An Act to provide for the licensing and regulation of money-changing business and for other matters related thereto.

[25th September 1998]

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

1. Short title and Commencement.
2. Interpretation.

PART II

LICENSING

4. Prohibition from carrying on money-changing business.
5. Applicant for licence.
6. Application for licence.
7. Grant of licence.
8. Licence fee.
10. Condition of licence.
11. Display of licence.
12. Revocation of licence.
13. Appeal against revocation of licence.
14. Licence to be forwarded to Bank on revocation.
15. Effect of revocation.
17. Preservation of rights and claims.
18. Approval for change in licensing particulars.
19. List of licensees to be gazetted.

PART III

OFFICE OF LICENSEE

20. Office of licensee.
21. Application for approval.
22. Fee for office.

PART IV

MONEY-CHANGING BUSINESS

23. Minimum paid-up share capital.
24. Use of words “money-changer”, “currency exchange”, etc.
25. Name to be affixed outside office.
27. Display of rates.
28. Licensee to provide receipt.
29. Maximum holding of foreign currency.
30. No remittance or transfer of funds.
31. Prohibition from leasing, transferring, etc., money-changing business.
32. Appointment of director, etc.
33. Auditor.
34. Submission of information or document.
35. Submission of false information.

PART V
INVESTIGATION

36. Appointment of investigating officer.
37. Power of investigating officer to search and seize.
38. Search of person.
39. Search of persons by person of the same gender.
40. Obstruction to investigating officer.
41. Requirement to provide translation.
42. Power to examine person.
43. Delivery of property or document.
44. Assistance to public officer.
45. Investigating officer deemed to be public servant and public officer.
46. Arrested person to be made over to police.

PART VI

MISCELLANEOUS

47. Offence by a body corporate.
48. Liability of directors, etc.
49. Imposition of surcharge.
50. Indemnity.
51. Regulations.
52. Non-application of Act.
53. Seizable offence.
54. Power of Governor to compound offences.
55. Prosecution.
56. Attempts, abetments and conspiracies.
57. Minister may amend First Schedule or Second Schedule.

PART VII

SAVINGS AND TRANSITIONAL PROVISIONS

58. Savings.
59. Grant of license to person deemed to be licenced under subsection 58 (1).
60. Transfer of business to company and increase in paid-up share capital.
61. Revocation of licence for non-compliance with section 60.

First Schedule Excluded Foreign Currencies.

Second Schedule Minimum criteria of a “fit and proper” person.

PART I

PRELIMINARY

1. This Act may be cited as the Money-Changing Act 1998 and shall come into force on such date as the Minister may appoint by notification in the Gazette.

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

   “appointed date” means the date of coming into force of this Act;

   “authorised dealer”, in relation to foreign currency, means a person for the time being authorised by an order of the Controller of Foreign Exchange under the Exchange Control Act 1953 to act for the purposes of that Act as an authorised dealer;

   “Bank” means the Central Bank of Malaysia established by the Central Bank of Malaysia Act 1958;

   “company” has the same meaning as given in the Companies Act 1965;

   “director” includes any person who occupies the position of a director, by whatever name called, and, in particular, without prejudice to the foregoing, in the case of—

   (a) a corporation, has the same meaning as given in the Companies Act 1965;

   (b) a statutory body, means a member of the board, council or other governing body, by whatever name called, of the statutory body;

   (c) a partnership, means a partner;

   (d) a sole proprietorship, means the sole proprietor; and

   (e) any other body, association or group of persons, whether corporate or unincorporate, means any person having the direction and control of the management of its affairs or business;

   “document” has the same meaning as given in the Evidence Act 1950;
“exchange transaction” means an exchange of one foreign currency with ringgit or with another foreign currency;

“foreign currency” means currency notes and coins which are legal tender in any territory outside Malaysia, excluding the foreign currencies set out in the First Schedule;

“Governor” means the Governor of the Bank and includes a Deputy Governor of the Bank;

“licence” means a licence granted under section 7;

“licensee” means a person licensed under this Act;

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

“money-changing business” has the meaning set out in subsection 4 (3);

“office” includes the principal place of business and any other place from where, or at which, money-changing business is carried on, and also includes an electronic terminal;

“officer”, in relation to an institution, includes an employee and the chief executive officer;

“prescribe” means prescribe by regulations published in the Gazette, and a power to prescribe includes the power to make different provisions in the regulations for different persons or classes of persons;

“specify” means specify in writing, and a power to specify includes the power to specify differently for different persons or different classes of persons, and to amend any specification.

Function of Bank. 3. (1) The Bank shall have all the functions conferred on it by this Act and the Governor shall perform the functions of the Bank on its behalf.

(2) The Bank may authorise an officer of the Bank or any other person to perform any or all of its functions under this Act and, in particular, the Bank may authorise an officer of the Bank to be the licensing officer responsible for licensing a person under Part II.

PART II

LICENSING
Prohibition from carrying on money-changing business.  

4. (1) No person shall carry on money-changing business without a licence granted under this Act.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(3) For the purposes of this Act, “money-changing business” means—

(a) the business of entering into an exchange transaction at a rate of exchange;

(b) the business of buying travellers’ cheques at a rate of exchange; or

(c) such other business as the Minister may prescribe.

Applicant for licence.  

5. No person shall apply for a licence to carry on money-changing business unless—

(a) it is a company; and

(b) it has a minimum paid-up share capital, unimpaired by losses, of one hundred thousand ringgit or such other amount as the Minister may prescribe.

Application for licence.  

6. An application for a licence shall be made in writing to the Bank in such form and manner as the Bank may specify.

Grant of licence.  

7. Upon receiving an application under section 6, the Bank may grant a licence, with or without conditions, or refuse to grant a licence.

Licence fee.  

8. (1) A licensee, upon being licensed or upon its licence being renewed, shall pay to the Bank a fee of five hundred ringgit, or such other amount as the Minister may prescribe, in respect of its principal place of business.

(2) A licensee who fails to pay the fee under subsection (1) shall be liable to pay the surcharge under section 49.

(3) Notwithstanding subsection (2), the licence of a licensee who fails to pay the fee under subsection (1) may be revoked under section 12.

Period of licence.  

9. (1) A licence shall be in force for a period of five years
or such other period as the Bank may specify in the licence.

(2) A licensee shall apply for the renewal of its licence not less than one month before the expiry of its licence in such form and manner as the Bank may specify.

Condition of licence. **10.** The Bank, may at any time—

(a) impose any condition on a licensee;

(b) amend any condition imposed on a licensee; or

(c) revoke any condition imposed on a licensee.

Display of licence. **11.** (1) Every licensee shall display—

(a) its licence in a conspicuous position at its principal place of business; and

(b) a copy of its licence at each of its other offices, other than an electronic terminal.

(2) A licensee who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit.

Revocation of licence. **12.** (1) The Bank may revoke a licence if it is satisfied that—

(a) the licensee has made a false or an incorrect statement in its application for a licence;

(b) the licensee has ceased to carry on money-changing business or the licensee goes into liquidation or is wound up or otherwise dissolved;

(c) the licensee is contravening or has contravened any of the provisions of this Act or any regulations made under this Act;

(d) the licensee has contravened any of the conditions of its licence; or

(e) the licensee, any of its shareholders or any of its directors, or officers, who has in any manner control of the money-changing business of the licensee, has been convicted of an offence under the Central Bank of Malaysia Act 1958, the Banking and Financial Institutions Act 1989, the Islamic Banking Act 1983, the Insurance Act 1996, the Takaful Act 1984, the Exchange Control Act 1953, the Companies Act 1965 or any offence involving fraud or dishonesty.
(2) Where the Bank proposes to revoke a licence, the Bank shall give the licensee a written notice setting out the proposed revocation and the grounds for the revocation.

(3) The licensee shall be given an opportunity to make written representation to the Bank within twenty-one days from the date of the written notice.

(4) Where no written representation is received by the Bank within the period specified under subsection (3), the Bank shall revoke the licence by written notice.

(5) Where representation is received, the Bank, after considering the representation, shall give the licensee written notice of its decision.

(6) A revocation under subsection (4), or a decision to revoke the licence under subsection (5), shall not take effect until the expiration of a period of twenty-one days from the date of the written notice under subsection (4) or (5), as the case may be.

(7) Where the Bank decides under subsection (5) not to revoke the licence, it may impose such conditions or restrictions on the licensee as it may specify in the written notice given under that subsection.

Appeal against revocation of licence.

13. (1) A person whose licence has been revoked may, within twenty-one days of the date of the written notice in subsection 12 (4) or (5) or within such extended period of time as the Bank may allow, appeal in writing against the revocation to the Minister whose decision shall be final.

(2) Every appeal under subsection (1) shall be submitted to the Bank and the Bank shall forward the written appeal to the Minister together with the Bank’s recommendation as to whether the appeal ought to be allowed or dismissed.

(3) If, within the period specified in subsection (1), the person whose licence has been revoked appeals to the Minister, the revocation shall not take effect unless the Minister confirms the revocation, or for any reason, dismisses the appeal withdrawn.

Licence to be forwarded to Bank on revocation.

14. (1) A person whose licence has been revoked shall, within fourteen days from the date of the revocation or, if he appeals under subsection 13 (1), within fourteen days from the date the revocation takes effect under subsection 13 (3), forward his licence to the Bank.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a
fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Effect of revocation. 15. (1) No person whose licence has been revoked shall continue to carry on money-changing business after the revocation takes effect under section 12 or 13.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(3) Upon revocation of the licence, the Bank shall not refund any fees paid by the person under sections 8 and 22.

Surrender of licence. 16. (1) A licensee proposing to surrender its licence shall give the Bank a written notice informing the Bank of the proposed Surrender of the licence, reasons for the surrender and the date on which the surrender is to take effect.

(2) The licensee shall forward its licence to the Bank immediately after the date set out in the written notice under subsection (1).

(3) Upon surrender of the licence, the Bank shall not refund any fees paid by the licensee under sections 8 and 22.

Preservation of rights and claims. 17. Sections 15 and 16 shall not prejudice the enforcement of—

(a) any right or claim by any person against a person whose licence has been revoked or surrendered; or

(b) any right or claim against any person by the person whose licence has been revoked or surrendered,

arising out of, or concerning, any matter or thing done prior to the revocation or surrender of the licence.

Approval for change in licensing particulars. 18. A licensee who, without the prior written approval of the Bank, effects any change in—

(a) its name;

(b) the address of any of its offices;

(c) the membership of its board of directors;

(d) its shareholders and shareholding structure;

(e) its memorandum and articles of association or such
other constituent documents under, or by which, the
licensee is established; or

(f) such particulars of the licensee submitted during the
application for the licence as the Bank may specify,

shall be guilty of an offence and shall on conviction be liable
to a fine not exceeding ten thousand ringgit.

List of licensees to be gazetted. 19. The Bank shall publish in the Gazette a list of licensees
together with the addresses of their offices not later than 30
April in each year and amendments to the list shall be
published from time to time as they are made.

PART III
OFFICE OF LICENSEE

Office of license. 20. (1) No licensee shall open or relocate an office in
Malaysia without the prior written approval of the Bank.

(2) The Bank, in granting its approval under subsection
(1), may impose such conditions as it thinks fit.

(3) Any licensee who contravenes subsection (1) or any
condition imposed under subsection (2) shall be guilty of an
offence and shall on conviction be liable to a fine not
exceeding one hundred thousand ringgit.

Application for approval. 21. A licensee shall apply in writing for the written
approval of the Bank under section 20 in such form and
manner as the Bank may specify.

Fee for office. 22. (1) A licensee shall pay to the Bank—

(a) a fee of five hundred ringgit, or such other amount as
the Minister may prescribe, upon obtaining the
approval of the Bank under section 20 for opening an
office, other than its principal place of business; and

(b) an annual fee of five hundred ringgit, or such other
amount as the Minister may prescribe, in respect of its
principal place of business and each of its other
offices.

(2) The annual fees payable by the licensee under
paragraph (1)(b) shall be payable one month before the
anniversary date of its licence.
(3) Notwithstanding subsection (2), an applicant for a licence shall pay the annual fee under paragraph (1)(b) upon being licensed under section 7.

(4) A licensee who fails to pay the fees specified in subsection (1) within the period specified in subsection (2) or (3), as the case may be, shall be liable to pay the surcharge under section 49.

(5) Notwithstanding subsection (4), the licence of a licensee who fails to pay the fees under subsection (1) may be revoked under section 12.

PART IV

MONEY-CHANGING BUSINESS

23. (1) Every licensee shall maintain in Malaysia at all times a minimum paid-up share capital, unimpaired by losses, of one hundred thousand ringgit or such other amount as the Minister may prescribe.

(2) A licensee who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit.

24. (1) No person shall without the prior written approval of the Bank, use the words “money-changer”, “currency exchange”, “money exchange”, “forex dealer”, “foreign exchange” or “bureau de change” or any of their derivatives in any language, or any other words in any language capable of being construed as indicating the carrying on of money-changing business, in relation to its business, or in the name, description or title under which it carries on business or make any representation to such effect in any bill head, letter, notice or advertisement or in any other manner.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(3) Subsection (1) shall not apply to a licensee, an authorised dealer or a person given permission by the Controller of Foreign Exchange under section 4 of the Exchange Control Act 1953 to buy and sell foreign currency.

25. (1) Every licensee shall affix or paint prominently its
outside office. name and the words “pengurup wang berlesen” and “licensed money-changer” in a conspicuous position outside each of its offices, other than an electronic terminal.

(2) A licensee who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit.

Advertisement. 26. (1) No person, other than a licensee, shall issue or publish, or otherwise facilitate any person to issue or publish, an advertisement containing—

(a) an invitation or an offer to enter into an exchange transaction or any other transaction relating to money-changing business; or

(b) information which is intended or might reasonably be presumed to be intended to lead, directly or indirectly, to an exchange transaction or any other transaction relating to money-changing business.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(3) No person shall issue, publish or otherwise facilitate any person to issue or publish an advertisement relating to money-changing business which he knows to be misleading, false or deceptive in a material particular.

(4) Any person who contravenes subsection (3) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit.

Display of rates. 27. (1) A licensee shall maintain a board displaying the current rates of exchange offered by it to customers for an exchange transaction or any other transaction relating to its money-changing business.

(2) A licensee shall—

(a) provide a sufficiently large board to display the rates of exchange in a clearly visible and legible manner to the customers;

(b) place the board in a well-lit place where the customers have an unobstructed view of the board; and

(c) display on the board the buying and selling rates of exchange under the headings “we buy” and “we sell” respectively.
(3) Notwithstanding subsection (1), a licensee may offer to customers a more favourable rate of exchange than that shown on the board.

(4) Any licensee who contravenes subsection (1) or (2) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit.

(5) For the purposes of this section, “board” means a device used for displaying the rates of exchange required under this Act and includes a video display screen.

28. (1) A licensee, before completing an exchange transaction or any other transaction relating to its money-changing business, shall legibly make out in duplicate a receipt both in the national language and the English language, by correctly completing, using Arabic numerals and an abbreviation commonly used to signify the type of currency, the following details:

(a) the licensee’s name, address and telephone number;
(b) the date of the transaction;
(c) a serial number for the receipt;
(d) the amount and the type of currencies tendered by the customer;
(e) the amount and the type of currencies to be issued to the customer;
(f) the rate of exchange; and
(g) the customer’s name and passport or identity card number, if the transaction is for an amount totalling not less than twenty thousand ringgit or such other amount as the Bank may specify.

(2) An officer of a licensee shall sign on the receipt and shall issue the original of the receipt to the customer.

(3) A licensee shall retain the duplicate copy of the receipt for a period not less than twenty-four months and shall produce it for inspection and copying on demand by the Bank or any person authorised by the Bank.

(4) Any licensee who contravenes this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit.

29. (1) No licensee shall hold foreign currency of an amount exceeding the equivalent of two hundred and fifty
thousand ringgit, or such other amount as the Minister may prescribe, at each of its offices.

(2) Any licensee who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit.

30. (1) No licensee, in Malaysia, shall—

(a) remit or transfer funds outside Malaysia; or

(b) do any act that involves, is associated with, or is preparatory to, remitting or transferring funds outside Malaysia, whether on its own behalf or on behalf of a third party.

(2) Any licensee who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit.

(3) Notwithstanding subsection (1), a licensee, on its own behalf, may remit or transfer funds outside Malaysia through an authorised dealer.

31. (1) No licensee shall without the written approval of the Bank, allow any part of its money-changing business to be leased, transferred or assigned to, or controlled by, any other person, except to such extent, or for such duration, as the Bank may specify in its approval.

(2) Any licensee who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit.

32. (1) Every licensee shall, before appointing a director, or an officer, who in any manner will have control of its money-changing business, obtain the prior written approval of the Bank for the proposed appointment.

(2) The Bank may specify the particulars and information to be submitted by the licensee in relation to the person for whom the written approval of the Bank is sought under subsection (1).

(3) Any licensee who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit.

(4) A licensee who appoints a director, or an officer, who in any manner has control of its money-changing business,
without having regard to the minimum criteria of a “fit and proper” person set out in the Second Schedule shall be guilty of an offence and shall on conviction be liable to fine not exceeding fifty thousand ringgit.

(5) The Bank shall have full discretion to determine whether a person has fulfilled the minimum criteria of a “fit and proper” person set out under paragraph (1) of the Second Schedule.

Auditor. 33. (1) A licensee, at its own expenses, shall appoint annually an auditor to carry out an audit of its money-changing business.

(2) The Bank may require an auditor appointed under subsection (1)—

(a) to submit to the Bank such information as it may require in relation to the audit carried out by him;

(b) to enlarge or extend the scope of his audit of the money-changing business and affairs of the licensee;

(c) to carry out any examination or establish any procedure in any particular case; or

(d) to submit a report to the Bank on any matters in paragraphs (b) and (c).

(3) For the purpose of paragraph (2)(a), the information required in relation to the audit may include the following:

(a) profit and loss accounts of the money-changing business;

(b) the volume of exchange transactions or any other transactions relating to the money-changing business in ringgit equivalent;

(c) a report as to whether proper records of the exchange transactions or any other transactions relating to the money-changing business have been maintained;

(d) a report as to whether the licensee has complied with the conditions of its licence; and

(e) a report as to whether the licensee has complied with the provisions of this Act and other relevant laws and regulations.

(4) The licensee shall pay the remuneration of the auditor in relation to the auditor’s services under this section.

(5) The Bank, if it considers that the auditor appointed by the licensee has not carried out his duties to the Bank’s
satisfaction, may require the licensee to appoint another auditor.

(6) The auditor shall submit a copy of the audit report duly signed by him to the Bank not later than three months or such other period as the Bank may specify, after the end of the licensee’s financial year.

(7) Any person who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit.

Submission of information or document.

34. (1) Every licensee shall submit to the Bank, or to such person as the Bank may authorise, such returns, document or information, and within such time, as the Bank may specify.

(2) A licensee who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit.

Submission of false information.

35. A person who—

(a) with intent to evade the provisions of this Act, destroys, mutilates, defaces, conceals or removes any documents; or

(b) furnishes any information which is false in a material particular for any of the purposes of this Act,

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 three years or to both.

PART V
INVESTIGATION

Appointment of investigating officer.

36. (1) The Bank may appoint any of its officers or any other person authorised under subsection 3 (2) to be an investigating officer.

(2) An investigating officer, not being an officer of the Bank, shall be subject to, and enjoy such rights, protection and indemnity as may be provided for in this Act, the Central Bank of Malaysia Act 1958 or any other written law providing for the rights, protection and indemnity of an officer of the Bank, while performing his functions under this Act and in relation to such functions.
(3) An investigating officer shall be subject to the direction and control of the Bank.

37. (1) If it appears to a Magistrate, upon written information on oath and after such enquiry as he considers necessary that there is a reasonable cause to believe that any premises have been used or are about to be used for, or there is in or on any premises evidence necessary to establish, the commission of an offence under this Act, the Magistrate may issue a warrant authorising an investigating officer, at any reasonable time by day or by night and with or without assistance—

(a) to enter any premises and there search for, seize and detain any property or document;

(b) to inspect, make copies of, or take extracts from, any document so seized and detained;

(c) to take possession of, and remove from the premises, any property or document so seized and detained and detain it for such period as may be necessary;

(d) to search any person who is in, or on, such premises, and for the purpose of the search, detain the person and remove him to such place as may be necessary to facilitate the search, and seize and detain any property or document found on the person;

(e) to break open, examine, and search, any article, container or receptacle; or

(f) to stop, detain or search any conveyance.

(2) An investigating officer, if it is necessary so to do—

(a) may break open any outer or inner door of any premises or conveyance and enter any premises or conveyance;

(b) may forcibly enter any premises and every part thereof;

(c) may remove by force any obstruction to the entry, search, seizure, detention or removal that he is empowered to effect; or

(d) may detain any person found on any premises, or in any conveyance, searched under subsection (1) until the search is completed.

(3) Notwithstanding subsection (1), if an investigating officer has reasonable cause to believe that by reason of a delay in obtaining a search warrant—
(a) the investigation would be adversely affected;
(b) the object of the entry is likely to be frustrated;
(c) the property or document may be removed or interfered with; or
(d) the evidence sought may be tampered with or destroyed,

he may exercise in, and in respect of, the premises all the powers referred to in this section in as full and ample a manner as if he were authorised to do so by a warrant issued under subsection (1).

(4) An investigating officer may seize, take possession of, and detain for such duration as he thinks necessary, any property or document produced before him in the course of his investigation, or found on the person who is being searched by him.

(5) An investigating officer, in the course of his investigation or search—

(a) shall prepare and sign a list of every property or document seized; and

(b) shall state in the list the location in which, or the person on whom, the property or document is found.

(6) The occupant of the premises entered in the course of investigation, or any person on his behalf, shall be present during the search and a copy of the list prepared under subsection (5) shall be delivered to such person.

(7) An investigating officer, unless otherwise ordered by any court—

(a) on the close of investigations or any proceedings arising therefrom; or

(b) with the prior written consent of any officer of the Bank authorised by the Governor to act on his behalf for this purpose, or any investigating officer superior to him in rank, at any time before the close of investigations,

shall release any property or document seized, detained or removed by him, or any other investigating officer, to the person from whom the property or document was seized, detained or removed, if he is satisfied that the property or document is not required for the purpose of any prosecution or proceedings under this Act, or for the purpose of any prosecution under any other written law.

(8) The investigating officer effecting the release under subsection (7) shall record in writing the circumstances of,
and the reasons for, the release.

F.M.S. Cap. 6.

(9) Where an investigating officer is unable to locate the person under subsection (7) from whom the property or document was seized, detained or removed, he shall report the matter to a court which shall deal with the property or document seized, detained or removed, as provided for under subsections 413 (iii) and (iv), sections 414 and 415 and subsection 416 (i) of the Criminal Procedure Code.

Search of person. 38. (1) An investigating officer may search any person whom the investigating officer has to believe has person on his person any property or document necessary, in the investigating officer’s opinion, for the purpose of investigating into any offence under this Act, and for the purpose of the search may detain the person for such period as may be necessary to have the search carried out, which shall not, in any case, exceed twenty-four hours without the authorisation of a Magistrate, and may if necessary remove him in custody to another place to facilitate such search.

(2) An investigating officer making a search of a person under subsection (1) may seize, detain, or take possession of any property or document found upon such person, for the purpose of the investigation being carried out by him.

Search of persons by person of the same gender. 39. No person shall be searched under this Part except by an investigating officer of the same gender as the person being searched.

Obstruction to investigating officer. 40. Any person who—

(a) refuses an investigating officer exercising his powers under this Part access to any premises, or fails to submit to the search of his person;

(b) assaults, obstructs, hinders or delays an investigating officer in effecting an entrance which he is entitled to effect;

(c) fails to comply with any lawful demand of an investigating officer in the execution of his duty under this Part;

(d) refuses to give to an investigating officer any property, document or information which may reasonably be required of him and which he has in his power to give;

(e) fails to produce to, or conceals or attempts to conceal...
from, an investigating officer, or destroys, alters or removes, any property or document which the investigating officer may require;

(f) retrieves or endeavours to retrieve anything which has been seized, detained or removed;

(g) furnishes to an investigating officer as true, information which he knows, or has reason to believe, to be false; or

(h) before or after any search or seizure, breaks or otherwise destroys any property or document to prevent its seizure or the securing of the property or document,

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 three years or to both.

Requirement to provide translation. 41. (1) Where an investigating officer finds, seizes, detains or takes possession of, a document which, wholly or partly, is in a language other than the national language or the English language, or in any sign or code, the investigating officer, orally or in writing, may require the person who had the possession, custody or control of the document, to furnish to the investigating officer a translation in the national language or the English language within such period as he may specify.

(2) Where the person required to furnish a translation under subsection (1) is not the person under investigation, the Bank may pay him a reasonable fee for the translation.

Power to examine person. 42. (1) An investigating officer, by notice in writing, may require any person acquainted with the facts and circumstances of a case to appear before him to be examined orally and shall reduce into writing any statement made by the person so examined.

(2) Such person shall be legally bound to answer the questions relating to any case put to him by the investigating officer and to state the truth, whether or not the statement is made wholly or partly in answer to questions, and shall not refuse to answer any question on the ground that it tends to incriminate him.

(3) An investigating officer examining a person under subsection (1) shall inform that person of the provisions of subsection (2).

(4) A statement made by any person under this section
shall be reduced into writing by the investigating officer and signed by the person making it or affixed with his thumb-print, as the case may be—

(a) after it has been read to him in the language in which he made it; and

(b) after he has been given an opportunity to make any correction he may wish.

(5) Where the person examined under this section refuses to sign or affix his thumb-print on the statement, the investigating officer shall endorse on the record under his hand the fact of the refusal and the reason for it, if any, stated by the person examined.

(6) Any person who—

(a) fails to appear before an investigating officer as required under subsection (1);

(b) refuses to answer any question put to him by an investigating officer under subsection (2); or

(c) furnishes to an investigating officer information or a statement that is false or misleading in any material particular,

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 three years or to both.

Delivery of property or document.

43. (1) An investigating officer, by a notice in writing, may require any person to deliver to him any property or document which he has reason to believe has been used in the commission of an offence under this Act or is able to assist in the investigation of an offence under this Act that is in the possession or custody of, or under the control of, that person or within the power of that person to furnish.

(2) An investigating officer may grant permission to any person to inspect the property or document detained and taken possession of by the investigating officer under subsection (1) if the person is entitled to inspect such property or document under this Act.

(3) A person who—

(a) fails to deliver any property or document that is required by an investigating officer; or

(b) obstructs or hinders an investigating officer while exercising any of his powers under this section,

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 three years or to both.

44. Notwithstanding any other written law, the Bank, on its own initiative, or at the request of a police officer or a public officer in the course of his investigation of an offence under any written law, may allow that officer access to—

(a) a copy of a document seized, detained or taken possession of;

(b) a record of examination; or

(c) a written statement.

45. An investigating officer shall be deemed to be a public servant for the purposes of the Penal Code, and to be a public officer for the purposes of the Criminal Procedure Code or any other written law which the Minister, on the recommendation of the Bank, may prescribe.

46. An investigating officer who makes an arrest under section 53 shall make over the arrested person to a police officer without unnecessary delay and the arrested person shall be dealt with according to the law relating to criminal procedure as if he had been arrested by a police officer.

PART VI

MISCELLANEOUS

47. Subject to section 48, where a person convicted of an offence is a body corporate, the penalty of imprisonment for the offence, if any, shall not apply to it.

48. (1) Where an offence under this Act has been committed by a body corporate, any person who at the time of the commission of the offence was a director, or an officer, who in any manner has control of the money-changing business of the body corporate, or who was purporting to act in any such capacity, shall be deemed to have committed that offence and be punished accordingly unless he proves that the offence was committed without his consent or connivance and that he exercised such diligence to prevent the commission of the offence as he ought to have
exercised having regard to the nature of his function in that capacity and to all the circumstances.

(2) Any person who would have been guilty of an offence if anything had been done or omitted to be done by him personally, shall be guilty of that offence and shall be liable to the same penalty if such thing had been done or omitted to be done by his agent or officer in the course of his business or in the course of his employment, as the case may be, unless he proves that the offence was committed without his knowledge or consent and that he took all reasonable precautions to prevent the doing of, or omission to do, such thing.

(3) Nothing under subsection (2) shall absolve an agent or employee from any liability for an offence.

49. (1) A person may be surcharged if it appears to the Bank that the person has failed to make any payment, or is, or was, responsible for any delay in the payment, of fees under this Act to the Bank.

(2) The Bank shall, before the person is surcharged, serve on him a written notice calling on him to show cause why he should not be surcharged.

(3) If a satisfactory explanation is not received within fourteen days from the date of the written notice, the Bank may surcharge against the person a sum not exceeding the amount not collected, or such other amount as the Bank may specify which shall not in any case be more than three times the amount not collected.

50. The Minister, the Bank, its Governor, or any of its directors or officers or any person acting on its behalf, shall not be liable in an action or other proceedings for, or on account of, or in respect of, an act done, or a statement made or omitted to be made, in good faith in pursuance of, or in connection with, the execution or intended execution of any power conferred upon the Bank or an investigating officer by this Act.

51. The Minister may make regulations for carrying into effect the objects of this Act or any provisions of this Act and for prescribing anything which under this Act is to be prescribed.

52. Except for Part V, this Act shall not apply to an
exchange transaction or any other transaction relating to money-changing business entered into by an authorised dealer or a person given permission by the Controller of Foreign Exchange under section 4 of the Exchange Control Act 1953.

### 53. Seizable offence.

An offence punishable under this Act is a seizable offence, and a police officer not below the rank of Inspector, or an investigating officer appointed under subsection 36 (1), may arrest without warrant a person whom he reasonably suspects to have committed or is committing such offence.

### 54. Power of Governor to compound offences.

1. The Governor may compound an offence under this Act or under regulations made under this Act by accepting from the person reasonably suspected of having committed the offence an amount not exceeding the fine for that offence or fifty thousand ringgit, whichever is the lower, within such time as may be specified in his written offer or such extension of time as the Governor may grant.

2. An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted.

3. Where the amount of money is not paid within the time specified in the offer under subsection (1), or such extension of time as the Governor may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

4. Upon receipt of payment of the amount of money under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made.

### 55. Prosecution.

1. No prosecution for an offence under this Act shall be instituted except with the written consent of the Public Prosecutor.

2. Any officer of the Bank or any person authorised by the Bank may, if he is authorised in writing by the Public Prosecutor, prosecute any case in respect of any offence committed under this Act.

### 56. Attempts, abetments and conspiracies.

1. A person commits an offence and is liable to the penalty for that offence if he—
   
   (a) attempts to commit an offence under this Act;
(b) does an act preparatory to, or in furtherance of, the commission of an offence under this Act; or

(c) abets or is engaged in a criminal conspiracy to commit an offence under this Act, whether or not the offence is committed in consequence of it.

(2) An offence under this Act shall be read as including a reference to an offence under subsection (1) in relation to the offence.

Minister may amend First Schedule or Second Schedule.

57. The Minister, on the recommendation of the Bank, may amend the First Schedule or Second Schedule from time to time by order published in the Gazette.

PART VII

SAVINGS AND TRANSITIONAL PROVISIONS

Savings. Act 17.

58. (1) Subject to section 59, a person licensed under 4 of the Exchange Control Act 1953 to buy and sell foreign currency shall be deemed to be licensed under section 7 on the appointed date and may carry on money-changing business.

(2) A person licensed under section 4 of the Exchange Control Act 1953 to buy foreign currency may carry on buying foreign currency until the expiry of his licence under that Act.

(3) A person who is deemed to be licensed under subsection (1) shall comply with such conditions or restrictions, to such extent and within such time, as the Bank may specify.

Grant of licence to person deemed to be licensed under subsection 58 (1).

59. (1) Where the remaining period of validity of the licence of a person deemed to be licensed under subsection 58 (1) is two months or more from the appointed date, such person shall apply under section 6 for a licence to carry on money-changing business for the remaining period of validity of his licence within six months from the appointed date and sections 8 and 22 shall not apply to that person.

(2) Where the remaining period of validity of the licence of a person deemed to be licensed under subsection 58 (1) is less than two months from the appointed date, such person shall apply immediately for a new licence to carry on money-changing business under section 6, and sections 8
and 22 shall apply to that person.

(3) The Bank may grant a licence under section 7, with or without conditions, or refuse to grant a licence.

(4) The licence deemed to be held under subsection 58 (1) shall be deemed to have been revoked, if—

(a) subsection (1) or (2) is not complied with, upon the expiry of the period specified in that subsection; or

(b) subsection (1) or (2) is complied with but a licence is refused under section 7, on the date of the refusal.

Transfer of business to company and increase in paid-up share capital.

60. Within five years from the appointed date—

(a) a sole proprietorship or a partnership, deemed to be licensed under subsection 58 (1), shall transfer to a company its property, business and liabilities relating to its money-changing business in Malaysia; and

(b) a company deemed to be licensed under subsection 58 (1), including a company under paragraph (a), shall increase its minimum paid-up share capital, unimpaired by losses, to one hundred thousand ringgit.

Revocation of licence for non-compliance with section 60.

61. Where section 60 is not complied with, the licence granted under section 59 is deemed to have been revoked under section 12 upon expiry of the period provided for in section 60.

FIRST SCHEDULE

[Section 2]

EXCLUDED FOREIGN CURRENCIES

The currencies of the following territories are excluded from the definition of “foreign currency”:

1. Israel.

2. [Deleted.]  

SECOND SCHEDULE

[Subsection 32(4)]

MINIMUM CRITERIA OF A “FIT AND PROPER”
Minimum criteria of a “fit and proper” person.

1. Pursuant to subsection 32 (4), a licensee, in determining whether a person is “fit and proper” to hold the position of a director, or officer, who in any manner has control of its money-changing business, shall have regard to the following matters:

(a) his probity, competence and soundness of judgement for fulfilling the responsibilities of that position;

(b) any evidence that he has engaged in any business practices appearing to be deceitful or otherwise improper;

(c) whether he, or the company in which he holds a position of responsibility, has had his or its licence granted under this Act or the Exchange Control Act 1953 revoked;

(d) whether he has been a party to any action or decision of the board or management of a licensee which is detrimental to the interests of that licensee or its customers;

(e) whether he has held a position of responsibility in the management of any company which has been convicted of an offence under any written law during his tenure of office unless he proves that such offence was committed without his knowledge or consent and he was not in a position to prevent the offence;

(f) whether he has held a position of responsibility in the management of any company which during his tenure of office—

(i) has defaulted in payment of any judgement sum against it;

(ii) has suspended payment or has compounded with its creditors; or

(iii) has had a receiver or manager appointed in respect of its property; and

(g) whether he shall be available for full time employment, and shall not carry on any other business or vocation, except as a non-executive director or shareholder of another company.

Person deemed not to be “fit and proper”.

2. A person is deemed not to be a “fit and proper” person if—

(a) he has been compounded or convicted; or

(b) as a director, or an officer, who in any manner has control of the money-changing business of a licensee,
has caused the licensee to be compounded or convicted, 

- Act 125.
- Act 319.
- Act 372.
- Act 276.
- Act 553.
- Act 312.
- Act 17.

of an offence under this Act, the Companies Act 1965, the Central Bank of Malaysia Act 1958, the Banking and Financial Institutions Act 1989, the Islamic Banking Act 1983, the Insurance Act 1996, the Takaful Act 1984, the Exchange Control Act 1953 or any offence involving fraud or dishonesty.

As at 30 October 2007 and incorporated with the latest amendment by PU(A) 273/2006