



LAWS OF MALAYSIA

Act 275

Government Funding Act 1983

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An Act to provide for the raising of funds by the Government of Malaysia in accordance with the Syariah principles and to provide for matters incidental thereto or connected therewith.

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[11th March 1983]

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Transitional. (Transitional provisions under Act A749).

Short title. **1.** This Act may be cited as the Government Funding Act 1983.

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Interpretation. **2.** (1) In this Act, unless the context otherwise requires—

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

“customer’s account” means an account maintained by a depository institution in respect of a transferor or a transferee under section 9B (5);

“depository institution” means a participating investing institution authorised by the Bank under section 9B (1);

“financial institution” means—

Act 372. (a) any licensed bank, licensed merchant bank, licensed finance company, or licensed discount house, as those terms are defined in the Banking and Financial Institutions Act 1989;

Act 276. (aa) any institution which is licensed to carry on Islamic banking business under the Islamic Banking Act 1983 [*Act 276*];

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(b) any State Government;

(c) any statutory body; or

(d) any fund, scheme, organisation, body corporate or unincorporate, or any other

person, as may be specified in writing by the Minister;

“instrument” means any instrument created and issued under this Act in accordance with Syariah principles; *Act A1242.*

“investment” means moneys paid by any person under sections 3 and 5; *Act A1242.*

(“investment certificate” deleted).

“investment customer” means a person who makes a transfer or takes a transfer of an investment under section 9B (2);

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

“notification” means a notice inviting applications or offers to subscribe for or purchase an instrument; *Act A1242.*

“participating investing institution” means a financial institution authorised by the Bank under section 9A (1);

“primary investing institution” means a participating investing institution appointed by the Bank under section 9A (2);

“return” includes any form of rental, profit, dividend or benefit, including any fee or gift, payable or to be given in relation to the instrument; *Act A1242.*

“statutory body” means any body or authority established, appointed or constituted by any written law, and includes any local authority;

“Syariah Advisory Council” means the Syariah Advisory Council established under subsection 16B(1) of the Central Bank of Malaysia Act 1958. *Act A1242.*

(2) Where any record or account is required to be maintained under this Act by the Bank or by any participating investing institution, whether acting in its capacity as a primary investing institution or a depository institution or otherwise, the same shall be maintained in such manner or such means as the Bank may determine or specify, including its

maintenance in writing or by means of any visual recording (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.

Instrument issued to be in accordance with Syariah principles.

2A. Any instrument issued under this Act shall be in accordance with the Syariah principles as approved by the Syariah Advisory Council.

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Power of Minister to receive investments.

3. (1) The Minister is hereby authorised, subject to, and in accordance with, the provisions of this Act, to receive investments and to create and issue instruments evidencing such investments, on behalf of the Government of Malaysia, at such times and up to such maximum amounts as he may from time to time specify, and every maximum amount so specified is hereinafter referred to as an “investment issue” and every such investment issue shall bear such number or other reference as the Minister may determine.

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(1A) Subject to section 2A, an instrument may be created and issued by such method or by such arrangement or by entering into any transaction with any other person in any manner or form as the Minister deems fit.

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(2) The total amount of moneys received under subsection (1) not repaid at any one time shall not exceed an amount to be specified from time to time by the Yang di-Pertuan Agong by order published in the *Gazette*.

(3) An order under subsection (2) shall, as soon as possible after its publication, be laid before the Dewan Rakyat.

Application of moneys.

4. The moneys received under section 3 (1) shall be applied, and are hereby appropriated, to the following purposes:

(a) repayment of the moneys so received, to such extent as the Minister may determine;

Act 61. (b) payment, with the prior approval of the Dewan Rakyat signified by resolution, into the Development Fund specified in the Second Schedule to the Financial Procedure Act 1957, for the purposes of that Fund.

Period of investments. **5.** An investment under section 3 (1) shall be made for such period as may be determined by the Minister; and at the end of that period the money so invested shall be repaid in the manner hereinafter provided. *Act A1242.*

Terms and conditions for the issue of instrument. **5A.** (1) Subject to sections 3 and 5, the Bank shall set out the terms and conditions of any instrument to be issued. *Act A1242,*

(2) The terms and conditions of an instrument shall include the following:

(a) amount;

(b) issue date;

(c) maturity date;

(d) return;

(e) repayment of investment; and

(f) any other terms and conditions as the Bank deems fit.

Certificate of investments. **6.** Every investment shall be received by the Bank on behalf of the Minister, and the Minister shall issue to the Bank, a certificate of investment as a receipt of such investment which shall be in such form or manner as may be determined by the Bank, when the maximum amount of an investment issue specified by him under section 3 (1) has been *Act A1242.*

invested with the Bank.

Transfers of investments.	7. Every investment, or any part of it, may be transferred in accordance with the provisions of this Act and in no other manner.	<i>Act A749.</i>
Return.	8. The return payable or to be given on any investment received shall be in accordance with the terms and conditions of the instrument.	<i>Act A1242.</i>
Payment.	9. On the date of maturity of an investment, or on any date as may otherwise be provided in the terms and conditions of the instrument, such sums as are available for payment on the investment shall be paid in accordance with those terms and conditions.	<i>Act A1242.</i>
Participating investing institutions and primary investing institutions.	9A. (1) The Bank may authorise in writing any financial institution to be a participating investing institution. (2) The Bank may appoint in writing any participating investing institution to be a primary investing institution. (3) Only a primary investing institution may make an investment with the Bank, and the Bank shall maintain an entry in its records of every such investment. (4) A participating investing institution shall maintain a single account with the Bank— (a) of all transfers of investments to itself by another participating investing institution or by itself to another participating investing institution; and (b) where the participating investing institution has been appointed a primary investing institution under subsection (2), there shall be included in such single account mentioned in	<i>Transitional.</i>

paragraph (a) an account of all its investments under subsection (3).

(5) The Bank shall pay to the participating investing institution return on each of its investments standing in its account under subsection (4) on the date the return becomes payable under section 8, and shall pay to such institution each of the investments standing in its account under subsection (4) as provided under section 9.

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(6) The Bank shall maintain records of the account of a participating investing institution, and such records shall be the sole and conclusive evidence of the state of such account, and of all the particulars and details thereof, and the same shall be binding on the Bank, the participating investing institution and on any other person having any interest therein.

Depository institutions.

9B. (1) The Bank may authorise in writing any participating investing institution to be a depository institution.

(2) Any person, other than a participating investing institution, desiring either to make a transfer or take a transfer of an investment shall do so only through a depository institution.

(3) A depository institution shall maintain with the Bank, in addition to the account maintained by it under section 9A (4), a separate single account in respect of all transfers effected through it under subsection (2).

(4) The Bank shall pay to a depository institution return on each of the investments standing in the depository institution's account under subsection (3) on the date the return becomes payable under section 8, and shall pay to such institution the investments standing in its account under subsection (3) on the date of maturity of the respective investments under section 9, by such means and in such manner as may be determined by the Bank.

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(5) A depository institution shall maintain a customer's account in respect of every transferor and

transferee who is a party to any transfer effected through the depository institution under subsection (2), except where a customer's account in respect of a transferee is maintained by another depository institution, in which case the first mentioned depository institutions shall have the investment transferred into the transferee's account with the second mentioned depository institution.

(6) Where a transfer of an investment is made by any person under subsection (2), the Bank may require any depository institution to issue an acknowledgement receipt in such form and manner as may be determined by the Bank.

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(7) An acknowledgement receipt issued under subsection (6) shall not be capable of being negotiated or dealt with in any manner whatsoever, and shall be used solely between the depository institution which issued it and the investment customer to whom it was issued as evidence of the transfer of an investment under subsection (2) to which it relates.

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(8) Where the amount in the account maintained by a depository institution with the Bank under subsection (3) is affected by a transfer effected through it under subsection (2), the depository institution shall communicate forthwith to the Bank information of any change in such amount caused by the transfer.

Duties and obligations of depository institutions in relation to transfers effected under section 9B (2).

9C. (1) A depository institution shall maintain an account in respect of each investment customer.

(2) A depository institution shall issue to each of its investment customers a monthly statement in such form and within such period as may be determined by the Bank.

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(3) A monthly statement shall be the sole evidence of the investments held by an investment customer at

the close of the month in respect of which it is issued.

(4) A depository institution shall pay to the investment customer—

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(a) the return on each of the investments which stand in such investment customer's account, and such payment shall be made as provided under section 8; and

(b) such sums due on each of the investments which stand in such investment customer's account, and such payment shall be made as provided under section 9.

(5) The investments dealt with by a depository institution in respect of any transfer effected through it under section 9B (2) shall be dealt with solely and exclusively in the manner, and for the purpose, provided under section 9B, and shall not be dealt with or utilised by the depository institution in any other manner whatsoever, or for any other purpose whatsoever.

(6) A depository institution shall furnish to the Bank such returns, details, particulars or information in relation to the account maintained by it under subsection (1) in respect of each investment customer, or its investment customers generally, as may be specified by the Bank, or as the Bank may from time to time require in writing.

(7) The Bank may, through any of its officers authorised in writing by the Governor or the Deputy Governor of the Bank, inspect and take copies of accounts maintained by a depository institution under this section, including the accounts in respect of any particular investment customer or any other record or account relating to or affecting any investments under this Act, and the depository institution, and every director, officer, employee, servant or agent of the depository institution shall furnish to such officer of the Bank all such books, records, correspondence, or any other document as may be required by the officer, and shall provide him all such assistance as he may require.

(8) The account of an investment customer maintained by a depository institution under subsection (1) shall be secret as between the institution and the investment customer and shall not be disclosed to any person by the depository institution except to the Bank, including the officers of the Bank referred to in subsection (7), unless such disclosure is authorised in writing by the investment customer.

(9) A depository institution shall be absolutely and wholly responsible and liable to its investment customer in respect of all transfers taken or made by the investment customer through it under section 9B (2).

(10) A depository institution shall not require an investment customer to pay any charge, fee, or any other payment in respect of any matter dealt with by it in relation to an investment customer under this Act, except as may be provided by rules made under section 16.

Bank's power to require information, inspect and take copies.

9D. (1) The Bank may, in writing, require any participating investing institution which may also be a primary investing institution, to furnish to the Bank such returns, details, particulars or information in relation to any account or record maintained by it under this Act.

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(2) The Bank may, through any of its officers authorised in writing by the Governor or Deputy Governor of the Bank, inspect or take copies of any account, record, book, or any other document maintained by a participating investing institution under this Act.

Maintenance of secrecy by the Bank.
Ord. 61/58.

9E. Without prejudice to section 16A of the Central Bank of Malaysia Ordinance 1958, any information in the possession of the Bank by virtue of any provision of this Act shall be secret as between the Bank and the person to whom it relates or from whom it was obtained and shall not be disclosed except with the consent of such person.

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Investments and returns to be a charge on Consolidated Fund. **10.** The moneys represented by investments, and the returns thereon, are hereby charged upon and shall be payable out of the Consolidated Fund. *Act A1242.*

Investment documents or instruments to be free of stamp duty. **11.** No stamp duty shall be leviable or payable on any document or instrument relating to any investment or transfer thereof. *Act A749.*

Bank to act on behalf of Minister and Minister's power to substitute Accountant General for Bank. **12.** The functions, powers and duties conferred upon the Bank under this Act shall be performed, exercised and discharged by the Bank on behalf of the Minister, provided that the Minister may, if he deems it fit to do so, by order published in the *Gazette*, provide for all or any of the functions, powers or duties of the Bank to be performed, exercised or discharged, as the case may be, by the Accountant General, and the Minister may by such order make all such modifications, adaptations and amendments to the provisions of this Act as may be necessary to give effect to such performance, exercise or discharge by the Accountant General. *Act A749.*

False entries, etc. in books, documents, etc. **13.** No person shall, with intent to deceive— *Act A749.*

(a) make or cause to be made a false entry;

(b) omit to make, or cause to be omitted, an entry;
or

(c) alter, abstract, conceal or destroy, or cause to be altered, abstracted, concealed or destroyed, any entry,

in any book or record, or in any report, slip, statement or other document whatsoever, relating to the business, affairs, transactions, conditions, property, assets, liabilities, or accounts of any participating investing institution, or any primary investing institution, or any depository institution, or

of the Bank.

Contravention of Act, penalty therefore and criminal liability of institutions, directors, etc.

14. (1) Any participating investing institution whether acting in its capacity as a primary investing institution or a depository institution or otherwise which, or any other person who, contravenes any provision of this Act shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding—

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(a) ten million ringgit; or

(b) where an amount of money is the subject matter of the offence, ten times such amount,

whichever is the greater, or to imprisonment for a term not exceeding fifteen years, or to both such fine and imprisonment:

Provided that where the person found guilty of such offence is a body corporate, the above-mentioned punishment of imprisonment shall not apply to it.

(2) Where any offence against any provision of this Act has been committed by any institution mentioned in subsection (1), any person who at the time of the commission of the offence was a director, officer, or controller of the institution or was purporting to act in any such capacity, or was in any manner or to any extent responsible for the management of any of the affairs of such institution, or was assisting in such management, shall 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.

(3) Where any person (hereinafter in this subsection referred to as the “principal”) would be liable under this Act to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every

such act, omission, neglect or default of any clerk, servant or agent of his, or of the clerk or servant of such agent:

Provided that such act, omission, neglect or default was committed by the principal's clerk or servant in the course of his employment, or by the agent when acting on behalf of the principal, or by the clerk or servant of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

(4) Without prejudice to subsection (2), where an institution referred to in subsection (1) is a financial institution under paragraph (b) or (c) of the definition of "financial institution" under section 2 (1), it shall not be liable to be prosecuted for any offence committed by it under subsection (1), or be liable under subsection (3).

(5) Nothing in this Act contained shall be deemed to prevent the prosecution, conviction and punishment of any person according to the provisions of any other written law; but so that no person shall be punished more than once for the same offence.

Act 372. (6) For the purposes of this section, "director", "officer" and "controller" shall have the meaning respectively assigned thereto under section 2 (1) of the Banking and Financial Institutions Act 1989.

Civil liability not affected by prosecution or non-prosecution, etc.

15. The prosecution of, or the failure to prosecute, any person for an offence under this Act, or the acquittal or discharge of any person who is prosecuted for an offence under this Act, shall not, in any manner or to any extent whatsoever, affect his civil liability to any other person in relation to anything done by him under this Act.

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Rules. **16.** (1) The Minister may, on the recommendation of the Bank, make such rules as may be necessary or expedient for giving full effect to the provisions of this Act, for carrying out or achieving the objects and purposes of this Act, or for the further, better or

more convenient implementation of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), rules may be made to provide for—

- (a) matters relating to the issue of investments, application for investments, payment of return on investments, and the repayment of investments on maturity;
- (b) procedures and practices relating to the carrying out by any person of any provision of this Act;
- (c) forms in respect of any provision of this Act;
- (d) charges, fees and payments payable to the Bank, and charges, fees and payments payable to a depository institution, in respect of any provision of this Act; and

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- (e) matters relating to the carrying out of the transitional provisions contained in section 16 of the Government Investment (Amendment) Act 1990.

Liability of Government in respect of investments.

17. (1) The Government shall be liable for all returns payable and all repayments due in respect of investments made under and in accordance with this Act, and in respect of all investment certificates dealt with under and in accordance with section 16 of the Government Investment (Amendment) Act 1990, but where such liability of the Government arises in consequence, or by reason, of any default of a participating investing institution in the performance of its duties and obligations under this Act, including its duties and obligations as a primary investing institution or a depository institution, as may be applicable, such institution shall be liable on demand by the Government to indemnify the Government in full in relation to the liability.

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(2) For the purposes of subsection (1), “default” includes—

- (a) any negligence or failure in the carrying out of any function, or the exercise of any power, or the discharge of any duty, under this Act; and
- (b) any offence under this Act, or any offence under any other written law in relation to any matter dealt with under this Act, regardless—
 - (i) whether or not there has been any prosecution in respect of such offence; or
 - (ii) whether such default was committed by the participating investing institution, or any director, officer, or controller (as those words are defined in section 14 (6), or any clerk, servant, or agent of such participating investing institution, or any clerk or servant of such agent.

18. *(Deleted)*.

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SCHEDULE

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[Substituted]

*Schedule A.
Schedule B.*

SCHEDULE A

Act 1242.

(Deleted).

SCHEDULE B

Act 1242.

(Deleted).

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