



# LAWS OF MALAYSIA

## Act 6

FINANCE  
**BORROWING COMPANIES ACT, 1969**

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## LAWS OF MALAYSIA

## Act 6

FINANCE

**BORROWING COMPANIES ACT, 1969**

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## LAWS OF MALAYSIA

### Act 6

#### FINANCE BORROWING COMPANIES ACT, 1969

An Act to regulate and control the activities of borrowing companies.

[ 1st June, 1969 ]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

#### PART I

#### PRELIMINARY

1. This Act may be cited as the Borrowing Companies Act, 1969, and shall come into force on such date as the Minister may by notification in the *Gazette* appoint. Citation.

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

“bank” means a bank licensed <sup>under the Banking Act 1973</sup> to carry on banking ~~business in the Federation;~~ or an Islamic bank licensed under the <sup>Islamic Banking</sup>

Act 276

“borrowing business” means—

(a) the acceptance of any money on deposit or loan by a person (in this definition referred to as “the borrower”) from more than ten persons wherein the borrower is under a liability (whether or not such liability is present or future) to repay the money to these persons; and

(b) (i) the lending; or  
(ii) the investment,

by the borrower, his agents or his servants (and if the borrower is a company, including its wholly-owned subsidiaries) of the borrower’s funds;

“borrowing company” means a company which carries on borrowing business;

“Central Bank” means the Central Bank of Malaysia established under the Central Bank of Malaysia Ordinance, 61/58, 1958;

79/65.

“company” means a company as defined in the Companies Act, 1965;

“corporation” means a corporation as defined in the Companies Act, 1965;

“depositor” means a person who deposits with or lends money to a licensed borrowing company;

“deposit liability” means the liability of a licensed borrowing company to repay any money accepted by it on deposit or loan from any person other than from a licensed bank;

“foreign company” means a foreign company as defined in the Companies Act, 1965;

“foreign currency” means any currency other than currency—

(a) of the Federation; or

(b) which by reason of any agreement or arrangement entered into between the Central Bank and any other monetary authority of another country, is deemed to be interchangeable with the currency of the Federation;

“licence” means a licence granted under this Act enabling a public company to carry on borrowing business;

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

79/65.

“public company” means a public company as defined in the Companies Act, 1965.

Only licensed borrowing company may carry on borrowing business.

3. (1) Subject to this Act and notwithstanding the provisions of the Companies Act, 1965, relating to borrowing corporations no person shall carry on borrowing business unless it is—

(a) a public company; and

(b) a licensed borrowing company.

(2) Any person who contravenes the provisions of subsection (1) is guilty of an offence and shall on conviction be liable to a fine not exceeding ~~five thousand dollars~~ or to imprisonment for a term not exceeding three years or to both.

Twenty thousand ringgit AA 638  
AA 454 →

Exclusion of non-borrowing business.

3A...  
4. A licensed borrowing company shall not carry on any kind of business other than borrowing business.

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5. Where a licensed borrowing company accepts any money on deposit or loan the money shall be repayable on the expiration of such minimum period as may be prescribed by the Central Bank from time to time. Deposit to be for a minimum period.
6. Nothing in this Act shall authorize a licensed borrowing company to— Prohibition of certain dealings by licensed borrowing company.
- (a) accept any money on deposit or loan which is repayable on demand by cheque, draft, order or any other instrument drawn by the depositor on the licensed borrowing company; or
- (b) deal in—
- (i) gold; or
- (ii) foreign currency.

PART II  
ADMINISTRATION

7. (1) Before a public company carries on borrowing business it shall apply in writing to the Minister through the Central Bank for a licence and shall supply the Central Bank— Conditions for application and granting licence.
- (a) a certified true copy of its memorandum and articles;
- (b) a certified true copy of its certificate of incorporation;
- (c) a certified true copy of its latest and duly audited balance sheet; and
- (d) such other written information as may be required by the Central Bank,
- certified by a director or the secretary of the company.

(2) Upon receiving an application under sub-section (1) the Central Bank shall consider the application and make a recommendation to the Minister stating whether or not a licence should be granted to the company and the conditions (if any) to be attached to the licence.

(3) Upon receiving the application and recommendation the Minister may grant a licence to the public company with or without conditions if the paid-up capital in cash of the public company (unimpaired by losses or otherwise) is not less than one million Malaysian dollars.

(4) Notwithstanding anything to the contrary in this section, a public company may carry on borrowing business without a licence if—

- (a) (i) it is established for the purpose of financing economic or industrial development in which the Government of the Federation or the Government of a State has (in the opinion of the Minister) a material interest as a shareholder; and
- (ii) it is exempted by the Minister on the recommendation of the Central Bank;
- (b) it performs the functions of a discount house; or
- (c) its debentures have been approved by the Central Bank subject to such conditions as the Central Bank may think fit to impose.

Minister  
may  
suspend or  
revoke  
licence.

8. (1) When any licensed borrowing company—

- (a) carries on its business in a manner which in the opinion of the Central Bank is detrimental to the interests of its depositors;
- (b) has insufficient assets to cover its liabilities to its depositors;
- (c) carries on business while its paid-up capital (unimpaired by losses or otherwise) is less than one million Malaysian dollars; or
- (d) contravenes any provision of this Act or of any regulations made thereunder,

the Minister may on the recommendation of the Central Bank revoke or suspend the licence of the licensed borrowing company subject to such conditions and restrictions as the Minister may think fit to impose but before the Minister suspends or revokes the licence he shall inform the borrowing company in writing—

- (i) of his intention to do so; and
- (ii) that it may submit written reasons to the Minister (within two weeks of being so informed) as to why its licence should not be revoked or suspended.

(2) The decision of the Minister shall be final and shall not be subject to appeal or to review in any court.

(3) When the licence of a borrowing company has been revoked or suspended pursuant to sub-section (1) the borrowing company shall forthwith cease to use or display in any manner the words, “licensed borrowing company”.

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BORROWING COMPANIES

(4) Any borrowing company which fails to comply with the provisions of sub-section (3) is guilty of an offence and shall on conviction be liable to a fine not exceeding ~~five thousand dollars~~ and to a fine not exceeding five hundred dollars for every day the offence continues.

*Twenty thousand  
ringgit  
AA635*

9. (1) Every licensed borrowing company (including a borrowing company whose licence is suspended) shall pay to the Central Bank—

Licence fees.

- (a) a licence fee on its being granted a licence and in addition a fee for each office or place of business (other than its principal place of business) when the office or place of business is established;
- (b) an annual licence fee for the licensed borrowing company in addition to the fee described in paragraph (a) not later than the 31st day of January; and
- (c) an annual fee for each office or place of business (other than its principal place of business) not later than the 31st day of January,

according to the rates prescribed in the First Schedule.

(2) The Minister may by notification in the *Gazette* amend the First Schedule.

10. No licensed borrowing company shall establish any subsidiary unless—

Establishment of wholly owned subsidiary.

- (a) it is its wholly-owned subsidiary;
- (b) it is incorporated in the Federation; and
- (c) the prior written consent of the Central Bank has been obtained.

11. No licensed borrowing company shall open any office or place of business—

Opening of offices.

- (a) outside the Federation; or
- (b) in the Federation without the prior written consent of the Central Bank.

12. The Central Bank shall publish in the *Gazette*—

Central Bank to publish list of licensed borrowing companies.

- (a) every year not later than the 31st day of March the names of licensed borrowing companies;
- (b) the names of licensed borrowing companies to which licences are granted after the publication of the names pursuant to paragraph (a); and
- (c) the names of licensed borrowing companies whose licences are suspended or revoked.

Name to be displayed on all offices.

13. (1) Every licensed borrowing company shall paint or affix and keep painted or affixed on the outside of every office or place of business in a prominent position and easily legible in the National Language its name and the words, "licensed borrowing company".

(2) Any licensed borrowing company which fails to comply with the provisions of sub-section (1) is guilty of an offence and shall on conviction be liable to a fine not exceeding ~~five hundred dollars~~ for every day the offence continues.

*Two thousand ringgit AAG35*

Alteration of memorandum or articles. 79/65.

14. When a licensed borrowing company alters its memorandum or articles pursuant to the relevant provisions of the Companies Act, 1965 (as the case requires) it shall within one month of the alteration inform the Central Bank of the alteration and supply the Central Bank with a certified true copy of its memorandum or articles as altered and certified by a director or the secretary of the company.

### PART III FINANCIAL

Maintenance of reserve fund.

15. Every licensed borrowing company shall—

- (a) maintain a reserve fund; and
- (b) before any dividend is declared, transfer to the reserve fund out of the net profits of each year (after due provision has been made for taxation)—
  - (i) a sum equal to not less than fifty per centum of such net profits if the reserve fund is less than fifty per centum of its paid-up capital; and
  - (ii) a sum equal to not less than twenty-five per centum of such net profits if the reserve fund is not less than fifty per centum but less than one hundred per centum of its paid-up capital.

*Sub. AAG35*

Exhibition and publication of accounts.

16. (1) Every licensed borrowing company shall—

- (a) exhibit in a prominent position in every office or place of business—
  - (i) a copy of its latest and duly audited balance sheet; and
  - (ii) the full names of all its directors;

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BORROWING COMPANIES

- (b) within six months after the close of its financial year forward to the Central Bank two copies of its latest and duly audited balance sheet and profit and loss account; and
- (c) publish within fourteen days of the laying of its accounts before the company at its annual general meeting in at least two local daily newspapers one in the National Language and one in English a copy of its latest and duly audited balance sheet.

(2) Any licensed borrowing company which fails to comply with the provisions of this section is guilty of an offence and shall on conviction be liable to a fine not exceeding five thousand dollars.

17. No licensed borrowing company shall pay any dividend on its shares until all its capitalised expenditure (including preliminary expenses, organisation expenses, share selling commission, brokerage, amounts of losses incurred and any item of expenditure not represented by tangible assets) has been completely written off.

Restriction on payment of dividends.

18. (1) Every licensed borrowing company shall maintain a minimum amount of liquid assets which shall be prescribed from time to time by the Central Bank by notice in writing to the borrowing company.

Maintenance of minimum amount of liquid assets.

(2) The minimum amount of liquid assets shall be expressed as a percentage of the deposit liabilities of every licensed borrowing company and such percentage may be varied by the Central Bank from time to time by notice in writing to every licensed borrowing company.

L (A19-454)

(3) When the Central Bank issues a notice under subsection (1) each licensed borrowing company shall be allowed a period of not less than one week (as may be specified in such notice) within which to comply with the requirements of the notice.

(4) Where a licensed borrowing company fails to comply with the requirements of the notice it shall not lend any money to any person unless it obtains the written approval of the Central Bank.

(5) For the purposes of this section liquid assets shall be—

← A625

- (a) notes and coin which are legal tender in the Federation;
- (b) deposit and current account balances held with (less any loans and advances from) any bank in the Federation;

d/17-454

2/AA454

- (c) ~~money at call in the Federation;~~
- (d) Treasury bills issued by the Government or by the Government of any State authorized to issue Treasury bills; or
- (e) other assets from time to time approved by the Minister on the recommendation of the Central Bank.

Act 35

(8)(6) The Central Bank may by notice in writing require any licensed borrowing company to render such returns as it may deem necessary for the purposes of this section and section 19.

Maximum limit of holdings of risk assets.

19. (1) No licensed borrowing company shall hold risk assets in excess of ten times both its paid-up capital and reserve as published in its latest and duly audited balance sheet.

Sub. by: A-A 363/77

(2) For the purposes of this section, "risk assets" means assets other than liquid assets and the reserve held with the Central Bank pursuant to section 37 (c).

Unsecured loan, etc., not to exceed five thousand dollars.

20. (1) <sup>Sub. Act 35</sup> A licensed borrowing company shall not grant to any person an unsecured advance, loan or credit facility which in the aggregate at any one time exceeds five thousand dollars.

(2) In sub-section (1), the expression "unsecured advance, loan or credit facility" means—

- (a) an advance, loan or credit facility made without security; or
- (b) an advance, loan or credit facility secured only by a guarantee or guarantees; or
- (c) any part of an advance, loan or credit facility secured by tangible assets which exceeds—
  - (i) in the case of a charge of immovable property the amount charged or the market value of the charged property whichever is less; or
  - (ii) the market value of any property other than immovable property,

Other than a guarantee or guarantees issued by the Government (AA 454)

but where the Central Bank is satisfied that there is no established market value, the valuation approved by the Central Bank.

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(3) All the directors of a licensed borrowing company shall be liable jointly and severally to indemnify the licensed borrowing company against any loss arising from the making of an unsecured advance, loan or credit facility in contravention of sub-section (1).

*Subs. Act 330*

21. (1) A licensed borrowing company shall not lend any money or grant any advance or credit facility to any of its directors.

Loans to directors prohibited.

(2) For the purposes of this section and section 23 a "director" shall be deemed to include the wife, husband, father, mother, son or daughter of a director.

*2/A: ---*

22. (1) Except with the consent in writing of the Central Bank no licensed borrowing company may acquire—

*AA635 Act 330*  
Restrictions on investments.

- (a) shares of any corporation;
- (b) immovable property; or
- (c) any beneficial interest in any firm.

(2) Sub-section (1) shall not apply in respect of any share, immovable property or beneficial interest acquired by the licensed borrowing company in the course of satisfaction of debts due to it.

(3) Any shares, immovable property or beneficial interest acquired pursuant to sub-section (2) shall be disposed of as soon as practicable but not later than one year or such longer period as the Central Bank may allow in any particular case, commencing on the date the shares, immovable property or beneficial interest were acquired.

23. (1) Every licensed borrowing company shall send to the Central Bank not later than fifteen days after the last day of each month a statement in the form prescribed by the Central Bank showing particulars of any advance, loan or credit facility granted by it to—

Central Bank may take action if advances are against interests of depositors.

- (a) any of its directors as defined in section 21 and subject to that section;
- (b) any firm in which it or any of its directors (as defined in section 21), is interested as partner, manager or agent or any individual or firm of whom or of which any of its directors is a guarantor;
- (c) any of its subsidiaries or related companies;
- (d) ~~any of its officers or employees;~~

*D/Act 330*

*D/Act 330*

Subs. Act 330

- (e) any private or public corporation in which it or any of its directors (as defined in section 21), officers or employees is interested as a director, manager, agent or guarantor;
- (f) any individual in whom or any firm or corporation in which any of its directors is interested directly or indirectly other than such advances, loans and credit facilities, particulars of which have already been supplied pursuant to paragraphs (a) to (e).

(2) If on examination of the particulars supplied by a licensed borrowing company under sub-section (1) it appears to the Central Bank that any advances, loans or credit facilities are being granted to the detriment of the interests of the depositors of the licensed borrowing company the Central Bank may by order in writing to the licensed borrowing company prohibit the licensed borrowing company from granting any further advances, loans or credit facilities or impose such restrictions on the grant thereof as the Central Bank thinks fit and may further order the licensed borrowing company to secure repayment of any loans within such time and to such extent as may be specified in the order.

Statement of liabilities and assets of offices to be furnished.

24. (1) Every licensed borrowing company shall send to the Central Bank not later than fifteen days after the last day of each month a statement in the form prescribed by the Central Bank showing the liabilities and assets of its offices and other places of business at the close of business on the last business day of the preceding month.

(2) Any licensed borrowing company which fails to comply with any of the provisions of this section is guilty of an offence and shall on conviction be liable to a fine not exceeding ~~one thousand dollars~~ <sup>four</sup> ~~thousand~~ <sup>hundred</sup> dollars for every day the offence continues.

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Information and data to be supplied.

25. (1) Every licensed borrowing company shall furnish to the Central Bank at such time and in such manner as the Central Bank may prescribe, all such information and data as the Central Bank may require for the proper discharge of its functions under the provisions of this Act.

AA635 →

(3)<sup>(2)</sup> Any licensed borrowing company which fails to comply with any of the provisions of this section is guilty of an offence and shall on conviction, be liable to a fine not exceeding ~~one thousand dollars~~ <sup>four</sup> ~~thousand~~ <sup>hundred</sup> dollars for every day the offence continues.

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26. Where it is likely that a licensed borrowing company will become unable to meet its obligations or is about to suspend payment to its creditors the company shall forthwith inform the Central Bank in writing of either fact.

Licensed borrowing company to inform Central Bank of financial instability.

27. (1) Every licensed borrowing company shall appoint annually an auditor—

Approved company auditor to be approved again by Minister. 79/65.

(a) who is an approved company auditor pursuant to section 8 of the Companies Act, 1965; and

(b) who in addition to being an approved company auditor pursuant to paragraph (a) is again approved by the Minister for the purposes of this Act.

(2) Sections 30, 31 and 32 shall apply to an auditor appointed under this section as if for references to the Central Bank there were substituted references to the auditor.

28. Every licensed borrowing company shall inform the Minister through the Central Bank of any proposed—

Sub. AA635  
Sanction for reconstruction, etc., of company required.

(a) arrangement for the sale of its shares or its business;

(b) (i) scheme for the reconstruction of the company;  
or

(ii) scheme for the amalgamation between the company and any other company,

wherein the whole or any part of the undertaking or the property of the company is to be transferred to another company,

and the Minister on the recommendation of the Central Bank may approve or refuse to allow the proposed arrangement or scheme for reconstruction or amalgamation.

28A. ← 28G. ---

← AA635

PART IV

INVESTIGATION AND CONTROL

29. If the Central Bank has reason to suspect that any person is carrying on borrowing business in the Federation, the Central Bank may inspect under conditions of secrecy the books, accounts and transactions of the person for the purposes of ascertaining whether the person has contravened the provisions of section 3 of this Act.

Inspection of persons suspected of accepting deposits without a licence.

Central Bank may investigate licensed borrowing companies.

30. The Central Bank may from time to time investigate under conditions of secrecy the books, accounts and transactions of any licensed borrowing company and any of its offices or places of business.

Special investigations of licensed borrowing companies.

31. The Minister may at any time direct the Central Bank to make an investigation under conditions of secrecy of the books, accounts and transactions of any licensed borrowing company if he has reason to believe that such licensed borrowing company is carrying on its business in a manner detrimental to the interests of its depositors and other creditors or has insufficient assets to cover its liabilities to its depositors or is contravening the provisions of this Act.

Production of books, accounts and documents.

32. (1) For the purposes of an investigation under this Part a person shall afford the Central Bank access to its books, accounts and documents and provide such information and facilities as may be required to conduct the investigation but the books, accounts and documents shall not be required to be produced at such times and at such places as may interfere with the proper conduct of the normal daily business of that person.

(2) If any book, account or document or information is not supplied in accordance with sub-section (1), the person is guilty of an offence and shall on conviction be liable to a fine not exceeding ~~one~~ <sup>five</sup> thousand ~~dollars~~ <sup>ringgit</sup> in respect of every day the offence continues.

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(3) For the purposes of an investigation under this Part, all officers and employees of the Central Bank shall be deemed to be public servants within the meaning of the Penal Code.

Action by Central Bank if licensed borrowing company unable to meet obligations or conducting business to the detriment of depositors, etc.

33. Where—

- (a) a licensed borrowing company informs the Central Bank—
  - (i) that it considers that it is likely to become unable to meet its obligations; or
  - (ii) that it is about to suspend payment; or
- (b) a licensed borrowing company becomes unable to meet its obligations or suspends payment; or
- (c) after an investigation is made under this Part the Central Bank is of the opinion that a licensed borrowing company—
  - (i) is likely to become unable to meet its obligations or is about to suspend payment; or

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(ii) is carrying on its business in a manner detrimental to the interests of its depositors,

the Central Bank may—

- (i) require the licensed borrowing company forthwith to take such steps as the Central Bank may consider necessary or expedient;
- (ii) appoint a person to advise the licensed borrowing company in the proper conduct of its business;
- (iii) assume control of and carry on the business of the licensed borrowing company; or
- (iv) present a petition to the High Court for the winding up of the licensed borrowing company by the Court.

33A. ---

34. Where the Central Bank has assumed control of the business of a licensed borrowing company pursuant to section 33, the Central Bank shall remain in control of and continue to carry on the business of the licensed borrowing company in the name and on behalf of the licensed borrowing company until such time as—

← A635  
Control of licensed borrowing company by Central Bank.

- (a) the deposit liabilities of the licensed borrowing company have been repaid or the Central Bank is satisfied that suitable provision has been made for their repayment; or
- (b) in the opinion of the Central Bank it is no longer necessary or expedient for the Central Bank to remain in control of the business of the licensed borrowing company.

35. (1) Where the Central Bank has assumed control of the business of a licensed borrowing company pursuant to section 33, the licensed borrowing company shall submit its business to the control of the Central Bank and shall provide the Central Bank with such facilities as the Central Bank may require to carry on the business of the licensed borrowing company.

Licensed borrowing company under control of Central Bank to co-operate with Central Bank.

(2) Any licensed borrowing company which fails to comply with sub-section (1) or with any requirement of the Central Bank pursuant to that sub-section is guilty of an offence and shall on conviction, be liable to a fine not exceeding ~~one~~ <sup>two</sup> thousand ~~dollars~~ <sup>hundred</sup> for every day the offence continues.

A635

Extension of jurisdiction to subsidiaries of licensed borrowing company.

36. Any reference in sections 30 to 35 to a licensed borrowing company shall be read as including reference to a wholly-owned subsidiary of the licensed borrowing company.

Directions by Central Bank.

37. The Central Bank may from time to time issue written directions to any licensed borrowing company requiring that effect be given to the direction within a period (which in the opinion of the Central Bank is a reasonable period) on any of the following matters—

- (a) the policy to be followed by licensed borrowing companies in relation to the granting of advances and the extension of credit facilities including the purposes for which advances may be made or credit facilities extended;
- (b) the rates of interest payable to or by licensed borrowing companies, the rates of discount chargeable by licensed borrowing companies or the rates of commission and other charges payable to licensed borrowing companies;
- (c) a reserve to be held by each licensed borrowing company at the Central Bank against its deposit liabilities in the Federation.

*and such other liabilities as may be determined by the Central Bank (17A454)*

PART V

MISCELLANEOUS AND TRANSITIONAL

Indemnity.

38. (1) The Central Bank or any officer of the Central Bank shall not be subject to any action, claim or demand by or liability to any person in respect of any thing done or omitted to be done in good faith in pursuance or in execution of or intended execution of or in connection with the execution or intended execution of any power conferred on the Central Bank or the officer by this Act.

(2) For the purposes of this section the Governor and the Deputy Governor of the Central Bank and any director or employee thereof and any person holding any office therein or appointed by the Central Bank under paragraph (ii) of section 33 shall be deemed to be an officer of the Central Bank.

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BORROWING COMPANIES

39. (1) Any officer who is concerned in the management of a licensed borrowing company shall cease to hold office if—
- (a) he commits an act of bankruptcy pursuant to section 3 of the Bankruptcy Act, 1967; or
- (b) he is convicted of—
- (i) any offence in connection with the promotion formation or management of a corporation;
- (ii) any offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more; or
- (iii) any offence under section 132 or 303 of the Companies Act, 1965.

Disqualifica-  
tion of  
officers of  
licensed  
borrowing  
company.  
55/67.

(2) No person who has been a director of or directly concerned in the management of a licensed borrowing company which has been wound up by the Court pursuant to section 218 of the Companies Act, 1965, shall without the express authority of the Minister act or continue to act as a director or be indirectly concerned in the management of any licensed borrowing company.

(3) Any person acting in contravention of sub-section (1) or (2) is guilty of an offence and shall, on conviction, be liable to a fine not exceeding ~~five thousand dollars~~ or to imprisonment for a term not exceeding three years or to both.

*Twenty thousand  
might  
AA635*

40. (1) Any person who, being a director or manager of a licensed borrowing company—
- (a) fails to take reasonable steps to secure compliance by the licensed borrowing company with the requirements of this Act; or
- (b) fails to take reasonable steps to ensure the veracity of any statement submitted under the provisions of this Act,

Director,  
manager,  
responsible  
for com-  
pliance with  
Act.

is guilty of an offence and shall on conviction, be liable to a fine not exceeding ~~five thousand dollars~~ or to imprisonment for a term not exceeding three years or to both.

(2) In any proceedings against a person under sub-section (1) it shall be a defence to prove that he had reasonable grounds to believe that—

- (a) (i) another person in the licensed borrowing company was charged with the duty of securing compliance with the requirements of the Act; or

- (ii) another person was charged with the duty of ensuring that those statements were true, and
- (b) the other person was in a position to discharge the duty with competence.

Offences by corporations: officers deemed to be guilty.

41. Where any offence under this Act has been committed by any corporation (whether or not the corporation has been prosecuted) any person who at the time of the commission of the offence was an officer concerned in the management of the corporation in the Federation or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances of the case.

Principal criminally liable for acts of servant or agent.

42. Where the agent or servant of a person (hereinafter called the "principal") does anything or omits to do anything (which if done or omitted to be done by the principal would constitute an offence under this Act) the principal shall notwithstanding that he has no knowledge of the offence (and subject to paragraph (b) in the case of that paragraph) be deemed guilty of the offence and be liable to punishment for the offence if—

- (a) the act or omission complained of was within the ordinary scope of the employment of the agent or servant; or
- (b) the principal authorized or subsequently ratified the act or omission complained of notwithstanding that the act or omission was not within the ordinary scope of the employment of the agent or servant.

Penalty for offences otherwise not provided for.

43. Any person who contravenes or fails to comply with any provision of this Act for which no penalty is expressly provided is guilty of an offence and shall, on conviction, be liable to a fine not exceeding ~~two~~ <sup>five</sup> thousand ~~dollars~~ <sup>hundred</sup>.

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A.A. 368/77 > 43A.

Jurisdiction.

44. (1) Notwithstanding the provisions of any written law to the contrary a Sessions Court shall have jurisdiction to try any offence against this Act and to impose the full penalty prescribed therefor.

(2) In this section the expression "Sessions Court" includes the Court of a Magistrate of the First Class in relation to Sabah and Sarawak.

45. The Central Bank may with the approval of the Minister make such regulations for carrying into effect the objects of this Act. Regulations.

46. The following persons shall be exempted from the provisions of this Act— Exemption.

- (a) any bank;
- (b) any post office savings bank established under the provisions of any written law in force in the Federation relating to post office savings banks;
- (c) any co-operative society registered under any written law in force in the Federation relating to co-operative societies;
- (d) any pawnbroking business carried on by any person licensed under any written law in force in the Federation relating to pawnbrokers; or
- (e) any person which or who is authorized under any written law in force in the Federation to carry on borrowing business.

47. (1) Notwithstanding anything to the contrary in this Act but subject to sub-section (4) of section 7, section 46 and this section any corporation or firm which is carrying on borrowing business on the coming into force of this Act shall be authorized to do so—

- (a) for a period not exceeding six months; or
- (b) for such further period or periods as may be prescribed by the Minister by notice in writing to the person.

Corporations, etc. may carry on borrowing business without a licence during transitional period.

(2) Where any corporation or firm is authorized to carry on the business of a borrowing company under sub-section (1) it shall—

- (a) in the case of a public company—
  - (i) apply for a licence within one month of the coming into force of this Act; or
  - (ii) if it does not wish to continue carrying on borrowing business take steps to terminate such business before the expiration of the relevant period referred to in sub-section (1), and

(b) in the case of a foreign company or a firm, if it does not wish to continue carrying on borrowing business, take steps to terminate such business before the expiration of the relevant period referred to in sub-section (1) or take steps to comply with the provisions of section 3 and this section.

(3) Where pursuant to sub-section (2) a corporation or firm fails to comply with the requirements of that sub-section it shall repay its deposit liabilities within one month of their being repayable and shall render a monthly account of the repayment to the Central Bank.

(4) For the purposes of this section and section 48 "firm" includes a natural and individual person registered under any written law in force in the Federation relating to the registration of business names.

Corporations, etc., to furnish information on commencement of Act.

**48.** Every corporation or firm which or who is carrying on borrowing business on the coming into force of this Act shall within one month of such date supply the following particulars to the Central Bank—

- (a) the name of the corporation or firm;
- (b) the addresses of the registered office and other offices or places of business of the corporation and the addresses of the principal office and other offices or places of business of the firm and where the firm has only one office the address of that office;
- (c) the names and addresses of the directors of the corporation or the partners of the firm;
- (d) the paid up capital of the corporation or the capital which the partners contribute to the partnership from time to time, and
- (e) the amount of the deposit liabilities of the corporation or the firm.

This Act to prevail.  
79/65.

**49.** The provisions of this Act shall be without prejudice to the provisions of the Companies Act, 1965, but where there is a conflict between that Act and this Act the provisions of this Act shall prevail (unless this Act otherwise provides) with regard to borrowing business.

~~FINANCE~~  
BORROWING COMPANIES

50. The Companies Act, 1965, to the extent to which it is therein expressed to be amended in the Second Schedule is hereby amended accordingly. Amendment of Companies Act, 1965.

FIRST SCHEDULE

[Section 9 (1)]

Type of Fee	Rate
(a) Licence fee on granting of licence ... ..	\$1,000
(b) Annual licence fee ... ..	1,000
(c) Fee on establishment of each office or place of business other than the principal place of business	200
(d) Annual fee for each office or place of business other than the principal place of business ... ..	200

Sub. by:  
PU(6) 697/76

SECOND SCHEDULE

COMPANIES ACT, 1965

Section of Act	Extent of Amendment
217 (1) (f) ...	Substitute the words, "Central Bank" for the words, "Minister charged with the responsibility for finance".
217 (1) ...	Insert the following new paragraph— Act 6. "(g) in the case of a borrowing company licensed under the Borrowing Companies Act, 1969, the Central Bank;".