

A BILL

i n t i t u l e d

An Act to amend the Labuan Offshore Financial Services Authority Act 1996.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Labuan Offshore Financial Services Authority (Amendment) Act 2009.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of long title

2. The Labuan Offshore Financial Services Authority Act 1996 [*Act 545*], which is referred to as the "principal Act" in this Act, is amended in the long title by deleting the word "Offshore".

Amendment of section 1

3. Section 1 of the principal Act is amended by deleting the word "Offshore".

Amendment of section 2**4. Section 2 of the principal Act is amended-**

(a) in subsection (1) -

- (i) in the definition of "Authority", by deleting the word "Offshore";
- (ii) by inserting after the definition of "committee" the following definition:

' "corporation" means any body corporate formed or incorporated or existing within Malaysia or outside Malaysia and includes any foreign Labuan company as defined in the Labuan Companies Act 1990 [Act 441] but does not include-

- (a) any corporation sole;
- (b) any trade union registered under any written law; and
- (c) any society registered under any written law relating to co-operative societies;';

- (iii) by inserting after the definition of "dependant" the following definition:

' "Director General" means the Director General appointed under section 5;';

- (iv) by substituting for the definition of "Labuan" the following definition:

' "Labuan" means the Federal Territory of Labuan;';

- (v) by inserting after the definition of "Labuan" the following definitions:

' "Labuan financial institution" means any person-

- (a) providing Labuan financial services; or

(b) incorporated, registered or established under the laws specified in the Schedule;

"Labuan financial services" means any service provided by any person under any of the laws specified in the Schedule; and

(vi) by deleting the definitions of "offshore financial institution" and "offshore financial services"; and

(b) by deleting subsection (2).

Amendment of section 3

5. Section 3 of the principal Act is amended-

(a) in subsection (1), by deleting the word "Offshore"; and

(b) in subsection (2) -

(i) in paragraph (a), by substituting for the words "a centre for offshore" the words "an international centre for business and";

(ii) in paragraph (b), by substituting for the words "offshore financial services in Labuan, and to make recommendations to the Minister in respect thereof." the words "the international business and financial services in Labuan; and"; and

(iii) by inserting after paragraph (b) the following paragraph:

"(c) to act as the central regulatory, supervisory and enforcement authority of the international business and financial services industry in Labuan."

Amendment of section 4

6. Section 4 of the principal Act is amended— (a) in

subsection (1)-

(i) by substituting for paragraph (a) the following paragraph:

"(a) to administer, enforce, carry out and give effect to the provisions of this Act and the laws specified in the Schedule and anything incidental to such laws and to ensure that such laws are complied with;"

(ii) by substituting for paragraph (c) the following paragraph:

"(c) to maintain the good repute of Labuan as an international business and financial centre;"

(iii) in paragraphs (d) and (e), by deleting the word "offshore";

(iv) by substituting for paragraph (f) the following paragraph:

"(f) to co-operate with Labuan financial institutions and professional and industry associations in Labuan to promote and provide financial services and to foster high standards for Labuan financial services;"

(v) by substituting for paragraph (g) the following paragraph:

"(g) to advise and make recommendations to the Minister on matters relating to Labuan financial services; and"; and

(vi) by inserting after paragraph (g) the following paragraph:

"(h) to carry out all such activities and to do all such things as are necessary or advantageous and proper for the administration of the Authority, or for such other purposes as may be directed by the Minister.";

- (b) by deleting subsection (3);
- (c) in paragraph (4)(c), by inserting after the words "this Act" the words "or the laws specified in the Schedule"; and
- (d) by deleting subsections (5) and (6).

New sections 4A, 4B and 4c

7. The principal Act is amended by inserting after section 4 the following sections:

"Power to issue guidelines

4A. (1) The Authority may, in respect of this Act or the laws specified in the Schedule or any other matter relating to Labuan financial services, issue guidelines to clarify any provision of this Act or the laws specified in the Schedule to facilitate compliance with the law by a Labuan financial institution or any other matters relating to Labuan financial services.

(2) The Authority may amend or revoke any guideline issued under this section.

Power to issue directions

4B. (1) Notwithstanding any provision to the contrary in any other law relating to Labuan financial services, when the Authority is satisfied that it is necessary to do so for the purpose of giving effect to the objectives of the Authority, the Authority may issue directions to a Labuan financial institution in respect of all or any of the following matters:

- (a) the policy to be followed by the Labuan financial institution relating to the conduct of the institution's business in Labuan;

- (b) the supervision and regulation of the Labuan financial institution pursuant to the laws relating to Labuan financial services;
- (c) the monetary policy to be given effect to by the Labuan financial institution; and
- (d) the action to be taken by the Labuan financial institution relating to its members or servants.

(2) Any Labuan financial institution who fails to comply with any direction issued under subsection (1) shall be guilty of an offence and shall be liable, on conviction-

(a) in the case of an individual person-

- (i) to a fine not exceeding two hundred and fifty thousand ringgit; and
- (ii) for a continuing offence, to a fine not exceeding two thousand and five hundred ringgit for every day during which the offence continues after conviction; and

(b) in the case of a body corporate or partnership-

- (i) to a fine not exceeding five hundred thousand ringgit; and
- (ii) for a continuing offence, to a fine not exceeding five thousand ringgit for every day during which the offence continues after conviction.

Power to publish information

4c. (1) The Authority may publish any information with respect to any matter relating to Labuan financial services or any other information deemed by the Authority to be of public interest.

(2) Without prejudice to the generality of subsection (1), the Authority may publish any information relating to any action taken by the Authority against any Labuan financial institution."

Amendment of section 9

8. Subsection 9(2) of the principal Act is amended by substituting for the word "offshore" the word "Labuan".

Amendment of section 13

9. Subsection 13(2) of the principal Act is amended by deleting the word "Offshore".

Amendment of section 14

10. Subsection 14(2) of the principal Act is amended by inserting after the words "functions or powers" the words "under this Act and the laws specified in the Schedule".

Amendment of section 15

11. Subsection 15(1) of the principal Act is amended by inserting after the words "under this Act" the words "and the laws specified in the Schedule".

Amendment of section 17

12. Section 17 of the principal Act is amended in paragraphs (1)(a) and (6)(a) by substituting for the word "offshore" the word "Labuan".

Amendment of section 18A

13. Section 18A of the principal Act is amended by deleting the word "Offshore" wherever appearing in the section.

Amendment of heading of Part IIA

14. The heading of Part IIA of the principal Act is amended by substituting for the word "SUBMISSION" the words "ENFORCEMENT POWERS".

Amendment of section 28A**15.** Section 28A of the principal Act is amended-

- (a) in the definition of "authority" by inserting after the words "any authority" the words "vested with supervisory and regulatory or enforcement powers";
- (b) by deleting the definitions of "credit facility", "depositor", "fund manager", "licensee" and "trust company"; and
- (c) by inserting after the definition of "licensed offshore bank" the following definitions:

' "police officer" means any member of the Royal Malaysia Police as defined in the Police Act 1967 [Act 344];

"property" means-

- (a) assets of every kind, whether corporeal or incorporeal, moveable or immoveable, tangible or intangible, however acquired; and
- (b) legal documents or instruments in any form evidencing title to or interest in the assets referred to in paragraph (a), including bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.'

Amendment of section 28B**16.** Section 28B of the principal Act is amended-

- (a) in subsection (1)-
 - (i) in the English language text, by substituting for the words "in exercise of the words "in the exercise of; and
 - (ii) by substituting for the words "other law relating to offshore financial services" the words "the laws specified in the Schedule";

(b) by deleting subsection (2);

(c) by deleting subsection (4);

(d) by substituting for subsections (5), (6) and (7) the following subsections:

"(5) Any information obtained by the Authority under subsection (1) or any other provision of this Act or the laws specified in the Schedule shall be confidential and a secret between the Authority and the person supplying it, and no person who has any information or document which to his knowledge has been disclosed in contravention of this subsection shall in any manner disclose the information or document to any other person.

(6) Notwithstanding subsection (5), the Authority may give, divulge, reveal, publish or otherwise disclose any information submitted under subsection (1)-

(a) to any person in a consolidated or aggregated manner if it deems fit to do so, and such disclosure shall be confined to such information which does not relate to an individual Labuan financial institution;

(b) to the home supervisory authority of the Labuan financial institution and the disclosure may include any information which relates to an individual Labuan financial institution under the supervision of the home supervisory authority if the home supervisory authority has the necessary provision in its constituent documents or corresponding laws to safeguard such information from unlawful disclosure;

(c) to the domestic law enforcement agency, when there is reasonable suspicion based on the evidence made available to the Authority that a criminal offence is about to be committed or is being committed or has been committed provided that the domestic law enforcement agency has executed a secrecy undertaking in favour of the Authority relating to any information provided under this subsection;

- (d) pursuant to an order by any court of competent jurisdiction in any proceedings, where the order obtained has been obtained by an *ex-parte* application, the Authority may notify the person affected by the order and upon receipt of such notification, the affected person may file in the necessary application to the court to contest the order or otherwise comply with the order accordingly;
- (e) with the consent of the Labuan financial institution or the customer of such Labuan financial institution; or
- (f) in giving effect to any legal arrangement or memorandum of understanding or agreement with any foreign government or home supervisory authority entered into by-
 - (i) the Government of Malaysia;
 - (ii) the Authority with the approval of the Minister; or
 - (iii) any relevant domestic law enforcement agency with the approval of the relevant minister.

(7) Without prejudice to any other provision in this Act or the laws specified in the Schedule, the Authority may receive any information from any person or authority in the course of carrying out any power or duty under this Act or the laws specified in the Schedule.";

(e) by deleting subsections (8) and (9);

(f) by substituting for subsection (10) the following subsection:

"(10) Any person who submits false or misleading or inaccurate information to the Authority or fails to comply with this section shall be guilty of an offence and shall be liable, on conviction-

(a) in the case of an individual person to a fine not exceeding one million and five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both; and

(b) in the case of a corporation or partnership to a fine not exceeding three million ringgit."; and

(g) in subsection (11), by substituting for the words "subsection (6)" and "six months" the words "subsection (5)" and "one year", respectively.

New section 28BA

17. The principal Act is amended by inserting after section 28B the following section:

"Power to report suspected offence and adverse conditions

28BA. (1) Where the Authority in the course of the exercise of any of its powers, or the discharge of any of its duties, or the performance of any of its functions, under this Act or the laws specified in the Schedule, suspects any person to have committed any offence under this Act or under the laws specified in the Schedule, it shall be lawful for the Authority to give information of such commission to a police officer in charge of a police station or to any other police officer, or to convey any information in relation to such offence to any banking institution, or to any other financial institution or other person affected by such offence, or to any authority or person having power to investigate under, or enforce, the provision of the law under which the offence is suspected by the Authority to have been committed.

(2) The Authority may inform the home supervisory authority, under condition of secrecy, of any adverse conditions in a Labuan financial institution if the Authority is satisfied that such information is necessary for the supervisory functions of the home supervisory authority.

(3) Subsection (1) shall have full force and effect, notwithstanding anything inconsistent therewith, or contrary thereto, in this Act or the laws specified in the Schedule or in any other written law."

Substitution of section 28c

18. The principal Act is amended by substituting for section 28c the following section:

"Examination

28c. (1) The Director General or any person authorised by the Authority shall, for the purposes of administering, enforcing, carrying out and giving effect to the provisions of this Act or the laws specified in the Schedule, have the power-

(a) to request, inquire, examine and inspect; or

(b) to make copies of or take extracts from,

any record, report or document from any Labuan financial institution or any corporation related to any Labuan financial institution.

(2) Any Labuan financial institution who fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding three years or to both."

Amendment to section 28D

19. Section 28D of the principal Act is amended-

(a) in subsection (1), by substituting for the words "any other law relating to offshore financial services" the words "the laws specified in the Schedule";

- (b) in subsection (2), by inserting after the words "investigating officer under this Act" the words "or the laws specified in the Schedule";
- (c) in subsection (3)-
 - (i) by deleting the words "and the Director General"; and
 - (ii) by deleting the words "or Director General"; and
- (d) by deleting subsections (5) and (6).

New sections 28E, 28F, 28G, 28H, 28I, 28J, 28K, 28L, 28M, 28N, 28O and 28P

20. The principal Act is amended by inserting after section 28D the following sections:

"Powers of entry, search and seizure

28E. (1) Where an investigating officer is satisfied, or has reason to suspect, that a person has committed any offence under this Act or the laws specified in the Schedule, he may, if in his opinion it is reasonably necessary to do so for the purpose of investigating into such offence-

- (a) enter any premises of a Labuan financial institution or any corporation related to any Labuan financial institution;
- (b) search the premises for any property, record, report, object, article, material, thing, book, minute book, account, register or document;
- (c) inspect, make copies of or take extracts from any record, report, object, article, material, thing, book, minute book, account, register or document so seized and detained;
- (d) take possession of and remove from the premises, any property, record, report, object, article, material, thing, book, minute book, account, register or document so seized and detained and detain it for such periods as he deems necessary;

- (e) search any person who is in, or on, such premises, if the investigating officer has reason to suspect that, that person has on his person any property, record, report, object, article, material, thing, book, minute book, account, register or document, including personal documents, necessary, in the investigating officer's opinion, for the purpose of investigating into any criminal offence;
 - (f) break open, examine and search any article, container or receptacle; or
 - (g) stop, detain or search any conveyance.
- (2) An investigating officer may, if it is necessary to do so-
- (a) break open any outer or inner door of such premises or conveyance and enter such premises or conveyance;
 - (b) remove by force any obstruction to such entry, search, seizure, detention or removal as he is empowered to effect; or
 - (c) detain any person found on such premises, or in such conveyance, until the search is completed.
- (3) Notwithstanding any provision under this Act to the contrary, any detention of any person under this section shall not be for more than twenty four hours without the authorisation of a Magistrate.
- (4) An investigating officer may seize, take possession of, and detain for such duration as he thinks necessary, any property, record, report, object, article, material, thing, book, minute book, account, register or document produced before him in the course of his investigation or found on the person who is being searched by him.
- (5) A list of all things seized in the course of a search made under this section and of the premises in which they are respectively found shall be prepared by the investigating officer conducting the search and signed by him.

(6) The occupant of the premises entered under subsection (1), or some person on his behalf, shall be permitted to attend during the search, and a copy of the list prepared and signed under this section shall be delivered to such occupant or person at his request.

(7) Notwithstanding the foregoing provisions, no investigating officer of the Authority shall enter any premises by the use of force without a search warrant by a Magistrate unless he has reasonable grounds for believing that, by reason of the delay in obtaining a search warrant, any property, record, report, object, article, material, thing, book, minute book, account, register or document may be interfered with or destroyed or the object of any entry is likely to be frustrated.

(8) An investigating officer shall, 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 his superior officer, at any time before the close of investigations,

release any property, record, report, object, article, material, thing, book, minute book, account, register or document seized, detained or removed by him, to such person as he determines to be lawfully entitled to the property, record, report, object, article, material, thing, book, minute book, account, register or document if he is satisfied that it 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.

(9) A record in writing shall be made by the officer effecting any release of any property, record, report, object, article, material, thing, book, minute book, account, register or document under subsection (8) in respect of such release specifying therein in detail the circumstances of, and the reason for, such release.

(10) Where the investigating officer is unable to determine the person who is lawfully entitled to the property, record, report, object, article, material, thing, book, minute book, account, register or document or where there is more than one claimant to such property, record, report, object, article, material, thing, book, minute book, account, register or document, the investigating officer shall report the matter to a Magistrate who shall then deal with the property, record, report, object, article, material, thing, book, minute book, account, register or document as provided for in sections 413(2), (3) and (4), 414, 415 and 416 of the Criminal Procedure Code.

Power to examine persons

28F. (1) Notwithstanding any written law, or oath, undertaking or requirement of secrecy or confidentiality to the contrary, or an obligation under an agreement or arrangement, express or implied, to the contrary, an investigating officer conducting an investigation shall have the power to administer an oath or affirmation to the person being examined.

(2) An investigation officer investigating an offence may-

- (a) order any person to attend before him for the purpose of being examined orally in relation to any matter which may, in his opinion, assist in the investigation into the offence;
- (b) order any person to produce before him any property, record, report, object, article, material, thing, book, minute book, account, register or document or any certified copy thereof, or any other article which may, in his opinion assist in the investigation into the offence; or
- (c) by written notice require any person to furnish a statement in writing made on oath or affirmation setting out therein all such information which may be required under the notice, being information which, in such officer's opinion, would be of assistance on the investigation into the offence.

(3) Paragraph (2)(b) shall not apply to ledgers, day books, cash books, account books and all other books and documents used in the ordinary course of business of a bank.

(4) A person to whom an order under paragraph (2)(a) has been given shall-

- (a) attend in accordance with the terms of the order to be examined, and shall continue to attend from day to day where so directed until the examination is completed; and
- (b) during such examination, disclose all information which is within his knowledge, or which is available to him, in respect of the matter in relation to which he is being examined, and answer any question put to him truthfully and to the best of his knowledge and belief, and shall not refuse to answer any question on the ground that it tends to incriminate him or his spouse.

(5) A person to whom an order has been given under paragraph (2)(b) shall not conceal, destroy, alter, remove from Malaysia, or deal with, expend, or dispose of, any book, record, report, document or article specified in the order, or alter or deface any entry in any such book or document, or cause such act to be done, or assist or conspire to do such act.

(6) A person to whom a written notice has been given under paragraph (2)(c) shall, in his statement, furnish and disclose truthfully all information required under the notice which is within his knowledge, or which is available to him, or which is capable of being obtained by him, and shall not refuse to furnish or disclose the information on the ground that it tends to incriminate him or his spouse.

(7) A person to whom an order or a notice is given under subsection (2) shall comply with such order or notice and with subsections (4), (5) and (6) notwithstanding any written law or rule of law to the contrary.

(8) Where any person discloses any information or produces any book, record, report, document or article pursuant to subsections (2), (4) and (6), neither the first (mentioned person, nor any other person on whose behalf or direction or as whose agent or employee the first mentioned person may be acting, shall, on account of such disclosure or production, be liable to any prosecution for any offence under or by virtue of any written law, or to any proceeding or claim by any person under or by virtue of any contract, agreement or arrangement, or otherwise.

(9) An investigating officer examining a person under paragraph (2)(a) shall record in writing any statement made by the person and the statement so recorded shall be read to and signed by the person, and where such person refuses to sign the record, the officer shall endorse thereon under his hand the fact of such refusal and the reasons therefore, if any, stated by the person examined.

(10) The record of an examination under paragraph (2)(a), or a written statement on oath or affirmation made pursuant to paragraph (2)(c), or any book, record, report, document or article produced under paragraph (2)(b) or otherwise in the course of an examination under paragraph (2)(a), or under a written statement on oath or affirmation made pursuant to paragraph (2)(c), shall, notwithstanding any written law or rule of law to the contrary, be admissible in evidence in any proceedings in any court for an offence under this Act or the laws specified in the Schedule, regardless whether such proceedings are against the person who was examined, or who produced the book, record, report, document or article, or who made the written statement on oath or affirmation, or against any other person.

(11) Any person who contravenes this section commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding three years or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

Search of a person

28G. (1) An investigating officer searching any person under subsection 28E(1) 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 the person in custody to another place to facilitate such search.

(2) No person shall be searched under this Part except by an investigating officer of the same gender and such search shall be carried out with strict regard to decency.

Obstruction to exercise of powers by an investigating officer

28H. (1) Any person who-

- (a) refuses any investigating officer 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 any entrance which he is entitled to effect;
- (c) fails to comply with any lawful demands of any investigating officer in the execution of his duties 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 conceal or attempt to conceal from, an investigating officer, any property, record, report or document, which the investigating officer requires;
- (f) rescues or attempts to rescue any thing which has been duly seized;
- (g) furnishes to an investigating officer as true any 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 thing to prevent its seizure, or the securing of the property, record, report or document, commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both, and, in the case of a continuing offence, to a further fine not exceeding one thousand ringgit for each day during which the offence continues after conviction.

Tipping off

28i. (1) Any person who-

- (a) knows or has reason to suspect that an investigating officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted under or for the purposes of this Act or the laws specified in the Schedule and discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation; or
- (b) knows or has reason to suspect that a disclosure has been made to an investigating officer under this Act or the laws specified in the Schedule and discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure,

commits an offence and shall on conviction be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding three years or to both.

(2) Nothing in subsection (1) makes it an offence for an advocate and solicitor or his employee to disclose any information or other matter-

- (a) to his client or the client's representative in connection with the giving of advice to the client in the course and for the purpose of the professional employment of the advocate and solicitor; or
- (b) to any person in contemplation of, or in connection with and for the purpose of, any legal proceedings.

(3) Subsection (2) does not apply in relation to any information or other matter which is disclosed with a view to furthering any illegal purpose.

(4) In proceedings against a person for an offence under this section, it is a defence to prove that-

(a) he did not know or suspect that the disclosure made under paragraph (2)(b) was likely to prejudice the investigation;
or

(b) he had lawful authority or reasonable excuse for making the disclosure.

Admissibility of statements by accused persons

28J. (1) In any trial or inquiry by a court into a criminal offence under this Act or under the laws specified in the Schedule, any statement, whether the statement amounts to a confession or not or is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of an investigation or not and whether or not wholly or partly in answer to questions, by an accused person to or in the hearing of any investigating officer of the Authority, whether or not interpreted to him by any officer of the Authority or any other person, whether concerned or not in the arrest of that person, shall, notwithstanding any written law or rule of law to the contrary, be admissible at his trial in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) No statement made under subsection (1) shall be admissible or used as provided for in that subsection if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against the person, proceeding from a person in the Authority and sufficient in the opinion of the court to give that person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(3) Where any person is arrested or is informed that he may be prosecuted for any criminal offence, he shall be served with a notice in writing, which shall be explained or interpreted to him, as the case may be, to the following effect:

"You have been arrested/informed that you may be prosecuted for ... (the possible criminal offence). Do you wish to say anything? If there is any fact on which you intend to rely in your defence in court, you are advised to mention it now. If you hold it back till you go to court, your evidence may be less likely to be believed and this may have an adverse effect on your case in general. If you wish to mention any fact now, and you would like it written down, this will be done."

(4) Notwithstanding subsection (3), a statement by any person accused of any offence made before there is time to serve a notice under that subsection shall not be rendered inadmissible in evidence merely by reason of no such notice having been served on him if such notice has been served on him as soon as is reasonably possible after the statement is made.

(5) No statement made by an accused person in answer to a written notice served on him pursuant to subsection (3) shall be construed as a statement caused by any inducement, threat or promise as is described in subsection (2), if it is otherwise voluntary.

(6) Where in any criminal proceedings against a person for an offence, evidence is given that the accused, on being informed that he might be prosecuted for it, failed to mention any such fact, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention when so informed, the court, in determining whether the prosecution has made out a *prima facie* case against the accused and in determining whether the accused is guilty of the offence charged, may draw such inferences from the failure as appear proper; and the failure may, on the basis of those inferences, be treated as, or as capable of amounting to, corroboration of any evidence given against the accused in relation to which the failure is material.

(7) Nothing in subsection (6) shall in any criminal proceedings-

- (a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence of it would be admissible apart from that subsection; or
- (b) be taken to preclude the drawing of any inference from any such silence or other reaction of the accused which could be drawn apart from that subsection.

Admissibility of statements and documents of persons who are dead or cannot be traced

28K. Notwithstanding any written law to the contrary, in any proceedings against any person for an offence under this Act or the laws specified in the Schedule-

- (a) any statement made by any person to an investigating officer in the course of an investigation into any offence under this Act or the laws specified in the Schedule; and
- (b) any document, or copy of any document, seized from any person by an investigating officer of the Authority in exercise of his powers under this Act or the laws specified in the Schedule,

shall be admissible in evidence in any proceedings in Malaysia before any court, where the person who made the statement or the document or the copy of the document is dead, or cannot be traced or found, or has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which appears to the court unreasonable.

Admissibility of translation of documents

28L. (1) Where any document which is to be used in any proceedings against any person is in a language other than the national language or English language, a translation of such document into the national language or English language shall be admissible in evidence where the translation is accompanied by a certificate of the person who translated the document setting out that it is an accurate, faithful and true translation and the translation had been done by such person at the instance of the officer authorised by the Authority, the Public Prosecutor or an officer of any domestic law enforcement agency.

(2) Subsection (1) shall apply to a document which is translated, regardless whether the document was made in or outside Malaysia, or whether the translation was done in or outside Malaysia, or whether possession of such document was obtained by the authorised officer of the Authority, the Public Prosecutor or an officer of any domestic law enforcement agency in or home supervisory authority outside Malaysia.

Evidence taken in foreign states

28M. (1) Where any evidence is obtained by the Authority in any Malaysian embassy, such evidence shall be admissible for any legal proceedings in Malaysia and such evidence shall be deemed to be obtained in Malaysia, notwithstanding anything to the contrary in any written law.

(2) For the purposes of this section, "Malaysian embassy" means such embassy established by the Malaysian Government in any foreign state.

Admissibility of statements

28N. The record of an examination, any property, record, report or document produced, or any statement recorded by the Authority under this Act shall, notwithstanding any written law or rule of law to the contrary, be admissible as evidence in any proceedings in any court for, or in relation to, an offence or any other matter under this Act or any offence under any other written law, regardless whether such proceedings are against the person who was examined, or who produced the property, record, report or document, or who made the written statement on oath or affirmation, or against any other person.

Protection of informers

28o. (1) Subject to subsection (2), where any complaint made by an officer of the Authority states that the complaint is made in consequence of information received by the officer making the complaint, the identity of the person from whom such information is received shall be secret between the officer who made the complaint and the person who gave the information, and everything contained in such information relating to the identity of the person who gave the information, shall not be disclosed or be ordered or required to be disclosed in any civil, criminal or other proceedings in any court, tribunal or other authority.

(2) If any book, paper or other document, or any visual or sound recording, or other matter or material which is given in evidence or liable to inspection in any civil, criminal or other proceedings in any court, tribunal or other authority as are referred to in subsection (1) contains any entry or other matter in which any person who gave the information is named or described or shown, or which might lead to his discovery, the court before which the proceedings are held shall cause all such parts thereof or passages therein to be concealed from view or to be obliterated or otherwise removed so far as is necessary to protect such person from discovery.

(3) Any person who gives the information referred to in subsection (1) knowing that the information is false shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding three years, and shall also be liable to a fine not exceeding one million ringgit; and for the purposes of any investigation into, or prosecution of, any offence under this subsection, subsections (1) and (2) shall not apply.

Assistance to other authority

28P. (1) The Authority may on its own initiative, or upon the lawful request of any authority -

- (a) supply to the requesting authority a copy of any property, record, report, object, article, material, thing, book, minute book, account, register or document seized, detained or taken possession of under section 28E or produced under paragraph 25v(2)(b), or of any written statement on oath or affirmation made under paragraph 28F(2)(c), or any record of examination made under subsection 28F(9), or otherwise in the course of any examination under section 28F, and such requesting authority may make use of such copy of such property, record, report, object, article, material, thing, book, minute book, account, register or document, statement or examination record as may be necessary or expedient in relation to the exercise of his powers, the performance of his functions, or the discharge of his duties, in respect of any person; or
- (b) allow the requesting authority to have access to and inspect any property record, report, object, article, material, thing, book, minute book, account, register or document which had been produced before, or seized, detained or taken possession of, by an investigating officer under this Act or the laws specified in the Schedule, and such requesting authority may make use of any knowledge gained by such access or inspection as may be necessary or expedient in relation to the exercise of his powers, the performance of his functions, or the discharge of his duties, in respect of any person.

(2) Where the Authority agrees to provide such assistance to the requesting authority, the Authority may exercise all or any part of the power of the investigating officer as provided under this Act or the law as specified in the Schedule or under the laws administered by the requesting authority.

(3) Nothing in this Act shall be construed to empower the requesting authority to divulge, disclose or otherwise publish the information or material provided under subsection (1) without the consent of the Authority."

Amendment of section 29

21. Subsection 29(2) of the principal Act is amended-

(a) by deleting the word "and" at the end of paragraph (e);
and

(b) by inserting after paragraph (e) the following paragraph:

"(ea) all monies collected by the Authority for any administrative penalties under section 36G or under the laws specified in the Schedule; and".

Amendment of sections 32 and 32A

22. Sections 32 and 32A of the principal Act are amended by substituting for the word "offshore" wherever appearing the word "Labuan".

Substitution of section 36

23. The principal Act is amended by substituting for section 36 the following section:

"Protection against suit and legal proceedings

36. (1) No action, suit, prosecution or other proceedings shall lie or be brought, instituted or maintained in any court or before any other authority against—

(a) the Minister;

(b) the Authority;

(c) any member, officer, committee, servant, agent of the Authority; or

(d) any other person lawfully acting on behalf of, or in compliance with instructions of the Authority,

for or on account of, or in respect of, any act done or statement made or omitted to be done or made, or purporting to be done or made or omitted to be done or made, in pursuance or in execution of, or intended pursuance of or execution of, this Act or the laws specified in the Schedule, or any guideline, direction, information or other thing issued under this Act or the laws specified in the Schedule if such act or statement was done or made, or was omitted to be done or made, in good faith.

(2) For the purposes of Part IIA, no action, suit or prosecution or other proceeding shall lie or be brought or maintained in any court or before any other authority against any person for complying with any provision under Part HA.

(3) The foregoing provisions shall be in addition to, and not in derogation of, the Public Authorities Protection Act 1948 [*Act 198*], and for the purposes of that Act, every person mentioned in the foregoing provisions shall be deemed to be a public officer or a person engaged or employed in the performance of a public duty.

Substitution of section 36A

24. The principal Act is amended by substituting for section 36A the following section:

"Representation in civil proceedings

36A. (1) Notwithstanding any other written law—

(a) in any civil proceedings by or against the Authority; or

(b) in any other civil proceedings in which the Authority is required or permitted by the court to be represented or to be heard, or is otherwise entitled to be represented or to be heard,

any person authorised in writing by the Authority for such purpose may, on behalf of the Authority, institute such proceedings or appear in such proceedings and may make all appearances and applications and do all acts in respect of such proceedings on behalf of the Authority.

- (2) For the purposes of this section, any person shall include-
- (a) any director, officer or employee of the Authority who has been admitted as an advocate and solicitor under the Legal Profession Act 1976 [Act 166];
 - (b) any advocate and solicitor of the High Court of Malaya or the High Court of Sabah and Sarawak; or
 - (c) a federal counsel or senior federal counsel in the Attorney General's Chambers."

New section 36AA

25. The principal Act is amended by inserting after section 36A the following section:

"Additional powers of the Authority

36AA. (1) Without prejudice to any provision under any written law, the Authority shall have the *locus standi* or legal right-

- (a) to appear, institute and conduct proceedings (whether civil or criminal) in any court in respect of any matter relating to its functions and powers under this Act or any laws specified in the Schedule;
- (b) to apply and obtain such relief available to any civil litigant including but not limited to the relief under the Specific Relief Act 1950 [Act 137];
- (c) to seek guidance and directions from the High Court on any point of law or as to the interpretation or implementation of any provisions of this Act or the laws specified in the Schedule; and

(d) to intervene in any proceedings in which a Labuan financial institution is a party.

(2) Notwithstanding subsection (1), the Authority may claim for the recovery of fees, sum of money payable under this Act or legal costs incurred in the exercise of its powers under this Act from the relevant person or Labuan financial institution, as the case may be."

Amendment of section 36B

26. Section 36B of the principal Act is amended by substituting for the words "Director General" wherever appearing the word "Authority".

Amendment of section 36c

27. Section 36c of the principal Act is amended by substituting for the word "offshore" wherever appearing the word "Labuan".

New sections 36D, 36E, 36F, 36G, 36H and 36I

28. The principal Act is amended by inserting after section 36c the following sections:

"Power to prosecute offences

36D. (1) Any person authorised by the Authority may, with the written authorisation of the Public Prosecutor, prosecute in any court any case in respect of any offence committed under this Act or any offences committed under the laws specified in the Schedule.

(2) For the purposes of section 380 of the Criminal Procedure Code [Act 593], an officer or employee of the Authority authorised under subsection (1) shall be deemed to be a public officer.

(3) For the purposes of this section, any person shall include-

- (a) any director, officer or employee of the Authority who has been admitted as an advocate and solicitor under the Legal Profession Act 1976; or
- (b) any advocate and solicitor of the High Court of Malaya or the High Court of Sabah and Sarawak, as the case may be.

Application for winding up

36E. (1) Notwithstanding the provisions of the Companies Act 1965 or the laws specified in the Schedule, any corporation registered under the Labuan Companies Act 1990 [Act 441], whether or not the corporation is being wound up voluntarily, may be wound up under an order of the Court on the petition of the Authority, in accordance with the provisions of the Labuan Companies Act 1990.

(2) The Court may order the winding up on a petition made under subsection (1) if the corporation referred to in subsection (1) -

- (a) has been registered under the Labuan Companies Act 1990, and that registration has been revoked or surrendered; or
- (b) has contravened any provisions of this Act or the laws specified in the Schedule, whether or not the corporation has been charged with an offence in respect of the contravention, or whether or not the contravention has been proved in a prosecution.

Additional monetary punishment

36F. Where a person has been convicted of an offence under this Act or the laws specified in the Schedule, the court may, where it is satisfied that as a result of the commission of the offence the convicted person acquired a monetary benefit or that monetary benefit accrued to the benefit of such person, order the convicted person to pay, notwithstanding the maximum amount of any fine that may otherwise be imposed under this Act or the laws specified in the Schedule, an additional fine in an amount equal to the Court's estimation of the amount of the monetary benefit.

Power to impose administrative penalties

36G. (1) The Authority may impose an administrative penalty on any person who fails to comply with any provision of this Act or the laws specified in the Schedule.

(2) The Authority shall, before making a decision to impose an administrative penalty on a person, serve on him a written notice calling on him to show cause why the administrative penalty should not be imposed upon him.

(3) If a satisfactory explanation is not received within such period as may be specified in the written notice, the Authority may impose an administrative penalty in an amount not exceeding five hundred ringgit for each day of the non-compliance and such amount shall not in total exceed the sum of ten thousand ringgit.

(4) Where a person has failed to pay an administrative penalty imposed by the Authority under subsection (3), the penalty imposed by the Authority may be sued for and recovered as a debt due to the Authority.

Injunctions or other relief

36H. (1) The Authority may apply to the Judge in Chambers or to any court of competent jurisdiction for an order in respect of any matter relating to its functions under section 4.

(2) Without prejudice to subsection (1), an order under that subsection may direct the person to do any specified act or refrain from doing any specified act, for the purposes of-

- (a) preventing or desisting any contravention of the provisions of this Act or the laws specified in the Schedule;

- (b) compelling any person to comply with any directions issued under section 4B;
- (c) remedying the effects of any contravention of the provisions of this Act or the laws specified in the Schedule;
- (d) preservation of assets; or
- (e) compensating persons who have suffered loss as a result of a contravention.

(3) Where the Authority makes an application to the court for the grant of an injunction or an order under this section, the court may, if it deems just and equitable to do so, not require the Authority, as a condition of granting the injunction or order, to give any undertaking as to damages.

(4) Any person who contravenes an injunction or an order granted by the court under this section that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding two years or both.

(5) Where the court has granted an injunction or an order under this section, the court may, on application by any person affected by the injunction or order, rescind or vary the injunction or order.

(6) Subsection (4) shall not affect the powers of the court in relation to the punishment for contempt of court.

(7) Pending an injunction or an order by the court under this section, the Authority may, where it has reasonable grounds to believe that a Labuan financial institution-

- (a) would not be able to maintain the status quo of the property in or under its possession or control;
- (b) would abscond with the property or do any act to such effect;
- (c) would move the property to any place, location or jurisdiction to frustrate any impending proceeding or its judgment thereof; or

(d) would manage the property in the manner detrimental to any interested party including its investors, beneficiary and the Authority,

issue an order freezing any property of that person, as the case may be, wherever the property may be, or in his possession, under his control or due from any source to him.

(8) An order under subsection (7) may include-

(a) an order to direct that the property, or such part of the property as is specified in the order, is not to be disposed of, or otherwise dealt with, by any person, except in such manner and in such circumstances, if any, as are specified in the order; and

(b) an order to authorise any of its officers to take custody and control of the property, or such part of the property as is specified in the order if the Authority is satisfied that the circumstances so require.

(9) An order made under subsection (7) shall cease to have effect after thirty days from the date of the order.

(10) Nothing in this section shall limit the powers of the court, upon the application of any person aggrieved by the order issued under subsection (7), to set aside the order issued under subsection (7).

(11) At the expiry of the order issued under subsection (7), the Authority may apply to the Court to extend the validity of the order to such duration as the Court deems fit.

(12) The Authority shall not be liable for any damages or cost arising directly or indirectly from the making of an order under this section unless it can be proved that the order under subsection (7) was not made in good faith.

Special Audit

36i. (1) Where there is a failure on the part of any Labuan financial institution or any person to comply with the provisions of this Act or the laws specified in the Schedule, the Authority may issue a direction under section 4B to compel such Labuan financial institution to appoint a special auditor to carry out a special audit of the Labuan financial institution.

(2) The special auditor appointed under this section shall submit his report to the Authority within such time as the Authority may determine.

(3) A special auditor under this section shall include an "approved auditor" defined under section 2 of the Labuan Companies Act 1990."

Amendment of section 37

29. Subsection 37(1) of the principal Act is amended by inserting after the words "The Minister may" the words ", on the recommendation of the Authority,".

New sections 38A, 38B, 38C, 38D and 38E

30. The principal Act is amended by inserting after section 38 the following sections:

"Power to amend Schedule

38A. The Minister may, on the recommendation of the Authority, by order published in the *Gazette*, amend the Schedule.

Service of documents on Labuan financial institutions

38B. (1) Any document or notice required to be served by the Authority on a Labuan financial institution may be effected by-

- (a) leaving it at the registered office of the Labuan financial institution; or

(b) sending it by post to the registered office of the Labuan financial institution.

(2) Where a document or notice has been served in accordance with subsection (1), the document or notice is deemed to have been properly served on the Labuan financial institution.

Public Authorities Protection Act 1948

38c. (1) The Public Authorities Protection Act 1948 shall apply to any action, suit, prosecution or proceedings against the Authority or against any member of the Authority, any member of a committee, or any officer, servant or agent of the Authority in respect of any act, or omission done or omitted by it or him in such capacity.

(2) The person referred to in subsection (1) shall for the purposes of the application of the Public Authorities Protection Act 1948, be deemed to be a public officer or a person engaged or employed in the performance of a public duty.

Conflict between laws

38D. Where there is a conflict between the provisions of this Act and the provisions of any other law relating to Labuan financial services, the provisions of this Act shall prevail.

Procedure where none laid down

38E. In the event that any act or step is required or permitted to be done or taken under this Act or the laws specified in the Schedule and no form is prescribed or procedure laid down either in this Act or the regulations, application may be made to the Authority for directions as to the manner in which the same may be done or taken, and any act or step done or taken in accordance with the directions of the Authority shall be a valid performance of such act or step."

New Schedule

31. The principal Act is amended by inserting after section 39 the following Schedule:

"SCHEDULE

1. Labuan Companies Act 1990 [*Act 441*]
2. Labuan Business Activity Tax Act 1990 [*Act 445*]
3. Labuan Trusts Act 1996 [*Act 554*]
4. Labuan Foundations Act 2009
5. Labuan Islamic Financial Services and Securities Act 2009
6. Labuan Limited Partnerships and Limited Liability Partnerships Act 2009
7. Labuan Financial Services and Securities Act 2009".

Change of name of Authority and Staff Welfare Fund

32. (1) All references to the Labuan Offshore Financial Services Authority in any written law or document shall, on the date of the coming into operation of this Act, be construed as references to the Labuan Financial Services Authority.

(2) The change of name of "Labuan Offshore Financial Services Authority" to "Labuan Financial Services Authority" upon the coming into operation of this Act shall not affect any rights or obligations of the Authority or render defective any legal proceedings by or against it, and any legal proceedings that could have been continued or commenced by or against it before the date of coming into operation of this Act may be continued or commenced under its new name.

(3) All actions, regulations, orders, directions, notifications, approvals, decisions, guidelines and other executive acts made, given or done under, or in accordance with, or by virtue of the principal Act before the date of the coming into operation of this Act shall be deemed to have been made, given or done under, or in accordance with, or by virtue of, the corresponding provision introduced or amended by this Act, and shall continue to remain in full force and effect in relation to the persons to whom they apply until amended, repealed or rescinded under, in accordance with, or by virtue of, the corresponding provision introduced or amended by this Act.

(4) All deeds, documents and other instruments executed by the Authority under the common seal of "Labuan Offshore Financial Services Authority" before the date of the coming into operation of this Act shall continue to remain in full force and effect on the date of the coming into operation of this Act.

(5) All moneys contained in or due to be paid into the Labuan Offshore Financial Services Authority Staff Welfare Fund established under section 18A of the principal Act shall, on the coming into operation of this Act, be transferred to and be deemed to be part of the Labuan Financial Services Authority Staff Welfare Fund.

EXPLANATORY STATEMENT

This Bill seeks to amend the Labuan Offshore Financial Services Authority Act 1996 ("Act 545").

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.

3. *Clause 2* seeks to amend in the long title of Act 545 by deleting the word "Offshore".

4. *Clause 3* seeks to amend the short title of Act 545 in section 1 by deleting the word "Offshore".

5. *Clause 4* seeks to amend section 2 of Act 545 to introduce new definitions and to amend existing definitions used in Act 545.

6. *Clause 5* seeks to amend section 3 of Act 545 to broaden and clarify the objectives of the Authority with a view of encapsulating the Authority's role as the central regulatory and supervisory authority of business and financial services sector in Labuan.

7. *Clause 6* seeks to amend section 4 of Act 545 to enhance and clarify the Authority's statutory functions in view of its supervisory and enforcement powers and to make reference to the laws administered by the Authority as "the laws specified in the Schedule". For purposes of clarity and ease of reference, the Schedule would contain the laws administered by the Authority. Further, subsections (5) and subsection (6) are deleted under section 4 and inserted under the new section 4B.

8. *Clause 7* seeks to introduce a new sections 4A, 4B and 4c into Act 545. Section 4A relates to the Authority's powers to issue guidelines generally. Section 4B relates to the power of the Authority to issue directions and section 4c relates to the Authority's powers to publish information.

9. *Clause 10* seeks to amend section 14 of Act 545 by inserting after the words "function of powers" the words "under the Act and the laws specified in the Schedule" to broaden the power to delegate by the Authority.

10. *Clause 11* seeks to amend section 15 of Act 545 to clarify that the Authority's power to establish committees with respect to the performance of its functions under the Act includes its functions under the laws administered by the Authority.

11. *Clause 14* seeks to amend the title of Part IIA for clarity.

12. *Clause 15* seeks to amend section 28A of Act 545. The definition of "authority" is substituted with a broader definition. Further, the definition of "criminal offence" is enhanced to include a wider scope of offences. Further, the definitions of "credit facility", "depositor", "fund manager", "licensee" and "trust company" are deleted. *Clause 15* further seeks to insert the definitions of "police officer" and "property".

13. *Clause 16* seeks to amend section 28B of Act 545 by substituting for subsections (5), (6) dan (7) new subsections on submission of information. Subsection (10) is substituted to clarify that it shall be an offence for any person to submit false or misleading or inaccurate information to the Authority or fails to comply with section 28B of Act 545.

14. *Clause 17* seeks to insert a new section 28BA to empower the Authority to report suspected offences and adverse conditions.

15. *Clause 18* seeks to substitute section 28c to enhance the powers of the Director-General of the Authority or any person authorised by the Director-General to examine any person or to inspect or make copies of any document.

16. *Clause 19* seeks to amend section 28D to delete subsections (5) and (6), the powers of an investigating officer shall include such powers under the laws administered by the Authority.

17. *Clause 20* seeks to insert new sections 28E, 28F, 28G, 28H, 28I, 28J, 28K, 28L, 28M, 28N, 28O and 28P which relate to the enforcement powers of the Authority and for the admissibility of evidence obtained. Section 28E relates to the powers of entry, search and seizure of any investigating officer. Section 28F relates to the powers to examine persons. Section 28G empowers the investigating officer to conduct search on any person. Section 28H makes it an offence for any person to obstruct any investigations while section 28I makes it an offence for any person to "tip-off" any investigations. Sections 28J, 28K and 28L relate to the admissibility of evidence. Section 28M relates to the admissibility of evidence taken in any Malaysian embassy abroad. Section 28o relates to the protection of informers. Sections 28N and 28P further enhance the

Authority's power to co-operate with other law enforcement agencies. These powers are similar to the provisions under the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 [Act 613].

18. *Clause 21* seeks to amend section 29 of Act 545 to include a new subsection (*ea*) to provide that any monies received by the Authority under section 36G in the form of administrative penalties shall be included in the Fund.

19. *Clause 23* seeks to substitute section 36 of Act 545 with a new section 36 to provide for the immunity of the Minister, the Authority or any other person acting on behalf of the Authority for any act or omission done in good faith.

20. *Clause 24* seeks to substitute section 36A with a new section 36A to empower the Authority to appoint such persons in any civil proceedings to represent the Authority.

21. *Clause 25* seeks to introduce new section 36AA specifying the additional powers of the Authority with regards to any civil proceedings. Under the proposed new section 36AA, the Authority shall be conferred with *locus standi* to institute and conduct any civil proceedings in respect of its objectives and functions and to apply to Court for such relief as may be necessary.

22. *Clause 26* seeks to amend section 36B by replacing the word "Director-General" wherever it appears with the words "the Authority".

23. *Clause 28* seeks to introduce new sections 36D, 36E, 36F, 36G, 36H and 36I. Section 36D provides for the powers of the Authority to prosecute any offence under Act 545 and the laws administered by it with the written consent of the Attorney General. Section 36E provides for the powers of the Authority to apply to Court to wind-up any Labuan company where such company has contravened any law. Section 36F empowers the Authority to apply to Court to recover any monetary profit acquired by any convicted person notwithstanding the penalty imposed by the relevant statute. Section 36G empowers the Authority to impose administrative penalty. Section 36H empowers the Authority to apply to Court for an injunction or other relief as it deems necessary. Section 36i empowers the Authority to direct the appointment of special auditors to carry out special audit on any Labuan financial institution when there is a failure to comply with any provisions of this Act or the laws administered by the Authority.

24. *Clause 29* seeks to amend section 37 of Act 545 to state that the Minister may make regulations on the recommendation of the Authority.

25. *Clause 30* seeks to introduce new sections 38A, 38B, 38C, 38D and 38E into Act 545. Section 38A empowers the Minister to amend the Schedule of Act 545. Section 38B provides for the mode of service of documents on a Labuan financial institution. Section 38C provides for the application of the Public Authorities Protection Act 1948 [*Act 198*] to the Authority. Section 38D provides that the provisions of Act 545 shall prevail in the event of a conflict with other Labuan legislations. Section 38E provides that application may be made to the Authority for directions where no form is prescribed in Act 545 or its regulations.

26. *Clause 31* seeks to amend Act 545 by listing the laws administered by the Authority in the Schedule.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

[PN(U²)2668]