61 of 1958)

(AS AT 15TH SEPTEMBER 1989)

AM 0000788 Code M-ZO-940704

02 CORNELL UNIVERSITY LIBRARIES

CORNELL UNIVERSITY
LIBRARY
ITHACA, N. Y. 14853



John M. Echols Collection
on Southeast Asia
KROCH LIBRARY

LBS



International Law Book Services

CORNELL UNIVERSITY LIBRARY



3 1924 068 295 694

CENTRAL BANK OF MALAYSIA ORDINANCE, 1958

(F.M. No. 61 of 1958)

(AS AT 15TH SEPTEMBER 1989)

Compiled by: Legal Research Board



INTERNATIONAL LAW BOOK SERVICES
No. 14, 1st Floor, Lorong Bunus Enam,
Off Jalan Masjid India,
50100 Kuala Lumpur.
Tel: 2939862/2939864.

1989

CENTRAL BANK OF MALAYSIA ORDINANCE, 1958

(F.M. No. 61 of 1958)

Sole Distributor

GOLDEN BOOKS CENTRE SDN. BHD.
No. 14, 1st Floor, Lorong Bunus Enam,
Off Jalan Masjid India,
50100 Kuala Lumpur.
Tel: 2939862/2939864

ASIA
KQB

M 22
C 3
1989



© International Law Book Services

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of International Law Book Services.

Printed by: Percetakan dan Perniagaan Berlian Sdn. Bhd.

ISBN: 967-89-0226-6

Edu 10
8146/540-0

Although every attempt has been made to check the accuracy of this publication, International Law Book Services accepts no responsibility for any errors or omissions, if any.

The Publisher will gratefully acknowledge any suggestion for improvement.

ARRANGEMENT OF SECTIONS

PART I
PRELIMINARY

Section

1. Short title and commencement.
2. Interpretation.

PART II
**ESTABLISHMENT, CAPITAL AND ADMINISTRATION
OF THE BANK**

3. Establishment of Bank.
4. Principal objects of Bank.
5. Offices of the Bank.
6. Capital.
7. General Reserve Fund.
8. Board of Directors.
9. Governor and Deputy Governor.
10. Appointment of directors.
11. Disqualification of directors.
12. Vacancies in the office of Governor or Deputy Governor or of another director.
13. Meetings and acts of the Board.
14. Director's interest in contract to be made known.
15. Officers and employees of the Bank.
16. Preservation of secrecy.
- 16A. Bank's power to report suspected offence.
17. Remuneration not to be related to profits.

PART III
CURRENCY

18. Unit of currency.
19. Parity.

Section

20. Right to issue bank notes and coin.
21. Power to buy and sell Malaysian currency.
22. Printing of notes, minting of coins and issue of notes and coins.
23. Denominations and forms of notes and coins.
24. Legal tender.
25. Coins tampered with or notes defaced.
26. Cancellation of coin.
27. Refund of lost or imperfect notes or coin.
- 27A. Restriction on the use of photographs, drawing or design of notes in advertisements, etc.

**PART IV
RESERVE OF EXTERNAL ASSETS**

28. Reserve of external assets.
29. External reserves as proportion of Bank's liabilities.

**PART V
BUSINESS OF THE BANK**

30. Authorized business of Bank.
31. Business which Bank may not transact.
- 31A. Loans to, and acquisition of, banking and other financial institutions.
- 31B. Power of Bank to make an order in respect of a deposit-taker to protect the interests of its depositors, etc.
- 31C. Power to reduce share capital and to cancel shares of financial institution.

**PART VI
RELATIONS WITH THE GOVERNMENT**

32. Bank as a banker to the Government.
33. Temporary advances to the Government.
34. Issues of policy.

**PART VII
RELATIONS WITH BANKING AND OTHER
FINANCIAL INSTITUTIONS**

35. Co-operation with banking institutions and other financial institutions.
36. (*Repealed*).

Section

37. Recommendations to banking institutions, other financial institutions or institutions or persons as specified in paragraphs (a), (b), (c), (d) and (e).
38. Recommendations to persons or classes of persons (other than banking institutions).
39. Directions to banking institutions, etc.
40. Saving in respect of sections 37 to 39.
41. No discrimination in directions.
42. Special loans to banking and other financial institutions.
43. Clearing Houses and settlement of balances between banking and other financial institutions.
44. (*Repealed*).

**PART VIII
GENERAL**

45. Bank's financial year.
46. Audit.
47. Return of assets and liabilities.
48. Preparation and publication of annual report and balance sheet.
49. Loans and scholarships to officers and employees, and scholarships and study loans to other persons.
- 49A. Power to appoint Attorney.
50. Exemption from stamp duties.
51. Penalties.
- 51A. Power of Governor to compound.
52. Fiat of Public Prosecutor.
53. Jurisdiction.
- 53A. Bank may be represented by director, officer or employee of Bank in civil proceedings.
54. Power of Bank to make regulations.
55. Preliminary acts and expenses.

**PART IX
EXTENSION OF JURISDICTION**

56. Special provision relating to extension of jurisdiction, etc., of the Bank.

CENTRAL BANK OF MALAYSIA ORDINANCE, 1958

(F.M. No. 61 of 1958)

An Ordinance to provide for the establishment, administration, powers and duties of a Central Bank of Malaysia.

[*Part III and s. 30(1)(a) – 12th June, 1957;
Remainder – 26th January, 1959*.*] †

IT IS HEREBY ENACTED by the Yang di-Pertuan Agong with the advice and consent of the Legislative Council as follows:

PART I
PRELIMINARY

1. Short title and commencement.

This Ordinance may be cited as the Central Bank of Malaysia Ordinance, 1958, and shall come into force on such date as the Minister may by notification in the *Gazette** appoint, and the Minister may appoint different dates for the coming into force of different provisions thereof:

Provided that Part III shall not be brought into force until such time as the Currency Ordinance, 1951, shall either have been repealed or have been so amended as to terminate the powers of the Board of Commissioners of Currency, Malaya and British Borneo, as the sole authority for the issue of legal tender currency in the Federation.

2. Interpretation.

In this Ordinance, unless the context otherwise requires—

“bank”, in relation to the Federation, means a licensed bank as defined in the Banking and Financial Institutions Act 1989 or an Islamic bank, and in relation to any country, territory or place outside the Federation means a person lawfully carrying on there-in business corresponding in whole or in part or in substance to “banking business” as defined in the Banking and Financial Institutions Act 1989, or to “Islamic banking business” as defined in the Islamic Banking Act 1983;

*Am. Act
A737* †

* See P.U. 241/67 and L.N. 12/59.

† Sections amended by Act A737 are indicated by marginal notes.

“Bank” or “Central Bank” means the Central Bank of Malaysia established by section 3;

[Ins. Act A737]

“banking institution” means a licensed bank, a licensed merchant bank or a licensed finance company as defined in the Banking and Financial Institutions Act 1989 or an Islamic bank;

“Board” means the Board of Directors of the Central Bank;

“certificate of deposit” means a document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognises an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable;

“Deputy Governor” means the Deputy Governor of the Central Bank;

“director” means a director appointed under section 10, and includes the Governor or Deputy Governor;

“Governor” means the Governor of the Central Bank;

“investment account liabilities” in relation to an Islamic bank means the deposit liabilities at that bank in respect of funds placed by a depositor with that bank for a fixed period of time under an agreement to share the profits or losses of that bank on the investment of such funds;

“Islamic bank” means a bank licensed under the Islamic Banking Act 1983;

[Ins. Act A737]

“licensed institution” has the meaning assigned thereto in the Banking and Financial Institutions Act 1989;

“Minister” means the Minister charged with the responsibility for finance;

[Am. Act A737]

“other deposit liabilities” in relation to a banking institution other than an Islamic bank means deposit liabilities at that banking institution other than savings account, sight and time liabilities and deposit liabilities from another banking institution or the Central Bank; and in relation to an Islamic bank means deposit liabilities at that banking institution other than savings account,

investment account, sight and time liabilities and deposit liabilities from another banking institution or the Central Bank;

“other financial institution” means—

- (a) any licensed discount house, licensed money-broker, or scheduled institution, or representative office, as defined in the Banking and Financial Institutions Act 1989;
- (b) any non-scheduled institution, as defined in the aforesaid Act, which is engaged in the “provision of finance” as this expression is defined in that Act; or
- (c) such other person as may be specified by the Bank, from time to time, by notice published in the *Gazette*;

[Ins. Act A737]

“record of balance of payments” means a record of such economic and financial transactions of the Federation, whether direct or indirect, howsoever, wheresoever, or by whosoever, made, in relation to countries, territories or places outside the Federation as the Bank may, from time to time, determine for the purpose of being included in such record;

[Ins. Act A737]

“savings account liabilities” in relation to a banking institution means the total deposits at that banking institution which normally require the presentation of passbooks or such other documents in lieu of passbooks as approved by the Central Bank for the deposit or withdrawal of monies;

“sight liabilities” in relation to a bank means the total deposits at that bank which are repayable on demand, but does not include savings account liabilities or the deposits of any other banking institution or of the Central Bank at that bank;

“time liabilities” in relation to a banking institution means the total deposits at that banking institution which are repayable otherwise than on demand, but does not include savings account liabilities or the deposits of any other banking institution or of the Central Bank at that banking institution.

PART II ESTABLISHMENT, CAPITAL AND ADMINISTRATION OF THE BANK

3. Establishment of Bank.

There shall be established a bank, to be called “Bank Negara

Malaysia" or, in English, "Central Bank of Malaysia", which shall be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its own name.

4. Principal objects of Bank.

The principal objects of the Bank shall be—

- (a) to issue currency in the Federation and to keep reserves safeguarding the value of the currency;
- (b) to act as a banker and a financial adviser to the Government;
- (c) to promote monetary stability and a sound financial structure; and
- (d) to influence the credit situation to the advantage of the Federation.

5. Offices of the Bank.

(1) The Bank shall have its Head Office in Kuala Lumpur.

(2) The Bank may open branches and appoint agents and correspondents within and without the Federation.

6. Capital.

(1) The authorized capital of the Bank shall be two hundred million ringgit.

(2) Twenty million ringgit of the authorized capital shall be subscribed and paid up by the Government on the establishment of the Bank.

(3) The paid up portion of the authorized capital may be increased by such amount as the Minister may approve from time to time and the Government shall subscribe and pay the amount of the increase to the Bank:

Provided that the payment of the increase in capital may be made by way of such transfers from the General Reserve Fund as the Minister may from time to time approve.

7. General Reserve Fund.

- (1) There shall be a General Reserve Fund of the Bank.
- (2) At the end of each financial year, the net profit of the Bank

for that year shall be determined after allowing for the expenses of operation and after provision has been made for bad and doubtful debts, depreciation in assets, contributions to staff and pension funds and such other contingencies as are usually provided for by banks.

(3) The net profit of the Bank shall be dealt with as follows:

- (a) such amount as the Minister, after consultation with the Board, so determines shall be placed to the credit of the General Reserve Fund; and
- (b) the remainder shall be paid to the Government:

Provided that—

- (i) in the case of any year at the end of which the General Reserve Fund is less than half the paid up capital of the Bank, the whole of the net profit shall be credited to the General Reserve Fund; and
- (ii) in the case of any year at the end of which the General Reserve Fund is not less than half the paid up capital of the Bank but less than twice the paid up capital of the Bank, not less than thirty per centum of the net profit shall be credited to the General Reserve Fund.

8. Board of Directors.

(1) There shall be a Board of Directors constituted as provided in this section, which shall be responsible for the policy and general administration of the affairs and business of the Bank.

(2) The Board of Directors of the Bank shall consist of—

- (a) the Governor;
- (b) the Deputy Governor; and
- (c) not less than five but not more than eight directors appointed under section 10.

(3) The Governor or, during any period of his absence or inability to act from illness or any other cause, the Deputy Governor, shall be entrusted with the day-to-day administration of the Bank, and may, subject as is expressly stated in this Ordinance, give decisions and exercise all powers and do all acts which may be exercised or done by the Bank.

(4) The Governor and the Deputy Governor shall be answerable to the Board for their acts and decisions.

(5) In the event of the absence or inability to act of the Governor or Deputy Governor during his term of office the Minister may appoint a person to discharge the duties of such office during the period of such absence or inability; and while so acting the person so appointed by the Minister shall act as an ex-officio member of the Board.

9. Governor and Deputy Governor.

(1) The Governor and Deputy Governor shall be appointed by the Yang di-Pertuan Agong.

(2) The Governor and Deputy Governor shall each be appointed for a term not exceeding five years and shall be eligible for re-appointment.

(3) The Governor and Deputy Governor shall devote the whole of their professional time to the service of the Bank and while holding office shall not occupy any other office or employment whether remunerated or not:

Provided that they may if so appointed with the approval of the Minister—

(a) act as members of any committee or commission appointed by the Government to enquire into any matter affecting currency, banking, economic or financial matters in the Federation;

(b) become directors, governors or members of the board, by whatever name called, of any international bank or international monetary authority to which the Government shall have adhered or given support or approval;

(c) become directors of any corporation in the Federation in which the Bank may participate under paragraph (j) of subsection (1) of section 30;

(d) become directors or members of the board of management, by whatever name called, of any statutory authority or of any company as defined in subsection (1) of section 4 of the Companies Act, 1965.

(4) The Governor and Deputy Governor shall be appointed on such terms and conditions as may be provided for in their respective letters of appointment.

(5) Notwithstanding anything contained in the foregoing provisions of this section, or in any other provision of this Ordinance, it shall be lawful for the Governor or the Deputy Governor to be appointed by any written law to exercise such powers, discharge such duties, and perform such functions as may be specified in or under such written law, and to be conferred by such written law with such title of office in relation thereto as may be specified in such written law.

[Ins. Act A 737]

10. Appointment of directors.

(1) The directors referred to in paragraph (c) of subsection (2) of section 8 shall be appointed by the Yang di-Pertuan Agong.

(2) The directors appointed under subsection (1) shall be persons of standing and experience in affairs, and as directors of the Bank shall not act as delegates on the Board from any commercial, financial, agricultural, industrial or other interests with which they may be connected:

Provided that the said prohibition shall not extend to any director holding for the time being acting in the office of Secretary General to the Treasury or Deputy Secretary General to the Treasury.

(3) A director appointed under subsection (1) shall hold office for a term not exceeding three years and shall be eligible for re-appointment.

(4) The directors appointed under subsection (1) shall be paid by the Bank such remuneration and allowances as may be prescribed by the Minister.

11. Disqualification of directors.

[Am. Act A 737]

(1) No person shall be appointed or shall remain as Governor, Deputy Governor or other director of the Bank who—

(a) is or becomes a member of the Senate or House of Representatives or any Legislative Assembly;

(b) is or becomes an “officer” or, subject to subsection (3) of section 9, a “director” (as those words are defined in the Banking and Financial Institutions Act 1989) of any banking institution or other financial institution; or

(c) is or becomes a public officer:

Provided that one of the directors appointed under the provisions of section 10 may be the person holding the office of Secretary General to the Treasury or Deputy Secretary General to the Treasury, and notwithstanding the provisions of subsection (3) of section 10 any director so appointed shall remain a member of the Board for so long as he holds the office of Secretary General to the Treasury or Deputy Secretary General to the Treasury, as the case may be, or for such lesser time as may be provided in his letter of appointment.

(2) The Yang di-Pertuan Agong may terminate the appointment of the Governor, Deputy Governor, or any other director if he—

- (a) resigns his office;
- (b) becomes of unsound mind or incapable of carrying out his duties;
- (c) becomes bankrupt or suspends payment or compounds with his creditors;
- (d) is convicted by a court of law in the Federation of an offence and sentenced to imprisonment for a term of not less than two years, or of any offence involving dishonesty, and has not received a free pardon;
- (e) is guilty of serious misconduct in relation to his duties;
- *(f) is absent, except on leave granted by the Minister from all meetings of the Board held during two consecutive months or during any three months in any period of twelve months;
- (g) fails to comply with his obligations under section 14.

12. Vacancies in the office of Governor or Deputy Governor or of another director.

If the Governor or the Deputy Governor or any other director dies or resigns or otherwise vacates his office before the expiry of the term for which he has been appointed another person may be appointed by the Yang di-Pertuan Agong for the unexpired period of the term of office of the person in whose place he is appointed.

* Power of the Minister to grant leave delegated to the Governor, Central Bank of Malaysia, apart from leave to himself - See F.L.N. 280/59.

13. Meetings and acts of the Board.

(1) The Governor, or in his absence the Deputy Governor, shall be the chairman of the Board.

(2) The chairman of the Board shall summon meetings as often as may be required but not less frequently than once in each month.

(3) At every meeting of the Board a quorum shall consist of four directors, and decisions shall be adopted by a simple majority of the votes of the directors present and voting:

Provided that in the case of an equality of votes, the chairman shall have a casting vote.

14. Director's interest in contract to be made known.

(1) A director who is directly or indirectly interested in a contract made, or proposed to be made, by the Bank shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge. [Am. Act
A737]

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Board and, after the disclosure, the director—

- (a) shall not be present at, or take part in, any deliberation or decision of the Board with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

(3) No act or proceeding of the Board shall be questioned on the ground of the contravention by a member of the Board of the provisions of this section.

15. Officers and employees of the Bank.

(1) The Bank may appoint such officers and employees as it considers to be necessary for the efficient conduct of the business of the Bank.

(2) Officers and employees of the Bank shall hold office for such period or periods, receive such salaries and allowances, and be subject to such other terms and conditions of service as may be determined by the Board.

(3) The Bank may, with the approval of the Minister, out of the funds of the Bank establish and maintain a pension and provident fund for its officers and employees and their dependants.

In this subsection, the expression "officers" includes the Governor and Deputy Governor.

(4) Where officers or employees of the Bank have been seconded or transferred to the service of the Bank from or have previously been in the service of the Federal or a State Government or other public authority approved by the Board, the appointments of those officers or employees shall, subject to the provisions of any Federal or State law, be made in accordance with such arrangements as to pensions and allowances for previous service as the Board may determine.

(5) The Bank may, with the approval of the Minister, out of the funds of the Bank, create and maintain a trust account to be called "the Bank Negara Malaysia Staff Welfare Account" for the benefit of its officers and employees, including their dependants.

(6) The Bank Negara Malaysia Staff Welfare Account shall be utilised for such purposes conducive to the welfare of the officers and employees of the Bank, including their dependants, as may from time to time be provided in trust directions to be issued by the Board with the approval of the Minister, and such directions may provide for the manner and the procedure for the making of the grants, loans or other payments from such Account.

16. Preservation of secrecy.

Without prejudice to section 16A, 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 law, no director, officer, or employee of the Bank, shall disclose to any person any information relating to the affairs of the Central Bank or of a banking institution or other financial institution or of a customer of the Central Bank or of a banking institution or other financial institution which he has acquired in the performance of his duties or the exercise of his functions.

16A. Bank's power to report suspected offence.

(1) Where the Bank in the course of the exercise of any of its powers, or the discharge of any of its duties, or the performance of any of its functions, under this Ordinance, the Exchange

Control Act 1953, the Insurance Act 1963, the Islamic Banking Act 1983, the Takaful Act 1984, the Banking and Financial Institutions Act 1989, or under any other written law whatsoever, suspects any person to have committed any offence under this Ordinance, or any of the aforesaid Acts, or any other written law whatsoever, it shall be lawful for the Bank to give information of such commission to a police officer in charge of a police station or to any other police officer, or to convey any or all information in relation to such offence to any banking institution, or to any other financial institution or other person affected by such offence, or to any authority or person having power to investigate under, or enforce, the provision of the law under which the offence is suspected by the Bank to have been committed.

(2) The provisions of subsection (1) shall have full force and effect, notwithstanding anything inconsistent therewith, or contrary thereto, in the Ordinance and the Acts mentioned in subsection (1) or in any other written law.

17. Remuneration not to be related to profits.

No salary, fee, wage, or other remuneration, or allowance, paid by the Bank shall be computed by reference to the profits of the Bank.

PART III CURRENCY

18. Unit of currency.

(1) The unit of currency in the Federation shall be the ringgit, which shall be divided into one hundred sen.

(2) Upon the coming into force of this section, every contract, sale, payment, bill, note, instrument and security for money and every transaction, dealing, matter and thing whatsoever relating to money or involving the payment of, or the liability to pay, any money which but for this subsection would have been deemed to be made, executed, entered into, done and had for, in and in relation to Malaysian ringgit shall be deemed instead to be made, executed, entered into, done and had for, in and in relation to ringgit.

19. Parity.

(1) The parity of the ringgit shall be determined by the Minis-

ter on the recommendation of the Bank in terms either of the currency or currencies of other members of the International Monetary Fund, the Special Drawing Right, the common denominator prescribed by the International Monetary Fund under paragraph 1 of Schedule C to the Articles of Agreement of the International Monetary Fund, or any other denominator consistent with the obligations of Malaysia under Article IV and Schedule C to the Articles of Agreement of the International Monetary Fund:

Provided that if and when the Bank notifies the International Monetary Fund of the parity of the ringgit upon the International Monetary Fund deciding under the Articles of Agreement to introduce a widespread system of exchange arrangements based on stable but adjustable par values, such parity shall be published in the *Gazette* and shall take effect accordingly.

(2) The parity of the Malaysian ringgit may be changed to such an extent as the Minister on the recommendation of the Bank may determine.

(3) Any change under subsection (2) shall be published in the *Gazette* and shall take effect accordingly in substitution of the parity gazetted under subsection (1).

(4) Notwithstanding subsection (1), the Minister may decide on the recommendation of the Bank that it is necessary and expedient for Malaysia not to determine a parity for the ringgit, but instead to apply any exchange arrangement for the ringgit that is not inconsistent with the Articles of Agreement of the International Monetary Fund, including, but not limited to, the severing of the parity of the ringgit to any currency or currencies or any denominator.

20. Right to issue bank notes and coin.

The Bank shall have the sole right of issuing notes and coin throughout the Federation and neither the Government nor the Government of any State nor any public authority, or banking institution or other financial institution, or other institution or persons shall issue currency notes, bank notes or coin or any documents or tokens payable to bearer on demand being documental tokens which, in the opinion of the Bank, are likely to pass as legal tender.

*[Am. Act
A737]*

21. Power to buy and sell Malaysian currency.

The Bank shall at its discretion buy and sell Malaysian currency against gold or other currency eligible for inclusion in the reserve of external assets specified under section 28:

Provided that the rate of exchange quoted for any such transaction shall be consistent with the Articles of Agreement of the International Monetary Fund.

22. Printing of notes, minting of coins and issue of notes and coins.

The Bank shall—

- (a) arrange for the printing of notes and the minting of coins;
- (b) issue, re-issue and exchange notes and coins at the Bank's offices and at such agencies as the Bank may, from time to time, establish or appoint;
- (c) arrange for the safe custody of unissued stocks of currency and for the preparation, safe custody and destruction of plates and paper for the printing of notes and of dies for the minting of coins.

23. Denominations and forms of notes and coins.

(1) Notes and coins issued by the Bank—

- (a) shall be in such denominations of the ringgit or fractions thereof as shall be approved by the Minister on the recommendation of the Bank;
- (b) shall be of such forms and designs and bear such devices as shall be approved by the Minister on the recommendation of the Bank.

(2) The standard weight and composition of coins issued by the Bank and the amount of remedy and variation shall be determined by the Minister on the recommendation of the Bank.

24. Legal tender.

(1) Notes issued by the Bank shall, if such notes are not defaced, be legal tender in the Federation at their face value for the payment of any amount.

(2) Coins issued by the Bank shall, if such coins have not been

*[Am. Act
A737]*

tampered with, be legal tender in the Federation at their face value—

- (a) for the payment of any amount in the case of coins of the denomination exceeding one ringgit;
- (b) for the payment of an amount not exceeding ten ringgit in the case of coins of the denomination of fifty sen and one ringgit; and
- (c) for the payment of an amount not exceeding two ringgit in the case of coins of the denomination of less than fifty sen.

(3) Notwithstanding the provisions of subsections (1) and (2), the Bank shall have power, on giving not less than three months' notice in the *Gazette* of its intention to do so, to call in any of its notes and coins on payment of the face value thereof; and any such notes or coins with respect to which notice has been given under this subsection shall, on the expiration of the notice, cease to be legal tender.

25. Coins tampered with or notes defaced.

*[Am. Act
A737]*

A coin shall be deemed to have been tampered with if the coin has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced by stamping, engraving or piercing, whether the coin shall or shall not have been thereby diminished or lightened, and a note shall be deemed to be defaced if any word, sign, symbol, drawing, caricature, or other thing whatsoever, has been written, inscribed, or in any other manner or by any other means whatsoever has been shown on its surface, or if it is torn, marred, burnt, injured, spoilt or otherwise howsoever mutilated.

26. Cancellation of coin.

Any worn coin or coin which has ceased to be legal tender or which has been tampered with may be called in, cut, broken or destroyed under conditions determined by the Bank.

27. Refund of lost or imperfect notes or coin.

*[Am. Act
A737]*

(1) No person shall be entitled to recover from the Bank the value of any lost, stolen or imperfect note or coin or any coin that has been tampered with or any note which is defaced.

(2) The circumstances in which, and the conditions and limitations subject to which, the value of lost, stolen or imperfect notes or coins or coins that have been tampered with or notes which are defaced may be refunded as an act of grace shall be within the absolute discretion of the Bank.

27A. Restriction on the use of photographs, drawing or design of notes in advertisements, etc.

Except with the permission of the Bank, no person shall, in any size, scale or colour, use any photograph of or any drawing or design resembling any notes or part thereof, in any advertisement or on any merchandise or products which that person manufactures, sells, circulates or otherwise distributes.

PART IV RESERVE OF EXTERNAL ASSETS

28. Reserve of external assets.

It shall be the duty of the Bank to maintain at all times a reserve of external assets to meet its obligations under this Ordinance, consisting of all or any of the following—

- (a) gold coin or bullion;
- (b) notes, coin, bank balances and money at call in such country or countries as may be approved by the Minister on the recommendation of the Board;
- (c) Treasury bills of such government or governments as may be approved by the Minister on the recommendation of the Board of a maturity not exceeding ninety-three days;
- (d) bill of exchange bearing at least two good signatures and drawn on and payable at such place or places as may be approved by the Minister on the recommendation of the Board and having a maturity not exceeding three months (exclusive of days of grace);
- (e) securities of, or guaranteed, by such government or governments or international financial institutions as may be approved by the Minister on the recommendation of the Board;
- (f) securities purchased under the provision of sub-section (1) (oo) (i) of section 30 of this Ordinance;
- (g) any readily available international drawing facility as may

be approved by the Minister on the recommendation of the Board.

29. External reserves as proportion of Bank's liabilities.

The aggregate value of the reserve of external assets specified in section 28 shall not be less than such percentage of the Bank's notes and coin in circulation as the Minister may by notice in the *Gazette* declare to correspond to the minimum reserve of external assets which the Board of Commissioners of Currency, Malaya and British Borneo, would have been required to maintain against notes and coin issued by the Commissioners under the Currency Ordinance, 1951, including any amendments thereto in force immediately prior to the coming into effect of Part III:

Provided that the Yang di-Pertuan Agong may by order published in the *Gazette* vary the percentage declared.

**PART V
BUSINESS OF THE BANK**

30. Authorized business of Bank.

*[Am. Act
A737]*

(1) The Bank may—

- (a) issue and redeem notes and coin in accordance with the provisions of Part III;
- (b) issue demand drafts and other kinds of remittances made payable at its own offices and branches or at the offices of agencies or correspondents;
- (bb) (i) issue, with the approval of the Minister, securities in its own name and the issue, holding and sale of such securities shall be subject to such terms and conditions as the Bank may determine at the time of the issue of such securities:

Provided that the total amount of securities so issued shall not at any time exceed three times the total of the Bank's paid-up capital and General Reserve Fund;

- (ii) purchase, sell and redeem securities issued by the Bank pursuant to paragraph (bb) (i) of this subsection;
- (c) purchase, accept on deposit and sell gold coin or bullion;
- (d) accept deposit of money in any currency;

- (e) purchase, sell, discount and rediscount inland bills of exchange and promissory notes arising out of *bona fide* commercial transactions bearing two or more good signatures and maturing within twelve months or such period as may be approved by the Minister on the recommendation of the Board (exclusive of days of grace) from the date of acquisition;
- (f) purchase, sell, discount and rediscount inland bills of exchange and promissory notes bearing two or more good signatures drawn or issued for the purpose of financing seasonal agricultural operations or the marketing of primary produce and maturing within twelve months or such period as may be approved by the Minister on the recommendation of the Board (exclusive of days of grace) from the date of acquisition;
- (ff) make advances for the purpose of assisting the growing or marketing of primary produce, to—
 - (i) authorities formed under any written law in the Federation; and
 - (ii) co-operative societies engaged in farming, agricultural, horticultural, pastoral, grazing or fishing operations;
- (fff) make advances to such public authorities and corporations in which the Government or the Bank has an interest, including an interest in shares (as that expression is to be construed under the Banking and Financial Institutions Act 1989), as the Minister may approve on the recommendation of the Board:
 - Provided that the total amount of advances so made shall not at any time exceed two-and-one-half times the total of the Bank's paid-up capital and General Reserve Fund;
 - (ffff) establish a Special Investment Fund to finance specific projects, wholly or partly, in the public sector and on such terms as may be approved by the Minister on the recommendation of the Board for the purpose of promoting economic development from monies set aside from the reserve held at the Central Bank by banking institutions under paragraph (c) of section 37 (1), and by other financial institutions required by the Bank from time to time to hold such reserve:

Provided always that the total amount so set aside for such Special Investment Fund shall be approved by the Minister on the recommendation of the Board and shall not exceed the amount of the General Reserve Fund of the Bank;

- (fffff) allow for a temporary overdrawing by account holders subject to the imposition of such rate of interest on the overdraft as the Bank may deem fit;
- (g) purchase, sell, discount and rediscount Treasury bills of the Government or of the Government of any State authorized to issue Treasury bills;
- (h) purchase and sell securities of the Government or of the Government of any State, or of any public authority maturing in not more than thirty years which have been publicly offered for sale or form part of an issue which is being made to the public at the time of acquisition and any other securities as may be approved by the Minister on the recommendation of the Board;
- (i) invest in securities of the Government or of the Government of any State, or of any public authority for any amount, and to mature at any time, on behalf of staff and pension funds and other internal funds of the Bank;
- (j) with the approval of the Minister, acquire, hold and sell shares of any corporation set up with the approval of, or under the authority of, the Government for the purpose of promoting the development of a money market or securities market in the Federation or for the financing of economic development in the Federation:
Provided that the total amount so invested shall not at any time exceed fifty per centum of the General Reserve Fund of the Bank;
- (k) grant advances for fixed periods not exceeding three months against Treasury bills of the Government or of the Government of any State authorized to issue Treasury Bills;
- (l) grant advances for fixed periods not exceeding twelve months or such period as may be approved by the Minister on the recommendation of the Board secured by the pledge with the Bank of—
 - (i) gold coin or bullion;

(ii) securities of the Government or of the Government of any State, or of any public authority which have been publicly offered for sale and are to mature within a period of thirty years or any other securities as may be approved by the Minister on the recommendation of the Board:

Provided that no much advance so secured shall at any time exceed the market value of the security pledged;

(iii) such bills of exchange and promissory notes as are eligible for purchase, discount or rediscount by the Bank;

(iv) warehouse warrants or their equivalent (securing possession of goods) in respect of staple commodities or other goods duly insured and with a letter of hypothecation from the owner:

Provided that no such advance shall exceed sixty per centum of the current market value of the commodities or goods in question;

(m) purchase and sell currencies, and purchase, sell, discount and rediscount bills of exchange and Treasury bills drawn in or on places outside the Federation and maturing within ninety-three days from the date of acquisition;

(mm) borrow money, establish credits and provide guarantees and indemnities in any currency, within and without the Federation, on such terms and conditions as it may deem fit;

(mmm) establish a credit bureau to collect, in such manner as the Bank may think fit, credit information on the customers of banking institutions and other financial institutions and to disclose the information so collected in such manner as may be deemed appropriate by the Bank to these institutions:

Provided that the credit information so collected shall be used solely for the purpose of operating the credit bureau and that any information disclosed by the Bank to such institutions shall be secret between the Bank and these institutions;

(mmmm) establish a central bureau to collect, in such manner

and to the extent as the Bank may think fit, information on and relating to rejection by a paying bank of any cheque for reason of insufficient funds in the account of the drawer of the cheque, and to disclose any such information to any bank for the purpose only of assisting the bank to assess the eligibility of the drawer to maintain or open any current account with the bank;

- (n) maintain accounts with central banks outside the Federation and with other banks within and without the Federation;
- (nn) place deposits in any banking institution within the Federation;
- (nnn) purchase, under repurchase agreements, and subject to such terms as may be approved by the Minister on the recommendation of the Bank, and sell any certificate of deposit issued by any banking institution;
- (o) purchase and sell securities of, or guaranteed by, such government or governments or international financial institutions as may be approved by the Minister on the recommendation of the Board;
- (oo)
 - (i) purchase and sell such other securities as may be approved by the Minister on the recommendation of the Board;
 - (ii) pay to the International Monetary Fund the subscriptions in respect of which the Government is responsible under the Bretton Woods Agreements Ordinance, 1957, as amended from time to time, and take to the Bank's own account the payments of the aforesaid subscriptions already made by the Government;
 - (iii) pursuant to paragraph (oo) (ii) of this subsection, create and issue to the International Monetary Fund in such form as is appropriate any such non-interest bearing and non-negotiable notes or other obligations as the International Monetary Fund may under section 4 of Article III of the Articles of Agreement of the International Monetary Fund determine to accept in place of any part of the subscription of the Government

which would but for such acceptance be payable in Malaysian currency;

- (iii) draw from time to time on the compensatory financing facility and other facilities of the International Monetary Fund and upon the request of the Government make available to the Government funds arising from such drawings, which funds the Government is hereby authorised to receive;
- (iv) draw from time to time on the buffer stock financing facility of the International Monetary Fund and make available to the Government funds arising from such drawing required for contribution to any buffer stock created under any international commodity agreement to which Malaysia is a signatory; and in the case where such drawing is not available or insufficient to meet the requirement, make available to the Government funds from the Bank's own resources;
- (v) create and issue to the International Monetary Fund in such form as is appropriate any such non-negotiable notes or obligations as may be acceptable to the International Monetary Fund in respect of any transactions with the International Monetary Fund;
- (vi) exchange, if requested by other members of the International Monetary Fund at the time of purchase, balances of Malaysian currency purchased by other members from the International Monetary Fund, or obtained by other members in exchange for currency purchased from the International Monetary Fund, for a freely usable currency (defined in Article XXX (f) of the Articles of Agreement of the International Monetary Fund) selected by the Bank at an exchange rate between the ringgit and that currency as may be consistent with section 7 (a) of Article XIX of the Articles of Agreement of the International Monetary Fund;
- (p) act as correspondent, banker or agent for any central

- bank or other monetary authority and for any international bank or international monetary authority established under government auspices;
- (q) open accounts for and accept deposits from the Government, State Governments, public authorities, banking institutions and, with the prior approval of the Minister, other persons in the Federation;
 - (r) underwrite loans in which it may invest;
 - (s) undertake the issue and management of loans publicly issued by the Government or the Government of any State by any public authority;
 - (t) (*Deleted by Act A 737*).
 - (u) accept from customers for custody securities and other articles of value;
 - (v) undertake on behalf of customers and correspondents the purchase, sale, collection and payment of securities, currencies and credit instruments within and without the Federation, and the purchase or sale of gold and silver;
 - (w) establish bank Clearing Houses in Kuala Lumpur and in such other places as the Bank may consider necessary;
 - (ww) participate in schemes undertaken in conjunction with Central Banks or authorities outside the Federation to promote regional and international co-operation in economic and financial research and training;
 - (www) with the approval of the Minister, participate on its own behalf or as agent of the Government in schemes undertaken in conjunction with Central Banks or authorities outside the Federation to promote regional and international monetary co-operation;
 - (x) do generally all such things as may be commonly done by bankers and are not inconsistent with the exercise of its powers or the discharge of its duties under this Ordinance or under the Banking and Financial Institutions Act 1989 or the Islamic Banking Act 1983.
- (2) The expression 'primary produce' in paragraphs (f) and (ff)

of subsection (1) means such goods as the Minister may on the recommendation of the Board prescribe:

Provided that any advance under paragraph (ff) shall not be made for more than one year.

(3) It shall be the duty of the Bank to administer, enforce, carry out and give effect to the provisions of the Exchange Control Act 1953, the Insurance Act 1963, the Islamic Banking Act 1983, the Takaful Act 1984 and the Banking and Financial Institutions Act 1989, and to exercise any other function under any other written law in respect of which provision is made by Federal law. [Ins. Act A 737]

(4) The Bank shall maintain at all times for such period or periods as it may deem appropriate, a record of balance of payments containing such information, statistics and particulars as it may from time to time determine, for the purpose of carrying out the principal objects of the Bank under section 4 and discharging its duties and functions under this Ordinance. [Ins. Act A 737]

(5) For the purpose of maintaining the record of balance of payments, the Bank shall have the power to require in writing at any time any person which, in the opinion of the Bank, has in its possession or under its custody or control, or has within its capacity to obtain, compile or submit, any information, statistics or document relating to the record of balance of payments— [Ins. Act A 737]

- (a) to submit such information, statistics or document to the Bank, within such period, at such intervals, in such manner, in such form and in writing or by means of any visual recording (whether of still or moving images) or any sound recording, or any electronic, magnetic, mechanical or other recording whatsoever, on any substance, material, thing or article as the Bank may specify in the requirement; or
- (b) to attend before an officer of the Bank to answer any enquiries in relation to such information, statistics or document.

- (6) Any—
- (a) information, statistics or document submitted pursuant to any requirement under paragraph (a); or
 - (b) answer to any enquiry pursuant to any requirement under paragraph (b),

of subsection (5), shall be true, correct and complete, and shall not be designed, directly or indirectly, to mislead the Bank in relation to such requirement.

*[Ins. Act
A737]*

(7) The Bank may publish in any manner it deems fit, consolidated statements of all or any part of the record of balance of payments, aggregating the information, statistics or particulars in documents received or obtained under subsection (5), provided that such publication shall not in any manner lead to the identification of any person to which such information, statistics or particulars relate.

*[Ins. Act
A737]*

(8) Notwithstanding the provisions of section 16A or any other written law, but without prejudice to the provisions of subsection (7), any information, statistics or document received or obtained by the Bank under subsection (5) shall be used by the Bank for the purposes of maintaining the record of balance of payments, carrying out its principal objects under section 4 and discharging its duties and functions under this Ordinance, and shall not be disclosed by the Bank to any person other than the Governor, Deputy Governor, or an officer or employee of the Bank for all or any of the aforesaid purposes.

*[Ins. Act
A737]*

(9) For the purposes of giving effect to the provisions of subsections (4), (5) and (6), the Bank may make such regulations under section 54 as it deems necessary or expedient.

31. Business which Bank may not transact.

*[Am. Act
A737]*

The Bank may not—

- (a) engage in trade or otherwise have a direct interest in any commercial, agricultural, industrial or any other undertaking except—
 - (i) as provided in paragraph (j) of subsection (1) of section 30; or
 - (ii) in the course of the satisfaction of debts due to the Bank: provided that any such interest shall be disposed of at the earliest suitable opportunity;
- (b) grant loans upon security of any shares;
- (c) except as provided in paragraphs (j) and (oo) (i) of subsection (1) of section 30, purchase the shares of any corporation, including the shares of any banking institution or other financial institution which is a company;

- (d) except as provided in section 33, section 42 and section 49, grant unsecured advances or advances secured otherwise than as laid down in paragraphs (ff), (fff), (ffff), (fffff), (k) and (l) of subsection (1) of section 30:

Provided that in the event of any debt due to the Bank becoming in the opinion of the Bank endangered, the Bank may secure such debt on any immovable or movable property of the debtor and may acquire such property, which shall, however, be resold at the earliest suitable moment;

- (e) purchase, acquire or lease immovable property except in accordance with the proviso to paragraph (d) of this section and except so far as the Bank shall consider necessary or expedient for the provision, or future provision, of business premises for the Bank and its agencies and any Clearing Houses established pursuant to paragraph (w) of subsection (1) of section 30 and of residences for the Governor, Deputy Governor, officers and employees and of amenities for the promotion of the welfare of officers and employees:

Provided that where any immovable property purchased, acquired or leased by the Bank for any of the said purposes, is not immediately required for those purposes, or where any immovable property referred to in the proviso to paragraph (d) cannot be immediately resold, it shall be lawful for the Bank to grant leases or tenancies of such immovable property for such period as the property is not required for the said purposes or cannot be resold, as the case may be;

- (f) draw or accept bills payable otherwise than on demand;
- (g) allow the renewal or substitution of maturing bills of exchange purchased, discounted or rediscounted by or pledged with the Bank:

Provided that in exceptional circumstances the Bank may authorize one renewal or one substitution only in either case of not more than fifty per centum of the original amount of any such bill for a period not exceeding ninety days;

- (h) accept for discount, or as security for an advance made by the Bank, bills or notes signed by members of the

Board or by the Bank's officers or employees, except in relation to any loan made by the Bank under section 49.

[Am. Act A737] **31A. Loans to, and acquisition of, banking and other financial institutions.**

(1) Notwithstanding section 31, where the Bank considers that a licensed institution, or an institution in respect of which an order has been made by the Minister under section 24 (1) or 93 (1) of the Banking and Financial Institutions Act 1989 is—

- (i) likely to become unable to meet its obligations; or
- (ii) about to suspend payment,

the Bank may, with the concurrence of the Minister—

- (a) grant loans to such institution against the security of its own or any shares or any other sufficient security;
- (b) grant loans to any licensed institution to purchase any shares or the whole or any part of the properties and liabilities of such institution; or
- (c) purchase any shares of such institution for the purpose of controlling the business of such institution.

(2) For the purposes of this section, section 31B and section 78 of the Banking and Financial Institutions Act 1989, there shall be established an Advisory Panel to advise the Minister on matters falling within the purview of those provisions for which the concurrence or consent of the Minister is required.

(3) The Advisory Panel shall consist of such persons as may be appointed by the Minister on the recommendation of the Bank.

(4) The persons appointed under subsection (3) shall be paid by the Bank such remuneration and allowances as may be specified in writing by the Minister.

[Am. Act A737] **31B. Power of Bank to make an order in respect of a deposit-taker to protect the interests of its depositors, etc.**

(1) The Bank may, with the concurrence of the Minister, if it is satisfied that—

- (a) a deposit-taker—
 - (i) has become, or is likely to become, unable to meet all or any of its obligations; or

(ii) is about to suspend, or has suspended, payment to any extent; and

- (b) it is consequently necessary to take action under this section for the purpose of—
 - (i) securing or maintaining the financial stability of the Federation; and
 - (ii) the protection of the interests of depositors in the deposit-taker,

by order published in the *Gazette*, make all or any of the following provisions:

- (aa) provide for the Bank—
 - (i) to purchase any shares of a licensed finance company;
 - (ii) to make an advance of its funds to a licensed finance company, repayable with or without interest, for the purpose of being utilised by the licensed finance company solely to acquire the property and liabilities of the deposit-taker, or the interests of the depositors in the deposit-taker; or
 - (iii) to make an advance of its funds to a bank incorporated in the Federation, repayable with or without interest, to be utilised by the bank solely to acquire a licensed finance company which, thereafter, shall acquire the property and liabilities of the deposit-taker or the interests of the depositors in the deposit-taker; and

(bb) provide for the depositors, in exchange for their interests in the deposit-taker, to be given shares in the licensed finance company referred to in subparagraph (i), (ii), or (iii), as the case may be, of paragraph (aa).

(2) An order under subsection (1) shall not be made by the Bank unless—

- (a) the consent of the deposit-taker has been obtained;
- (b) the available unencumbered assets of the deposit-taker are insufficient to meet its deposit-liabilities; and
- (c) the consents of the depositors have been obtained, except where, on the application of the Bank to the High Court by way of *ex parte* originating summons, it

is ordered by the High Court that such consents be dispensed with:

Provided that the above provisions shall not apply to any amendment or revocation of the original order made under subsection (1).

(3) Where the Bank makes an order under subsection (1), the order shall constitute sufficient authority for the Bank or any other person named or described in the order to do all or any of the acts or things as may be required or authorised to be done by the Bank or such person under the terms of the order, and to do all other acts and things as may be reasonably incidental to, or reasonably necessary to be done, to give effect to such terms.

(4) For the purpose only of giving effect to the terms of an order under subsection (1), the Bank may authorise the licensed finance company referred to in the order by virtue of subparagraph (i), (ii) or (iii), as the case may be, of paragraph (aa) of subsection (1), to—

- (a) undertake a reconstruction exercise;
- (b) purchase and acquire the property and liabilities of the deposit-taker and the interests of the depositors in the deposit-taker;
- (c) enter into such arrangement, agreement or transaction with the deposit-taker or its depositors as may be necessary, expedient or desirable; or
- (d) do any other act or thing which is not inconsistent with the order, which, in the opinion of the Bank, is required to be done to ensure the successful implementation of the order.

(5) An order under subsection (1) may provide for all or any of the following:

- (a) the date on and from which the order shall take effect, being a date earlier or later than the date of the making of the order (hereinafter in this section referred to as "the transfer date");
- (b) the vesting of any property held by the transferor either alone or jointly with any other person in the transferee either alone or, as the case may be, jointly with such other person, on and from the transfer date, in the same

capacity, upon the trusts, and with and subject to the powers, provisions and liabilities applicable thereto respectively;

- (c) for any existing instrument, whether in the form of a deed, will or otherwise, or order of any court, under or by virtue of which any property became vested in the transferor, to be construed and to have effect as if for any reference therein to the transferor there were substituted a reference to the transferee;
- (d) for any existing contract or agreement to which the transferor was a party to have effect as if the transferee had been a party thereto instead of the transferor;
- (e) for any account between the transferor and its customer, including a depositor, to become an account between the transferee and the customer or depositor, subject to the conditions and incidents as theretofore, and for such account to be deemed for all purposes to be a single continuing account;
- (f) for any existing instruction, order, direction, mandate, power of attorney, authority, undertaking or consent, whether or not in relation to an account, given to the transferor, either alone or jointly with another person, to have effect, in respect of anything due to be done as if given to the transferee either alone or, as the case may be, jointly with the other person;
- (g) for any negotiable instrument or order for payment of money drawn on, or given to, or accepted or endorsed by, the transferor or payable at the place of business of the transferor, whether so drawn, given, accepted or endorsed before, on, or after, the transfer date, to have the same effect on and from the transfer date, as if it had been drawn on, or given to, or accepted or endorsed by, the transferee or were payable at the place of business of the transferee;
- (h) for the custody of any document, goods or thing held by the transferor as bailee immediately before the transfer date to pass to the transferee and the rights and obligations of the transferor under any contract of bailment relating to any such document, goods or thing to be transferred to the transferee;

- (i) for any security held immediately before the transfer date by the transferor, or by a nominee of, or trustee for, the transferor, as security for the payment or discharge of any liability of any persons to be held by the transferee or, as the case may be, to be held by that nominee or trustee as the nominee of, or trustee for, the transferee, and to the extent of those liabilities, be available to the transferee as security for the payment or discharge of those liabilities; and where any such security extends to future advances or future liabilities, to be held by, and to be available as aforesaid to the transferee as security for future advances by, and future liabilities to, the transferee in the same manner in all respects as future advances by, or future liabilities to, the transferor were secured thereby immediately before the transfer date;
- (j) where any right or liability of the transferor is transferred to the transferee, for the transferee to have the same rights, powers and remedies (and in particular the same rights and powers as to taking or resisting legal proceedings or making or resisting applications to any authority) for ascertaining, protecting or enforcing that right or resisting that liability as if it had at all times been a right or liability of the transferee, including those rights or liabilities in respect of any legal proceedings or applications to any authority pending immediately before the transfer date by or against the transferor;
- (k) any judgment or award obtained by or against the transferor and not fully satisfied before the transfer date to be enforceable by or, as the case may be, against the transferee; and
- (l) for all and every such incidental, consequential and supplemental matters as are necessary, expedient, or desirable, to give full force and effect to the terms of the order.

(6) Where the order under subsection (1) provides for the transfer of any property vested in or held by, or any liabilities suffered by, the transferor, either alone or jointly with any other person, then, by virtue of the order, that property and those liabilities shall, subject to subsection (8), on and from the transfer date, become vested in or held by, or be suffered by, the transferee,

either alone or jointly with such other person, as the case may be.

(7) The Bank shall, within thirty days of the publication of an order in the *Gazette* under subsection (1), lodge a copy of the order with—

- (a) the Registrar of Companies;
- (b) the Registrar-General of Co-operative Societies in West Malaysia, or the respective Registrar of Co-operative Societies in Sabah or Sarawak, or the Registrar of Farmers' Organizations, or the Registrar of Fishermen's Associations, as may be relevant, where the deposit-taker to which the order relates is a co-operative society;
- (c) any other authority, person, or body which is responsible for the registration, licensing or otherwise of the deposit-taker to which the order relates; and
- (d) the appropriate authority, if any, concerned with the registration or recording of dealings in any movable property, or interest in any movable property, transferred pursuant to the order.

(8) Any provision in any order under subsection (1) providing for the transfer of any alienated land, or any share or interest in any alienated land, to any person shall not have effect unless the transferee makes an application to the High Court by way of an *ex parte* originating summons for an order of the High Court vesting such alienated land, or such share or interest in alienated land, in the transferee, pursuant to the order under subsection (1), and where the High Court grants an order to vest the same in the transferee—

- (a) the High Court shall, where the alienated land is in West Malaysia, pursuant to section 420 (2) of the National Land Code, cause a copy of such order to be served on the Registrar of Titles or the Land Administrator, as the case may be, immediately after the making of such order so that the Registrar of Titles or the Land Administrator, as the case may be, gives effect to the provisions of subsections (2), (3) and (4) of the said section 420;
- (b) where the alienated land is in Sabah, the transferee shall, as soon as practicable after such order has been made, present such order to the Registrar of Titles for regis-

tration of the transferee as the registered owner of such alienated land, or of such share or interest in alienated land, as provided under section 114 (2) of the Land Ordinance of Sabah; or

- (c) where the alienated land is in Sarawak, the transferee shall, as soon as practicable after such order has been made, produce an authenticated copy of such order to the Registrar for the registration of the vesting of such alienated land, or of such share or interest in alienated land, in the transferee, as provided under section 171 of the Land Code of Sarawak.

(9) An order under subsection (1) may relate to any property or business of the transferor in any country, territory or place outside Malaysia and, if it so relates, effect may be given to it in accordance with the law applicable in such country, territory or place.

(10) Without prejudice to paragraphs (a) and (c) of subsection (2), an order under subsection (1) shall be legally binding on all persons to whom the order is directed or who are affected thereby, regardless that the person to whom it is directed or who is affected by it had no notice of any of the circumstances which led to the making of the order, or had no opportunity to make any representation thereon to, or to be heard thereon by, the Bank.

(11) Where, pursuant to subparagraph (i) of paragraph (aa) of subsection (1), the Bank purchases any shares of a licensed finance company, it shall dispose of any shares it may continue to hold after the order under subsection (1) under which such shares were purchased has been given effect to, and the Bank is satisfied that the circumstances referred to in paragraph (a) of subsection (1), and the purposes mentioned in paragraph (b) of that subsection, no longer exist.

(12) For the purposes of this section—

- (a) “deposit”, “depositor”, “liabilities”, “licensed finance company”, and “property” have the respective meaning assigned thereto in section 2 (1) of the Banking and Financial Institutions Act 1989, with the definition of “deposit” modified in the manner provided under section 25 (3) of that Act;
- (b) “business” and “security” have the respective meaning

assigned thereto in section 50 (8) of the Banking and Financial Institutions Act 1989; and

- (c) “deposit-taker” means (without prejudice to paragraphs (i) and (ii) of this definition) any person who takes, receives, or accepts, a deposit in contravention of section 25 of the Banking and Financial Institutions Act 1989 and includes—
(i) a co-operative society as defined in that Act; or
(ii) a pawnbroker as defined in the Pawnbrokers Act 1972.

(13) The provisions of this section shall have full force and effect notwithstanding—

- (a) anything inconsistent therewith or contrary thereto contained in any other provision of this Ordinance;
(b) anything contained in the written law by or under which the deposit-taker is registered, incorporated, established, appointed or constituted; and
(c) anything contained in any other written law, other than the Constitution.

31C. Power to reduce share capital and to cancel shares of financial institution.

[Am. Act A 737]

(1) Notwithstanding anything in any written law or the articles of association of a financial institution, where the Bank has under section 73 (2) (a) of the Banking and Financial Institutions Act 1989, assumed control of and carries on the business of the financial institution and the paid-up capital of such financial institution is lost or unrepresented by available assets, the Bank may apply to the High Court for an order to reduce the share capital of such financial institution by cancelling any portion of its paid-up capital which is lost or unrepresented by available assets.

(2) Where the High Court makes an order referred to in subsection (1) to reduce the share capital of a financial institution, the Court may—

- (a) on the application by the Bank; and
(b) if, on the expiry of thirty days from the date of any call made by the financial institution on its shareholders to

pay on their respective shares, payment on any such shares has not been made,
direct that such shares for which payment has not been made be cancelled accordingly.

(3) Where the share capital of a financial institution is reduced pursuant to subsection (1), or any of its shares has been cancelled pursuant to subsection (2), the Bank may cause the memorandum of association of such financial institution to be altered accordingly.

(4) For the purposes of this section—

- (a) section 64 of the Companies Act 1965 shall, subject to subsection (1) and if the High Court so directs, apply accordingly; and
- (b) “financial institution” means an Islamic bank, a licensed local institution as defined in the Banking and Financial Institutions Act 1989, or an institution in respect of which the Minister has made an order under section 24 (1) or 93 (1) of that Act, respectively.

PART VI RELATIONS WITH THE GOVERNMENT

32. Bank as a banker to the Government.

*/Am. Act
A737/*

- (1) The Bank shall act as a banker and a financial agent of the Government.
- (2) Whenever the Bank shall receive and disburse Government moneys it shall keep account thereof without remuneration for such service.
- (3) In any place where the Bank has no branch, it may appoint any banking institution to act as its agent for the collection and payment of Government moneys.
- (4) The Bank may act generally as agent for the Government on such terms and conditions as may be agreed between the Bank and the Government, where the Bank can do so appropriately and consistently with the provisions of this Ordinance and with its duties and functions as a central bank.

33. Temporary advances to the Government.

(1) The Bank may grant temporary advances to the Government and the Government is hereby authorised to receive such advances in respect of temporary deficiencies of budget revenue at such rate or rates of interest as the Bank may determine.

(2) The total amount of advances granted under sub-section (1) outstanding shall not at any time exceed twelve and a half per centum of the estimated receipts of the Federation shown in the statement laid before the House of Representatives pursuant to Article 99 of the Constitution for the Government’s financial year in which the advances are granted.

(3) All advances granted under subsection (1) shall be repaid as soon as possible and shall in any event be payable not more than three months after the end of the Government’s financial year in which they are granted; and if after that date any such advances remain unrepaid, the power of the Bank to grant further such advances in any subsequent financial year shall not be exercisable unless and until the outstanding advances have been repaid.

34. Issues of policy.

- (1) The Board shall keep the Minister informed of—
*[Am. Act
A737]*
 - (a) the monetary and banking policy;
 - (b) the policies in respect of institutions in relation to which the Bank is conferred with powers under the Insurance Act 1963, the Islamic Banking Act 1983, the Takaful Act 1984, and the Banking and Financial Institutions Act 1989; and
 - (c) the policies in respect of the Exchange Control Act 1953,

pursued or intended to be pursued by the Bank.

(2) The Minister may, from time to time, if he disagrees with the Board on any of the aforesaid policies pursued or intended to be pursued by the Bank, issue directives to the Board relating to such policies, and any such directive shall become binding on the Board, which shall forthwith take all steps necessary or expedient to give effect thereto.

(3) If the Board objects to any such directive, the Board may submit its objections and the reasons therefor in writing to the

Minister, who shall cause the same, together with his directive, to be laid before the House of Representatives.

PART VII
RELATIONS WITH BANKING AND OTHER FINANCIAL INSTITUTIONS

[Am. Act A737] **35. Co-operation with banking institutions and other financial institutions.**

The Bank shall use its best endeavours in co-operation with other banks in the Federation—

- (a) to promote and maintain banking and financial services for the public;
- (b) to foster high standards of banking and finance in the Federation.

36. (Repealed).

[Am. Act A737] **37. Recommendations to banking institutions, other financial institutions or institutions or persons as specified in paragraphs (a), (b), (c), (d) and (e).**

(1) When the Board is satisfied that it is necessary to do so for the purpose of giving effect to the objects of the Bank, the Board may make recommendations to the banking institutions on all or any of the following matters:

- (a) the policy to be followed by banking institutions in relation to the granting of advances and the extension of credit facilities, including the classes of purposes for which advances may or may not be made or credit facilities extended;
- (b) in the case of banking institutions other than Islamic banks, the rates of interest payable to or by, the rates of discount chargeable by, or the rates of commission and other charges payable to, such banking institutions;
- (c) a reserve to be held by each banking institution, other than an Islamic bank, at the Central Bank comprising such amounts expressed as a percentage of such banking institution's sight, savings account, time and other deposit liabilities in the Federation and such other liabilities as may be approved by the Minister on the recommenda-

tion of the Board whether denominated in Malaysian or foreign currency;

- (d) a reserve to be held by each Islamic bank at the Central Bank comprising such amounts expressed as a percentage of each bank's sight, savings account, investment account, time and other deposit liabilities as may be approved by the Minister on the recommendation of the Board, whether denominated in Malaysian or foreign currency;
- (e) any other matter relating to—
 - (i) the supervision and regulation of banking institutions and other financial institutions pursuant to this Ordinance, the Islamic Banking Act 1983 or the Banking and Financial Institutions Act 1989;
 - (ii) the supervision and regulation of institutions and other persons pursuant to the Insurance Act 1963 or the Takaful Act 1984; or
 - (iii) monetary policy to be given effect to by banking institutions, other financial institutions or other institutions or persons,

whether or not such matter is similar to those specified in paragraphs (a), (b), (c) and (d).

(2) The recommendations made in pursuance of paragraph (c) or (d) of subsection (1) may specify different ratios of reserves for different categories of banking institutions. The Board may determine the categories by reference to the size or location of such banking institutions or to both, size being measured in relation to the number of branches, any or all categories of assets or liabilities of such banking institution or any combination thereof.

(3) In respect of paragraph (a) of subsection (1) the Board may, in regard to the advances of such banking institution or each class of purpose for which these advances are made, specify that a deposit or deposits be placed by such banking institution with the Central Bank against such advances at such rates of interest payable to such banking institution as may be determined by the Central Bank.

38. Recommendations to persons or classes of persons (other than banking institutions).

When the Board is satisfied that it is necessary to do so for the purpose of giving effect to the objects of the Bank, the Board may make recommendations to such persons or classes of persons (other than banking institutions) carrying on business in relation to the receipt of money on deposit from members of the public as may be determined by the Minister on the recommendation of the Board in relation to the rates of interest payable to or by, or the rates of discount chargeable by, such persons or classes of persons.

39. Directions to banking institutions, etc.

(1) When the Board has made a recommendation in accordance with section 37 or 38, the Bank may subsequently, with the approval of the Minister, issue a direction in writing to any institution or person referred to in section 37 or any person or class of persons referred to in section 38 on all or any of the matters referred to in such section requiring that effect is given to the recommendation within a reasonable time.

(2) The direction issued under subsection (1) in relation to a reserve to be held by a banking institution at the Bank may specify different ratios of the reserve for different categories of banking institutions. The Bank may determine the categories by reference to the size or location of the banking institutions or to both, size being measured in relation to the number of branches, any or all categories of assets or liabilities of the banking institutions or any combination thereof.

40. Saving in respect of sections 37 to 39.

Nothing in sections 37 to 39—

- (a) authorizes a recommendation or a prescription to be made or a direction to be given in relation to an advance made or proposed to be made or the extension of credit facilities to a particular person or the rate of interest or rate of discount chargeable to a particular person;
- (b) affects the validity of a transaction entered into in relation to an advance or credit facility or affects the right of any institution or person referred to in section 37 or 38 to recover money advanced or enforce the security given in respect of money advanced.

41. No discrimination in directions.

The Bank shall not discriminate among licensed banks, licensed merchant banks, or licensed finance companies, (as defined in the Banking and Financial Institutions Act 1989), respectively, or among Islamic banks, in any directions issued under section 39 in regard to the policy to be followed by such banking institutions in granting advances or extending credit facilities or, in the case of banking institutions other than Islamic banks, the rates of interest payable to or by such banking institutions, or the rates of discount chargeable by such banking institutions:

Provided that the Bank may provide in such directions for different classes, categories or descriptions of licensed banks, licensed merchant banks, or licensed finance companies, respectively, such different proportions of their deposits as the Bank may specify which may be used for granting advances or extending credit facilities in such different proportions for such different purposes as the Bank may specify, and the Bank may determine such classes, categories or descriptions by reference to the size or location of the banking institution or to both, size being measured in relation to the number of branches, any or all categories of assets and liabilities, of the banking institution, or any combination thereof.

42. Special loans to banking and other financial institutions.

The Central Bank may, if it deems such action necessary to safeguard monetary stability, make a loan or advance to any banking institution or other financial institution against such form of security as the Central Bank may consider sufficient.

43. Clearing Houses and settlement of balances between banking and other financial institutions.

(1) In order to facilitate the clearing of cheques and other credit or payment instruments for banking institutions and other financial institutions the Bank shall, at an appropriate time and in conjunction with such institutions, establish a Clearing House in Kuala Lumpur and in such other place or places as the Bank may consider necessary.

(2) A banking institution or other financial institution shall settle, in such manner as the Central Bank may from time to time specify by notice in writing, all balances between itself and any other banking institution or other financial institution arising out

of the general clearances effected in Kuala Lumpur and such other places as the Central Bank may specify.

44. (Repealed).

PART VIII
GENERAL

45. Bank's financial year.

The financial year of the Bank shall begin on the first day of January and end on the thirty-first day of December of each year.

46. Audit.

The accounts of the Bank shall be audited by the Auditor-General.

47. Return of assets and liabilities.

(1) The Bank shall forthwith after the fifteenth day and after the last day of each month make up and publish a return of its assets and liabilities as at the close of business on such days respectively or, if either of those days is a holiday, then at the close of business on the last business day preceding those days.

(2) A copy of each return made under subsection (1) shall be transmitted to the Minister.

48. Preparation and publication of annual report and balance sheet.

(1) The Bank shall within three months from the close of its financial year—

- (a) transmit to the Minister a copy of the annual accounts certified by the Auditor-General, and such accounts shall then be published in the *Gazette*;
- (b) transmit to the Minister a report by the Board on the working of the Bank throughout the year and such report shall be published by the Bank.

(2) The annual accounts and annual report shall, as soon as may be, be laid before the Senate and the House of Representatives.

49. Loans and scholarships to officers and employees, and scholarships and study loans to other persons.

[Am. Act
A737]

(1) Without prejudice to subsections (5) and (6) of section 15, but subject to subsections (2), (3) and (4) of this section the Bank shall not lend money to an officer or employee.

(2) The Bank may lend money to an officer or employee—

- (a) for the purchase, erection, alteration, renovation or enlargement of a house in which he resides or intends to reside; or
- (b) to discharge a mortgage or encumbrance on such a house; or
- (c) for the purchase of a vehicle.

(3) The Bank may, where the Governor is satisfied that special or compassionate circumstances exist or the purpose is appropriate, lend to an officer or employee on such terms and conditions as the Governor thinks fit, money not exceeding at any one time an amount equal to three months' salary of the officer or employee.

(4) The Bank may grant study loans or scholarships to any officer or employee of the Bank or any child (including a step-child or adopted child) of such officer or employee, or to any suitable person, in accordance with such terms and conditions as may be approved by the Board generally or in any particular case.

49A. Power to appoint Attorney.

The Bank may, by instrument, under its seal, appoint a person (whether in the Federation or in a place outside the Federation) to be its Attorney, and the person so appointed may, subject to the instrument, do any act or execute any power or function which he is authorized by the instrument to do or execute.

50. Exemption from stamp duties.

The Bank shall be exempt from the payment of stamp duty under the Stamp Ordinance, 1949, or under the provisions of any written law relating to stamp duty in force in Sabah or Sarawak, as the case may be.

51. Penalties.

- (1) Any banking institution or other financial institution which—

[Am. Act
A737]

(a) – (b) (*Repealed*).

(c) fails to comply with the provisions of subsection (2) of section 43,

shall, on conviction, be liable to a fine not exceeding five thousand ringgit for every day during which such default or contravention continues.

(2) (*Omitted*).

(3) Any institution or person referred to in section 37 which, or any person who, fails to comply with any direction issued under section 39 other than in relation to a reserve to be held by the institution or person referred to in section 37 shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit and to a further fine not exceeding five thousand ringgit for every day during which the default continues.

(4) (a) Any banking institution which, or any person who, fails to comply with any direction issued under section 39 in relation to a reserve to be held by the banking institution shall be liable to pay, on being called upon to do so by the Central Bank, a penalty of not more than one-tenth of one per centum of the amount of the deficiency for every day during which the deficiency continues.

(b) Any banking institution which, or any person who, fails or refuses to pay a penalty under paragraph (a) shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit.

(5) Any person who contravenes the provisions of section 16 shall, on conviction, be liable to imprisonment for a period not exceeding three years or to a fine not exceeding five thousand ringgit or to both such imprisonment and fine.

(6) Any person who contravenes the provisions of section 27A shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand ringgit.

(7) Any person who fails to comply with any requirement of the Bank under subsection (5) of section 30 or who contravenes subsection (6) of section 30 shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

51A. Power of Governor to compound.

(1) The Governor with the concurrence of the Minister may compound any offence punishable under this Ordinance by accepting such sum of money as he thinks fit not exceeding the amount of the maximum fine to which that person would have been liable if he had been convicted of the offence.

(2) Any monies paid to the Governor pursuant to the provisions of subsection (1) shall be paid into and form part of the Consolidated Fund.

52. Fiat of Public Prosecutor.

No prosecution in respect of any offence under this Ordinance shall be instituted without the consent in writing of the Public Prosecutor.

53. Jurisdiction.

Notwithstanding the provisions of any other written law, a Sessions Court shall have jurisdiction to try any offence against this Ordinance and to impose the full penalty prescribed therefor.

In this section the expression "Sessions Court" shall mean the Court of a First Class Magistrate in relation to Sabah and Sarawak.

53A. Bank may be represented by director, officer or employee of Bank in civil proceedings.

[Ins. Act A 737]

Notwithstanding the provisions of any written law—

- (a) in any civil proceedings by or against the Bank; or
- (b) in any other civil proceedings in which the Bank is required or permitted by the court to be represented, or to be heard, or is otherwise entitled to be represented or to be heard,

any director, officer or employee of the Bank authorised by the Governor for the purpose, may, on behalf of the Bank, institute such proceedings or appear as an advocate therein and may make all appearances and applications and do all acts in respect of such proceedings on behalf of the Bank.

54. Power of Bank to make regulations.

The Bank may, with the approval of the Minister, make regula-

tions for the better carrying out of the objects and purposes of this Ordinance.

55. Preliminary acts and expenses.

Notwithstanding the provisions of section 1, the Minister may at any time prior to the coming into force of Part II do all such acts and incur all such expenses as he may consider necessary in connection with the establishment of the Bank; and upon the coming into force of Part II all such acts and expenses shall be deemed to have been done and incurred by the Board.

**PART IX
EXTENSION OF JURISDICTION**

56. Special provision relating to extension of jurisdiction, etc., of the Bank.

Whenever the Government shall have entered into an agreement with the Government of any territory whereby the jurisdiction, powers and obligations of the Bank may be extended to any such territory, and such agreement has been approved by resolution of the House of Representatives, the Yang di-Pertuan Agong may by order amend, adapt or repeal such provisions of this Ordinance as appear to him necessary for the purpose of bringing the provisions of this Ordinance into accord with the provisions of such agreement.

**CENTRAL BANK OF MALAYSIA ORDINANCE, 1958
(F.M. No. 61 of 1958)**

LIST OF AMENDMENTS

<i>Act/L.N.</i>	<i>Provision amended</i>	<i>Effective date of amendment</i>
Act 27/1960 ...	ss. 1, 29	1.1.1961
Act 33/1963 ...	s. 30 (m)	12.9.1963
L.N. 230/1963	"Central Bank of Malaysia" substituted for "Central Bank of Malaya" (in all written laws)	16.9.1963
Act 16/1965 ...	ss. 2, 6 (1), (3), 8 (2) (c), 9 (3), 10 (1), 13 (3), 15 (3), 18-21, 27A, 28, 28A, 30, 31 (d), (e), 36 (2), (5), (6), 37 (1), (2) (c), 40 (c), (d) 49A, 50, 51 (5), 53; and Ordinance extended to apply throughout Malaysia	21.1.1965
Act 61/1966 ...	ss. 19, 21, 28, 30	19.9.1966
Act 47/1967 ...	s. 50	28.9.1967
Act 19/1968 ...	ss. 13 (3), 37 (1) (b), 44 (1) ...	4.4.1968
P.U. (A) 394/1970 (Ord. No. 57)	s. 9 (3) (d)	6.11.1970
P.U. (B) 324/1970	ss. 10 (2), (11)	1.1.1971
A18	ss. 28 (e), (f), 30 (1) (oo) (i) ... ss. 28 (g), 30 (1), (oo), (ii), (iii)	28.3.1969 16.12.1969 see P.U. (A) 505/1969 Act A18 s. 5
A67	s. 9 (3) (d)	17.9.1971
A68	s. 24 (2) (a), (b), (c)	17.9.1971
Act 102	s. 30 (1) (oo) (iv), (v)	1.7.1971
	ss. 2, 11 (1) (b), 30 (1) (x), 42	15.4.1973
A189	ss. 2, 29, 30 (1) (fff), 31 (c), (d), 36, 37 (1) (c), (d), (2), 29 (2), 40, 41, 42, 43 (2), 44, 51, 51A, s. 31A (new)	15.4.1973 see P.U. (B) 148/1973
Act A298	s. 30 (1) (bb) (ffff) (mmm), (2)	30.5.1975

<i>Act/L.N.</i>	<i>Provision amended</i>	<i>Effective date of amendment</i>
Act 160 ...	s. 18 (1) (2) Throughout the Ordinance, word "ringgit" is substituted for the word(s) "Malaysian dollar" "Malaysian dollars" "dollar" and "dollars" and the word "sen" substituted for "cents"	29.8.1975
Act A378 ...	s. 30 (1) (fff)	1.1.1977
Act 184 ...	ss. 19 (1) (3) (4), 21, 30 (oo)	10.6.1977
Act A407 ...	s. 6	2.9.1977
Act A529 ...	s. 30 (1) (d) (iii) (a) ... ss. 2, 30 (1) (fffff) (h) (l) (oo); 31 (d), 33 (1); 37, 39, 41 ...	1.1.1976 23.2.1982
Act 276 ...	ss. 2, 37 (1), (2), 41, 42, 51. ...	7.4.1983
Act A632 ...	s. 31A (new)	10.1.1986
Act 330 ...	ss. 2, 15, 30	1.1.1987
Act A683 ...	ss. 31A, 31B (new) 31C (new)	1.1.1988
Act A699 ...	s. 30	1.5.1988
Act A737 ...	ss. 2, 9, 11, 14, 15, 16, 16A (new), 20, 24, 25, 27, 30, 31, 31A, 31B, 31C, 32, 34, 35, 37, 38, 39, 40, 41, 42, 43, 49, 51, 53A (new).	