

LAWS OF BRUNEI

CHAPTER 210
EDUCATION

S 59/03

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REVISED EDITION 2011

CHAPTER 210

EDUCATION

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EDUCATION ACT

An Act relating to education and to make provision for the registration and regulation of all schools and educational institutions and for matters connected therewith

Commencement: 20th December 2003

PART I

PRELIMINARY

Citation.

1. This Act may be cited as the Education Act.

Interpretation.

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

“academic educational institution” means an educational institution which mainly provides academic education;

“age”, in relation to a pupil, means the age attained by the pupil on the first day of the first month of the school year in question;

“approved fees” means the fees approved by the Minister;

“Assistant Registrar” means an Assistant Registrar of Educational Institutions or Assistant Registrars of Teachers, as the case may be, appointed under section 5(2);

“branch campus” means a branch of a higher educational institution having the status of a university or university college, and includes a foreign branch university or university college established under this Act;

“correspondence” means correspondence delivered by hand or by post;

“correspondence school” means an organisation or institution providing instruction or teaching by means of correspondence;

“Council” means the National Education Council of Brunei Darussalam established under section 10;

“degree” means an academic qualification at the undergraduate or graduate level or at a doctorate level awarded by a higher educational institution that has a university or college university status, or a branch campus of such institutions, to a person after that person has successfully completed a course of study designed to lead to the award of a degree or the equivalent thereof;

“diploma” means an academic qualification at the diploma level or advanced diploma level awarded to a person after that person has successfully completed a course of study designed to lead to the award of a diploma or the equivalent thereof but does not include an extension education course;

“Director” means the Director of Schools’ Inspectorate appointed under section 6(1);

“distance education centre” means a place, an organisation or an institution providing instruction or teaching —

(a) exclusively through the medium of electronics;

(b) exclusively through correspondence; or

(c) partly through the medium of electronics and partly through correspondence or other methods of instruction;

“District Education Officer”, in relation to a district or an area, means an education officer appointed under section 7;

“educational institution” means a school or any other place where, in the carrying on of the work of the organisation or institution, persons are habitually taught, whether in one or more classes, and includes a pre-school class, a kindergarten and a distance education centre but does not include any place declared by the Minister by notification in the *Gazette* not to be an educational institution for the purposes of this Act;

“extension education” means a full-time or part-time education for persons who are not following the usual course of study at an educational institution;

“government educational institution” means an educational institution established and fully maintained by the Minister under Parts IV and V;

“governor” means a person who is empowered under an instrument of government to manage an educational institution, and includes a person appointed and registered as a manager of an educational institution under the Education (Non-Government Schools) Act (Chapter 55), repealed by the Education Order, 2003 (S 59/03);

“head teacher” means, in the case of a government school, an education officer who is appointed by the Minister or, in the case of a private school, a person who is appointed under section 69(2) by the board of governors of the private educational institution;

[S 86/06]

“higher education” means education provided by a higher educational institution;

“higher educational institution” means an educational institution providing higher education leading to the award of a diploma, degree or the equivalent thereof;

“Inspector” means an Inspector of Schools;

“instrument of government” means an instrument of government as specified in section 66;

“kindergarten” means any place where pre-school education is provided to 10 or more pupils who are between the ages of 4 years and under 6 years old;

“lower secondary education” means a course of study appropriate for a pupil who has completed primary education;

“Minister” means the Minister responsible for education;

“Ministry” means Ministry of Education;

“National Curriculum” means the curriculum provided in section 20;

“parent” includes a guardian and any person who has the legal or actual control of a pupil;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

[S 86/06]

“place” means any place, whether public or private;

“post-secondary education” means education provided to a person who has completed upper secondary education, but does not include higher education;

“premises” means any building used as an educational institution, and includes any building for the purpose of providing accommodation and other facilities for pupils and staff of the institution but does not include any land occupied therewith;

“pre-school class” means any place where pre-school education is provided to 10 or more pupils who are between the ages of 3 years and under 4 years old and shall include kindergartens;

“pre-school education” means an educational programme for pupils in a pre-school class or a kindergarten;

“prescribed” means prescribed by regulations made under this Act;

“primary education” means a course of study at primary level which is designed for a duration of 6 years but which may be completed within 5 to 7 years;

“primary school” means a school that —

(a) provides primary education for pupils of the appropriate age subject to section 25; and

(b) prepares pupils for such examinations as may be prescribed;

“principal” has the same meaning as “head teacher”;

“private educational institution” means an educational institution which is not a government educational institution;

“pupil” means a person of any age for whom education or training is being provided in an educational institution;

“registered teacher” means any teacher registered under this Act;

“Registrar” means the Registrar of Educational Institutions and Teachers appointed under section 5(2) and includes the Registrar General and the Deputy Registrar General;

“Registrar General” means the Registrar General of Educational Institutions and Teachers appointed under section 5(1) and includes the Deputy Registrar General of Educational Institutions and Teachers appointed under the same section;

“school” means a place where 10 or more persons are habitually taught whether in one or more classes;

“secondary education” means education comprising lower secondary and upper secondary education;

“secondary school” means a school providing secondary education appropriate for a pupil who has just completed primary education;

“special education” means education that caters for the special educational needs of pupils;

“special school” means a school providing special education as prescribed by regulations made under section 30;

“teacher” means a person who —

(a) teaches pupils in an educational institution; or

(b) prepares or issues lessons or corrects returned answers in, for or through a distance education centre,

and includes a head teacher or principal;

“upper secondary education” means education suitable to the abilities and aptitudes of a pupil who has completed lower secondary education.

Power to exempt educational institutions.

3. The Minister may, if he considers it desirable and in the interest of an educational institution or in the interest of the pupils or the public, by order published in the *Gazette*, exempt any educational institution or any class or classes of educational institutions from all or any of the provisions of this Act, either absolutely or subject to such conditions as he thinks fit to impose, and may at any time in his discretion revoke the exemption or cancel or alter or add to such conditions.

PART II

ADMINISTRATION

Appointment. [S 86/06]

4. The Permanent Secretary or any other officer appointed by His Majesty the Sultan and Yang Di-Pertuan as His Majesty may think fit, shall have the power to exercise and perform such functions conferred or imposed by this Act as His Majesty may think fit, and shall advise the Minister on matters connected to educational theory and practice as he thinks fit.

Registrar General, Deputy Registrar General, Registrars and Assistant Registrars.

5. (1) There shall be a Registrar General and Deputy Registrar General of Educational Institutions and Teachers who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan.

(2) The Minister shall appoint such number of Registrars of Educational Institutions and Teachers and Assistant Registrars, as he may consider necessary for the purposes of this Act.

(3) The Deputy Registrar General, Registrars and Assistant Registrars shall be under the direction and control of the Registrar General.

(4) The Registrar General shall have the powers and exercise the functions conferred on him by this Act, and in his absence such powers and functions may be had or exercised by the Deputy Registrar General.

(5) A Registrar or an Assistant Registrar may exercise all the powers and functions conferred on the Registrar General by or under this Act, subject to any restrictions that may be imposed by the Registrar General.

Director of Schools' Inspectorate and Inspectors of Schools.

6. (1) There shall be a Director of Schools' Inspectorate who shall be appointed by His Majesty the Sultan and Yang Di-Pertuan.

(2) The Minister shall appoint such other Inspectors of Schools as may be considered necessary for the purposes of this Act and all such Inspectors shall be subject to the direction and control of the Director of Schools' Inspectorate.

District Education Officer.

7. There shall be, for each district, a District Education Officer appointed by the Minister for the purposes of this Act.

Power of Minister to issue general directions.

8. The Minister may from time to time give an officer appointed under this Part directions of a general nature, and not inconsistent with the provisions of this Act or any regulations made thereunder, as to the exercise of the powers and discretion conferred on the officer by, and the duties required to be discharged by the officer under, this Act and regulations made thereunder, in relation to all matters which appear to the Minister to affect the National Education Policy, and the officer shall give effect to every such direction.

Power of Minister to issue special directions.

9. The Minister may from time to time give a governor of any member of a board of governors appointed under section 66(2), or a head teacher or principal, of an educational institution, directions not inconsistent with the provisions of this Act or any regulations made thereunder, in relation to any matter in respect of which regulations may be made under this Act, and the governor, member, head teacher or principal shall give effect to every such direction.

PART III

NATIONAL EDUCATION COUNCIL

National Education Council.

10. There is hereby established for the purposes of this Act the National Education Council of Brunei Darussalam.

Composition of Council and secretary. [S 86/06]

- 11.** (1) The members of the Council shall comprise of —
- (a) the Minister of Education, who shall be the chairman;
 - (b) the Minister of Religious Affairs;
 - (c) the Minister of Industry and Primary Resources;
 - (d) the Minister of Culture, Youth and Sports;
 - (e) the Minister of Finance II;
 - (f) the Deputy Minister of Education;
 - (g) the chairman of the Brunei Economic Development Board;
- and
- (h) 7 other members to be nominated by the Minister and appointed by His Majesty the Sultan and Yang Di-Pertuan.
- (2) The Permanent Secretary shall be the secretary of the Council.

Removal from office.

12. His Majesty the Sultan and Yang Di-Pertuan may remove a member appointed under section 11(1)(h) from such office at his pleasure.

[S 86/06]

Function of Council. [S 86/06]

13. The Council shall, on the request of the Minister, assist and make recommendations to the Ministry on any matter of educational policy and development.

Power to make regulations in relation to Council.

14. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for giving effect to and carrying out the provisions of this Part, and without prejudice to the generality of such power, the regulations may provide for —

(a) the conditions of office of members;

(b) procedural matters in relation to the Council's meetings and its functions;

(c) the appointment of committees and sub-committees of the Council; and

(d) such other matters that the Minister considers necessary for the proper functioning of the Council.

Power to regulate proceedings.

15. (1) Subject to this Part and any regulations made thereunder, the Council shall have the power to regulate its own proceedings.

(2) Subject to subsection (1), the chairman shall cause to be kept records of all meetings and proceedings of the Council.

PART IV

NATIONAL EDUCATION SYSTEM

National Education Policy.

16. (1) The National Education Policy shall be based upon the nation's philosophy of a Malay Islamic Monarchy.

(2) Subject to any requirements of the National Education Policy, the Minister shall ensure that a child of school-going age is given the opportunity to attend primary and secondary school and complete the course of study provided therein.

Levels of education in National Education System.

17. (1) The National Education System shall comprise —

- (a) pre-school education;
- (b) primary education;
- (c) secondary education;
- (d) post-secondary education; and
- (e) higher education,

but shall not include education in expatriate schools.

(2) In this section, “expatriate school” means a school that primarily caters for the education of children of a nationality other than that of Brunei Darussalam but may also enrol local children as its pupils.

Categories of educational institutions.

18. There shall be 2 categories of educational institutions —

- (a) government educational institutions; and
- (b) private educational institutions.

Medium of instruction.

19. (1) The Malay language shall be the main medium of instruction in all educational institutions.

(2) The English language may also be used as the medium of instruction, together with the Malay language, in all educational institutions.

(3) The Arabic language may be used as a medium of instruction in Arabic or other schools but in these schools the Malay language and the English language must be taught as compulsory subjects.

(4) The Minister may exempt an educational institution from using either the Malay language or the English language as a medium of instruction in appropriate cases.

National Curriculum to be used by all schools.

20. (1) All schools within the National Education System and registered under this Act shall use a curriculum known as the National Curriculum which shall be prescribed by the Minister.

(2) The National Curriculum prescribed under subsection (1) shall specify the knowledge, skills and values that are expected to be acquired by pupils at the end of their respective periods of schooling and shall include the core subjects and such other subjects as may be prescribed.

Preparation of pupils for prescribed examinations.

21. (1) Every school shall prepare its pupils for examinations prescribed by the Minister in any other written law.

(2) The Minister may make exemptions to subsection (1), subject to any conditions that he may think fit to impose.

Pre-school education.

22. The Minister may, subject to the provisions of this Act, establish and maintain kindergartens and pre-school classes.

Pre-school curriculum.

23. The programmes and activities of every kindergarten shall be based on the curriculum approved by the Minister.

Power to make regulations in relation to pre-school education.

24. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for giving effect to and carrying out the provisions of this section and of other sections that pertain to pre-school education.

Primary education.

25. (1) It shall be the Minister's duty to provide primary education in government schools.

(2) The Minister may, subject to the provisions of this Act, establish government primary schools and shall maintain such schools.

(3) The minimum age for entry into primary school shall be 6 years old.

(4) Notwithstanding subsection (3), the Minister may make an exception where he thinks fit and allow a pupil between the age of 5 and 6 years old to enter primary school.

(5) Subsections (3) and (4) shall also apply to private schools.

Secondary education.

26. (1) It shall be the duty of the Minister to provide secondary education in the following government secondary schools —

(a) academic secondary schools;

(b) secondary schools of such other description as the Minister may determine.

(2) The Minister may establish and maintain any such schools as described in subsection (1) subject to the provisions of this Act.

Post-secondary education.

27. (1) The Minister may provide post-secondary education in —

(a) colleges; and

(b) such other educational institution as the Minister may determine.

(2) Where post-secondary education is to be provided under subsection (1), the Minister may establish and maintain such institutions under the provisions of this Act.

Technical and vocational education.

28. (1) For the purposes of this Act, technical and vocational education includes —

- (a) skills training;
- (b) specialised training related to a specific job;
- (c) training for the upgrading of existing skills; and
- (d) such other technical or vocational training as may be approved by the Minister.

(2) The Minister shall be responsible for the general direction of technical and vocational education.

(3) The Minister may provide technical and vocational education in —

- (a) skills training centres or similar institutions;
- (b) vocational schools;
- (c) technical colleges;
- (d) nursing colleges;
- (e) technological institutions; and
- (f) such other educational institutions as he may determine.

(4) The Minister may establish and maintain educational institutions to provide for the matters mentioned in subsection (3).

Establishment of Council of Technical and Vocational Education.

29. (1) The Minister may establish a Council on technical and vocational education.

(2) The Council established under subsection (1) shall be responsible for promoting and regulating technical and vocational education.

(3) The Council shall have the power to do all things expedient or reasonably necessary for or incidental to the carrying out of its functions.

(4) The Council shall be responsible to the Minister and the Minister may give the Council directions of a general character, not inconsistent with

the provisions of this Act, and the Council shall give effect to such directions.

(5) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for giving effect to and carrying out the provision of this section and without prejudice to the generality of such power, may by the regulations provide for —

- (a) the constitution of the Council;
- (b) the conditions of office of the members;
- (c) the meetings of the Council;
- (d) the appointment of committees and sub-committees of the Council;
- (e) the functions and powers of the Council; and
- (f) such other matters as the Minister considers necessary for the proper functioning of the Council.

(6) Subject to this Act and any regulations made thereunder, the Council may regulate its own proceedings.

Minister to provide special education.

30. (1) The Minister shall provide special education in such government primary or secondary schools as he thinks fit and in any special school established by the Minister.

(2) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by regulations prescribe —

- (a) the duration of primary and secondary education suitable to the needs of a pupil in receipt of special education;
- (b) the curriculum to be used in respect of special education;
- (c) the categories of pupils requiring special education and the methods appropriate for the education of pupils in each category of special schools; and

(d) any other matter which he thinks expedient or necessary for the purposes of this section.

General directions in respect of teacher education.

31. (1) The Minister shall issue general directions in respect of teacher education.

(2) No person shall establish or maintain an institution that provides teacher education except with the approval of the Minister.

(3) Subject to subsection (2), all teacher education institutions shall be registered under this Act.

(4) The courses of study and training programmes in teacher education institutions may only be conducted upon receiving approval from the Minister for such courses and programmes, subject to such conditions as the Minister may think fit to impose.

(5) A teacher education institution established under this Act may award a certificate, diploma or such other qualification as may be prescribed.

(6) The Minister may establish and maintain teacher education institution and provide teacher education within such institutions.

(7) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for giving effect to and carrying out the provisions of this section in respect of institutions providing teacher education.

Islamic Education.

32. (1) It shall be compulsory for a pupil professing the Islamic Religion in a school to be provided with Islamic Education.

(2) The provision of Islamic Education as required in subsection (1) shall be in accordance with the teachings of the Islamic Religion according to Ahlis Sunnah Waljamaah.

(3) In this section, "Islamic Education" means a subject in the National Curriculum pertaining to matters relating to *fardhu 'ain* and *fardhu kifayah*.

Power of Minister to render financial assistance and to provide other facilities and services.

33. (1) Subject to any regulations made under this Act, the Minister may render assistance, whether financial or otherwise, in respect of pupils or any class of pupils in government schools for the purpose of enabling the pupils to take full advantage of the educational facilities available to them and such assistance may include —

(a) the granting of scholarships, bursaries, loans or other financial assistance; and

(b) the provision of —

(i) accommodation;

(ii) transport; and

(iii) books.

(2) Without prejudice to the generality of the powers conferred by this section, the Minister shall, so far as it is reasonable and practicable so to do, provide for counseling services and for the medical and dental inspection of pupils of government schools for the purpose of promoting their health and well-being.

(3) An officer authorised by the Minister to provide medical or dental inspection of pupils may require the parent or guardian of a pupil of a government school to cause the pupil to undergo medical or dental inspection in accordance with the arrangements made by the school authorities, or by a registered medical or dental practitioner.

(4) A person who fails without reasonable cause to comply with subsection (3) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

Assessment of pupils.

34. The Minister may prescribe the manner in which pupils in primary and secondary schools shall be assessed and the standards to be achieved by the pupils.

PART V

HIGHER EDUCATION

Minister to be responsible for higher education.

35. (1) The Minister may provide higher education in an educational institution in accordance with the provisions of this Act or any other written law relating to higher education and shall be responsible for the general direction thereof.

(2) The Minister may establish and maintain higher educational institutions and provide higher education within such institutions.

Prohibition in respect of establishment of higher educational institution.

36. (1) No person shall, except in accordance with the provisions of this Act or any other written law relating to higher education —

(a) establish, form, promote or carry on any activity for the purpose of establishing or forming, or towards the establishment or formation of, a higher educational institution;

(b) collect, give or receive any monies, contributions, gifts or donations, or do any act or carry on any activity for the purpose of establishing or forming a higher educational institution;

(c) operate, manage or maintain any class for the teaching and learning of higher education unless the class is being operated, managed or maintained by a higher educational institution; and

(d) establish, operate, manage or maintain a higher educational institution by the use of the word “university”.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$200,000, imprisonment for a term not exceeding 2 years or both.

Management.

37. (1) Every higher educational institution shall be managed in strict accordance with its instrument of government.

(2) The approved instrument of government of a higher educational institution established under section 35 or 56 or of a branch or associate institution established under section 39 shall not be changed or amended without obtaining prior approval of the Registrar General.

Approval of Minister required to establish branch or associate institution.

38. The board of governors of a higher educational institution, private or otherwise, shall not establish a branch or associate institution nor shall they collaborate with any other higher educational institution without the approval in writing of the Minister.

Application to establish branch or associate institution.

39. (1) An application for approval for the purposes of section 38 shall be made to the Registrar General and upon receipt of such an application, the Registrar General shall —

(a) examine the application;

(b) in relation to its instrument of government, consider the constitution of the higher educational institution; and

(c) make appropriate recommendations to the Minister with respect to —

(i) its approval or otherwise; and

(ii) any conditions that may be considered necessary.

(2) Subject to subsection (1), the Minister may —

(a) approve the application with or without any conditions;

(b) approve the constitution contained in the instrument of government; or

(c) refuse the application and specify the grounds of the refusal.

(3) Where the Minister approves the application under subsection (2)(a), he may require the applicant to pay the prescribed fee.

(4) Upon refusal of the application under subsection (2)(c), the Registrar General shall inform the applicant in writing of the Minister's decision.

(5) The decision of the Minister to refuse an application is final.

Courses of study and training.

40. (1) A higher educational institution shall require the Minister's approval in writing for the purposes of —

(a) conducting any course of study or training programme; and

(b) conducting any course of study or training programme jointly, in association, affiliation or collaboration or otherwise —

(i) with a university or a higher educational institution (where the former or latter may either be a private or government institution); or

(ii) with a professional body,

within or outside Brunei Darussalam.

(2) The Minister shall give his approval under subsection (1) if he is satisfied that —

(a) the higher educational institution has made suitable arrangements with respect to the educational facilities available for the provision of the intended course of study or training programme referred to in that subsection;

(b) the quality of the intended course of study or training programme is of a standard which is acceptable to the Minister; and

(c) the intended course of study or training programme is relevant with respect to the Minister's power to provide higher education under section 35.

(3) An employee of the higher educational institution acting on its behalf in respect of subsection (1) is guilty of an offence if he contravenes that subsection and liable on conviction to a fine not exceeding \$200,000, imprisonment for a term not exceeding 2 years or both.

(4) The Minister, upon approval of an application under subsection (1) may impose any one or both of the following —

- (a) such conditions as he thinks fit; and
- (b) the prescribed fee.

(5) A person who fails to comply with any condition or fee imposed under subsection (4) is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 6 months or both.

Malay Islamic Monarchy as compulsory subject.

41. (1) Every higher educational institution shall comply with the National Education Policy as provided in section 16(1) by incorporating the philosophy of the Malay Islamic Monarchy as a compulsory subject into its teaching syllabus.

(2) The subject referred to in subsection (1) shall be taught as an addition to the existing subjects or other course of study being taught in the higher educational institution.

Award of degrees and diplomas.

42. (1) The award of a degree or a diploma to a person by a higher educational institution may only be made if that person has attained the minimum standard required for the purposes of that degree or diploma as has been determined by the relevant authority.

(2) Subject to subsection (1), a degree may only be awarded by a higher educational institution that has the status of a registered university or university college or a branch campus.

Chief executive.

43. (1) Every higher educational institution shall appoint a chief executive who shall be registered as such by the Registrar General.

(2) The Registrar General may refuse to register or may cancel the registration of a chief executive appointed under subsection (1) if —

(a) it is proved that he has been convicted of any of the following offences —

- (i) an offence involving fraud, dishonesty or immorality;
- (ii) an offence under any law involving bribery;
- (iii) an offence under any law involving the Islamic Religion; or
- (iv) any other offence punishable with imprisonment for a term of not less than 2 years;

(b) he is adjudged bankrupt;

(c) he is of unsound mind or unfit to fulfil his responsibilities;
or

(d) he acts in a manner that is detrimental to the interest of Brunei Darussalam, the public or the pupils of the higher educational institution.

(3) A person who is aggrieved by the decision of the Registrar General made under subsection (2) may within 21 days appeal against the refusal or cancellation of registration in the manner prescribed by regulations made under section 128.

(4) The chief executive shall, subject to the provisions of this Act and the constitution of the higher educational institution, carry on the general supervision of all matters in respect of the teaching, administration, daily management, welfare and discipline in the higher educational institution.

(5) Any application related to and for the purposes of a higher educational institution shall be made by the chief executive, unless it is otherwise provided in this Act or any regulations made thereunder.

(6) All notices, information and other communications required to be made by the Registrar General to a higher educational institution shall be addressed to the chief executive of that institution.

(7) A person who, in respect of a higher educational institution that has been closed down either voluntarily or involuntarily —

(a) is a member of the board of directors of a company referred to in section 64(1);

(b) was the person appointed as the chief executive of the higher educational institution; or

(c) was directly involved in the management or business of the higher educational institution,

shall not hold the same position or have the same responsibilities with respect to another higher educational institution.

Chief executive's duties in respect of pupils' discipline.

44. (1) The chief executive shall be responsible for the discipline and behaviour of the pupils in a higher educational institution.

(2) In the discharge of his duties under subsection (1), the chief executive shall comply with and carry out any directions issued from time to time by the Registrar General in relation to the discipline and behaviour of the pupils within that higher educational institute.

Power of Registrar General with respect to chief executive.

45. (1) Where the chief executive —

(a) has acted or intends to act in an unreasonable manner with respect to the exercise of his powers or in the discharge of his duties; or

(b) has failed to discharge his duties provided in section 43(4),

the Registrar General may, having given him the opportunity to make representations —

(i) give the chief executive directions in writing; or

(ii) cancel his registration as a chief executive.

(2) Where the chief executive is aggrieved by any decision of the Registrar General under subsection (1), he may within 21 days appeal to the Minister whose decision shall be final.

Appointment of temporary chief executive.

46. (1) If, at any given time and for any given reason, a higher educational institution does not have a chief executive, the Registrar General may appoint any person to temporarily act as the chief executive of that higher educational institution for a period of not more than 3 months or until such time that the higher educational institution appoints one within that 3 months.

(2) The failure of a higher educational institution to appoint a chief executive within the 3 months period referred to in subsection (1) will result in the cancellation of its registration.

Prohibition against any political involvement.

47. (1) No person shall, whilst being a pupil in a higher educational institution —

(a) be a member of or associate with any political party or workers' union within or outside Brunei Darussalam;

(b) be a member of or associate with any organisation, body or group within or outside Brunei Darussalam that is in contravention of the Constitution of the country or which in the opinion of the Minister is undesirable and unsuitable to the philosophy of the Malay Islamic Monarchy; or

(c) be a member of a student body or student organisation that is associated with or affiliated to or has any other involvement with any political party or workers' union or any other organisation, body or group of persons within or outside Brunei Darussalam which in the opinion of the Minister is undesirable or unsuitable to the philosophy of the Malay Islamic Monarchy.

(2) No person shall, whilst being a pupil in a higher educational institution, behave in a manner that represents support and sympathy for the causes and objectives of any political party or workers' union or any other organisation, body or group of persons referred to in subsection (1).

(3) Any person who contravenes subsection (1) or (2) is guilty of an offence and liable on conviction to a fine not exceeding \$1,000.

Exemption to section 47.

48. Section 47 does not apply to any student body, society or organisation that is provided for under the constitution of a higher educational institution.

Power of Registrar General to direct suspension or dissolution of student body or organisation.

49. (1) The Registrar General may direct the chief executive of a higher educational institution to suspend or order the dissolution of a student body or organisation if it is shown that the student body or organisation —

(a) is being conducted in a manner detrimental to the interests of —

- (i) Brunei Darussalam;
- (ii) public order; or
- (iii) the pupils of that institution; or

(b) is in contravention of any provisions of any written law.

(2) Notwithstanding subsection (1), the Registrar General shall only issue such direction if, after giving the student body or organisation the opportunity to make a representation to the contrary, he is satisfied that a suspension or a dissolution is justified under subsection (1).

Duty of chief executive to execute direction under section 49.

50. (1) It shall be the duty of the chief executive —

(a) to immediately suspend or dissolve a student body or organisation upon receiving from the Registrar General a direction under section 49; and

(b) to inform the Registrar General of the execution of that direction within a period of 3 weeks of its receipt.

(2) Failure to execute his duties under subsection (1) may result in the cancellation of the chief executive's registration.

Prohibition to teach.

51. No person shall teach in a higher educational institution unless he has a certificate of registration issued under section 105 or, pending an application, a permit to teach issued under section 108(1)(b).

Power to close higher educational institution.

52. (1) Where the Minister has reasonable cause to believe that a private higher educational institution —

(a) has failed to fulfil its obligations to its pupils;

(b) is about to suspend its operations; or

(c) is conducting its activities in a manner that is detrimental to the interests of Brunei Darussalam, public order or its pupils,

the Minister may take such action that he thinks necessary to ensure that management of the higher educational institution is in compliance with the provisions of this Act.

(2) Where the Minister acts under subsection (1) and issues directions, a higher educational institution shall forthwith comply with those directions.

(3) Where the higher educational institution fails to comply with the directions issued under subsection (2), the Minister may cancel its registration under this Act.

Minister's power to issue directions.

53. The Minister may issue directions, not inconsistent with this Act in respect of matters enforceable under it, to the board of governors, chief executive or teachers of a higher educational institution, and such board of governors, chief executive or teachers shall forthwith comply with the directions issued to them.

Minister's power to make regulations in respect of higher educational institution.

54. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations in respect of higher educational institutions for the supervision, regulation or control of the standard of education in those institutions and may, without prejudice to the generality of this provision, include the following —

- (a) their registration, establishment and management;
- (b) the appointment and determination of the powers and duties of the chief executives, other officers of the institutions, teachers and employees;
- (c) the registration and the cancellation of registration of the chief executives and teachers of the institutions;
- (d) the course of studies and training programmes;
- (e) assessments, evaluation and examinations of pupils;
- (f) the award of certificates, diplomas or degrees;
- (g) health and safety;
- (h) the prescription and determination of fees;
- (i) the provision of facilities;
- (j) affiliation, association and collaboration set up between higher educational institutions;
- (k) the discipline and behaviour of pupils;
- (l) student associations;
- (m) council, bodies or committees for extra-curricular activities;
- (n) the closure of institutions;
- (o) examinations; and
- (p) such other matters considered necessary by the Minister.

Non-application of sections 43 and 51.

55. Sections 43 and 51 do not apply to higher educational institutions established by the Minister.

PART VI

PRIVATE EDUCATIONAL INSTITUTIONS

Establishment of private educational institution.

56. (1) Approval from the Minister is required for the establishment and maintenance of a private educational institution.

(2) A limited company or any other person may establish and maintain an educational institution subject to the provisions of this Act and any regulations made thereunder.

Compliance with National Curriculum.

57. A private academic school established under section 56 shall comply with the National Curriculum.

Malay Islamic Monarchy as post-secondary subject.

58. Every private academic educational institution at the post-secondary level is required to teach the philosophy of the Malay Islamic Monarchy as one of its subjects in addition to any other subject or course of study taught in the institution.

Categories of private educational institutions.

59. A private educational institution shall fall into one or more of the following categories —

- (a) pre-school classes and kindergartens;
- (b) primary schools;
- (c) secondary schools;

- (d) colleges and other educational institutions providing post-secondary education;
- (e) educational institutions providing technical and vocational education;
- (f) higher educational institutions;
- (g) tuition centres.

Application for establishing private educational institution.

60. (1) An application for the establishment of a private educational institution shall be made to the Registrar General.

(2) The Registrar General shall —

(a) consider the application; and

(b) make recommendations to the Minister with respect to the approval or otherwise of the application and any conditions that may be considered necessary.

(3) Subject to subsection (2), the Minister may —

(a) refuse the application;

(b) approve the application with or without any conditions; or

(c) at any time, withdraw an approval made under paragraph (b) with reasonable cause.

Refusal to allow establishment of private educational institution.

61. The Minister may refuse an application to establish a private educational institution unless he is satisfied that —

(a) the applicant is capable of providing adequate educational facilities;

(b) the applicant is capable of providing adequate and efficient management and administration for the operation of the institution;

(c) adequate measures have been taken to ensure and maintain the prescribed standards of education;

(d) a proper administration system and an instrument of government of the intended higher educational institution has been prepared for the approval of the Registrar General; and

(e) the applicant or any of his partners or any member of the board of governors has not been convicted of any offence involving fraud or dishonesty and has never been adjudged bankrupt.

Notice of refusal.

62. (1) Upon refusal by the Minister to allow the establishment of a private educational institution, the Registrar General shall inform the applicant in writing of the refusal of the application and specifying the grounds of the refusal.

(2) The decision of the Minister to refuse the application is final.

Payment of fee.

63. Upon approval of an application to establish a private educational institution, the applicant shall pay the prescribed fee.

Incorporation of limited company.

64. (1) In the case of a private higher educational institution, upon approval of an application under section 60, the successful applicant is required to register and incorporate a limited company in accordance with the requirements of the Companies Act (Chapter 39) whose main purpose listed in its memorandum and articles of association is the establishment and management of the higher educational institution.

(2) The Minister may prescribe minimum requirements and other related matters for the company to comply with and these requirements and matters are to be incorporated into the company's proposed memorandum of association.

Registration of private higher educational institution.

65. (1) Subject to the provisions of this Act, every private educational institution shall register under this Act within 5 years of the date of approval of application.

(2) If a private educational institution is not registered within the time specified in subsection (1), the approval granted for its establishment shall be deemed to have been withdrawn, unless an extension of time is granted in writing by the Minister.

Instrument of government of private educational institution.

66. (1) Subject to the provisions of this Act, every private educational institution shall have an instrument of government, and the educational institution shall be managed in accordance with the provisions of its instrument of government.

(2) Every instrument of government shall provide for the constitution of a board of governors, with a chairman, for the governance of the educational institution by the governors in a manner consistent with this Act and any regulations made thereunder.

(3) The constitution of a board of governors may make provision for the inclusion of a person nominated by the Minister to be on the board of governors.

(4) Every instrument of government shall be made, amended or revoked in such manner as may be prescribed by regulations.

Power to make regulations in relation to instruments of government.

67. Subject to section 66(2), the Minister shall, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by regulation regulate the methods of establishing a board of governors and the management of an educational institution and, without prejudice to the generality of such power, the Minister may, in the regulations, prescribe the powers and duties of the appointed governors and other persons thereof responsible for the management of such educational institution.

Power of Minister to appoint or remove additional governors.

68. (1) The Minister may appoint by name such additional governors of an educational institution as he may think fit if he is satisfied that —

(a) discipline in the educational institution is not being adequately maintained;

(b) the terms of the instrument of government of the educational institution are being disregarded; or

(c) any provisions of this Act or any regulations made thereunder are being disregarded.

(2) The Minister may, at his discretion, at any time remove an additional governor appointed under subsection (1).

(3) Where the Minister is satisfied that in an educational institution the board of governors —

(a) has been acting or proposing to act unreasonably with respect to the exercise of any power conferred or the discharge of any duty imposed by or under this Act; or

(b) has failed to discharge any duty imposed on it by or under this Act,

the Minister may —

(i) give such directions in writing as to the exercise of the power or the discharge of the duty of the board of governors; or

(ii) suspend or dismiss all or any of the governors.

(4) If at any time an educational institution is without a board of governors constituted under this Act, the Minister may appoint such person or persons as he may think fit to exercise the functions of the board of governors for such period as he may direct.

(5) Under this Act, the term “board of governors” means the group of persons elected or nominated to constitute the board and the term shall include any reference to the board of management of an educational

institution and any other terminology used for the purpose of describing the board of governors.

Appointment of head teachers or principals and teachers under instrument of government.

69. (1) Every teacher in a private educational institution shall be appointed in accordance with the instrument of government of such institution.

(2) Under its instrument of government, the board of governors of a private educational institution shall appoint a person to act as the head teacher or principal of the institution for the purpose of administering the school and who shall be given the authority to act in respect of the teachers, staff and pupils of the institution.

Application of section 64 to other private educational institutions.

70. (1) Where a private educational institution other than a private higher educational institution is to be established, the applicant, after approval under section 60(3)(b), may incorporate the educational institution as a limited company.

(2) In the event of incorporation under subsection (1), section 64 shall apply *mutatis mutandis*.

Cessation of private educational institutions.

71. (1) A private educational institution shall be deemed to have ceased its operations and its courses of studies if —

(a) the Minister withdraws his approval for its establishment under section 60(3)(c);

(b) the Registrar General cancels its registration under section 86(1);

(c) the board of governors has arrived at a decision to cease its operations;

(d) the limited company that established the educational institution has been wound up either —

(i) voluntarily by the board of directors; or

(ii) by an order of court; or

(e) the educational institution is forced to close down for any other reason.

(2) Where a private educational institution intends to cease its operations under subsection (1)(c) or (d)(i), it shall give at least one year's notice of this intention to the Registrar General.

(3) Where a private educational institution ceases to operate under subsection (1)(a), (b) or (d)(ii), it shall, within 21 days of receiving notice of the action taken under these paragraphs —

(a) give notice of its cessation to all pupils who are at the time attending courses within the institution by registered post; and

(b) publish notice of its cessation on at least 2 occasions in 2 newspapers circulating in Brunei Darussalam.

(4) Where a private educational institution ceases to operate under subsection (1)(e), the chief executive of that institution shall obtain directions from the Registrar General as to the method of announcing its cessation.

(5) If a private educational institution fails to comply with subsections (2) to (4), each member of the board of governors is guilty of an offence and liable on conviction to a fine not exceeding \$100,000.

Arrangement for continuation of pupils' education.

72. Upon the cessation of operations of a private educational institution, the board of governors shall —

(a) subject to paragraph (c), make such arrangements as it considers necessary so as not to prejudice or bring about a loss to the interest, welfare or intention of pupils in continuing their education;

(b) inform the Registrar General of the arrangements made under paragraph (a);

(c) obtain the approval of the Registrar General before the arrangements can be realised; and

(d) inform the Registrar General of the completion of the arrangements after they have been finalised.

Minister's powers in relation to courses of study or training programmes.

73. (1) A person, organisation or a private educational institution shall only conduct courses of study or training programmes which are conducted either independently or jointly, in association, affiliation or collaboration with another institute within or outside of Brunei Darussalam, with the Minister's approval in writing.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$30,000, imprisonment for a term not exceeding 2 years or both.

(3) The Minister's approval referred to in subsection (1) may be subject to such conditions as he considers necessary and to payment of the prescribed fee.

(4) A person in breach of any of the conditions imposed under subsection (3) or who defaults in payment of the prescribed fee is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

Power to make regulations for supervision and control of standard of education.

74. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for the supervision, regulation and control of the standard of education in private educational institutions.

PART VII

REGISTRATION OF EDUCATIONAL INSTITUTIONS,
GOVERNORS AND PUPILS**All educational institutions to be registered.**

75. (1) Subject to the other provisions of this Act, every educational institution shall be registered under this Act.

(2) An application for registration under subsection (1) shall be made to the Registrar General in the prescribed manner.

(3) The Registrar General may impose such conditions as he considers necessary when registering an educational institution under subsection (1).

Non-application of section 75.

76. Section 75 does not apply to government educational institutions established by the Minister.

Register.

77. The Registrar General shall keep or cause to be kept a register of educational institutions in such form and manner as may be prescribed.

Provisional certificate of registration.

78. (1) Pending consideration on an application made under section 75(2), the Registrar General may, in his discretion, issue to the person who is to act as the chairman of the board of governors or the person responsible for the management of the educational institution a provisional certificate of registration in such form and subject to such conditions as may be prescribed.

(2) A provisional certificate of registration issued under subsection (1) may at the discretion of the Registrar General be revoked at any time by notice in writing served on the person to whom the certificate was issued.

Registration.

79. (1) Without prejudice to section 78 and subject to sections 75(3) and 80, the Registrar General shall, upon an application for the registration of an educational institution duly made and after such inquiry as he may consider necessary, and upon payment of the prescribed fee, register the educational institution and issue to the chairman of the board of governors or to the person responsible for the management of the educational institution a certificate of registration.

(2) The chairman of the board of governors or any other person responsible for the management of the educational institution shall cause a copy of the certificate of registration issued under subsection (1) to be exhibited in a conspicuous part of the premises of the educational institution.

Conditions of registration.

80. (1) The Registrar General may, prior to registration, impose such conditions as he considers necessary.

(2) The Registrar General may, at any time, add new conditions, or amend or cancel any of the conditions attached to the registration.

Change of address of educational institution.

81. No educational institution shall change the address of its premises without the prior written approval of the Registrar General.

Alterations to educational institutions premises.

82. Subject to the provisions of any other written law, no educational institution shall make any alteration to its premises without the prior written approval of the Registrar General.

Refusal to register educational institution.

83. The Registrar General may refuse to register an educational institution if he is satisfied that any one or more of the following matters occur —

(a) the educational institution does not satisfy the prescribed standards of health and safety;

(b) educational institution is used or likely to be used for a purpose detrimental to the interests of Brunei Darussalam, the public or the pupils;

(c) the name under which the educational institution is to be registered is, in his opinion, undesirable;

(d) the existing educational facilities are already adequate in the area in which it is proposed to open the educational institution;

(e) the area in which it is proposed to open the educational institution is unsuitable for the purpose;

(f) a statement which was false or misleading in a material particular has been made in or in relation to the application for registration;

(g) the person applying for the registration of the educational institution fails or refuses to comply with any of the conditions imposed by the Registrar General under section 80;

(h) the person appointed to be the chairman of the board of governors, head teacher, principal or chief executive is not a fit and proper or responsible person to act as such; or

(i) the proposed fees for the pupils are unreasonable.

Notice of refusal to register educational institution.

84. (1) When the Registrar General refuses to register an educational institution under section 83, he shall inform the applicant in writing of the refusal, specifying the grounds of the refusal.

(2) An applicant aggrieved by the decision of the Registrar General under subsection (1) may, within 21 days of the communication being served on him, appeal to the Minister whose decision shall be final.

Prohibition on advertisement etc.

85. No person shall promote an educational institution, whether by advertisement, prospectus, brochure or otherwise, unless the educational institution has been registered or a provisional certificate of registration has been issued.

Grounds for cancellation of registration.

86. (1) The Registrar General may at any time cancel the registration of an educational institution if he is satisfied that it is expedient to do so on any of the following grounds —

(a) the occurrence of any of the matters specified in section 83(a);

(b) discipline in the educational institution is not being adequately maintained;

(c) the registration of the educational institution was made by mistake or due to any false or misleading statement;

(d) the chairman of the board of governors or any other person responsible for the management of the educational institution has made a false or misleading statement in a material particular in promoting the educational institution;

(e) there has been a breach of any condition imposed by the Registrar General under section 75(3);

(f) the educational institution has committed an offence under this Act or under any other written law;

(g) the educational institution is being used for a purpose that is in conflict with its constitution and objectives under its articles and memorandum of association and instrument of government;

(h) there is no chairman of the board of governors of the educational institution, or that the person appointed to be the chairman of the board of governors or to be head teacher or principal or chief executive is not a fit and proper person to act as such.

(2) Subject to subsection (1), the Registrar General may give a notice of his intention to cancel the registration of the educational institution specifying the grounds relied upon.

(3) Where a notice under subsection (2) is served on the chairman of the board of governors or the person responsible for the management of an educational institution, he may, within 21 days of the service of the notice on him, appeal to the Minister whose decision shall be final.

(4) The Registrar General may take steps to cancel the registration of an educational institution which has been given a notice under subsection (2) and, subject to any appeal to the Minister under subsection (3).

(5) Within 21 days of the cancellation of registration of an educational institution, the chairman of the board of governors or the person responsible for the management of the educational institution shall surrender to the Registrar General the certificate of registration of the educational institution and the instrument of government thereof, and the chairman and the governors shall surrender to the Registrar General their certificates of registration issued under this Act.

All governors to be registered.

87. (1) Every person who acts as a governor of an educational institution shall be registered as such by the Registrar General in respect of the educational institution.

(2) An application for registration as a governor shall be made in the prescribed form.

Registration of governors.

88. (1) Subject to section 89, the Registrar General shall, upon an application duly made and after such enquiry as he may think necessary, register a person as a governor of an educational institution and shall issue to him a certificate of registration in the prescribed form.

(2) The Registrar General may, in his discretion, issue to a person applying for registration as a governor or to a person required to act temporarily as a governor, a permit, in such form as may be prescribed, to act

in that capacity, and during the validity of the permit the person to whom it is issued shall be deemed to be registered as a governor under this Act.

(3) A permit issued under subsection (2) may be revoked by the Registrar General at any time and, in the case of a person applying for registration as a governor, shall cease to be valid upon the registration under this Act of the person to whom it was issued.

Grounds of refusal to register governor.

89. The Registrar General may refuse to register a person as a governor of an educational institution if —

(a) that person has been convicted of an offence and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$2,000;

(b) that person has, otherwise than by reason only of an educational institution having ceased to exist, been struck off any register established under this Act or under the provisions of any previous corresponding written law;

(c) that person has made a false or misleading statement in, or in connection with, his application for registration, or has intentionally suppressed any fact which is material to the application; or

(d) that person is under 25 years of age.

Notice of refusal to register governor.

90. When the Registrar General, under section 89, refuses to register a person as a governor of an educational institution, he shall inform the person in writing of the refusal specifying the grounds of the refusal.

Appeal against refusal to register governor.

91. Any person who is aggrieved by the refusal of the Registrar General to register him as a governor of an educational institution may, within 21 days of being informed of the refusal in accordance with section 90, appeal to the Minister whose decision shall be final.

Power of Registrar General to strike off governor from register.

92. The Registrar General may strike off a governor from the register —

(a) on the ground specified in section 89(a);

(b) if it appears to the Registrar General that he is a person who ought not, in the interests of Brunei Darussalam, the public or any person, to remain as a governor; or

(c) if he has obtained his registration in consequence of a mistake or due to any false or misleading statement furnished in or in connection with his application for registration.

Governors struck off register to be notified.

93. When a governor has been struck off the register under section 92 or 94(2), the Registrar General shall forthwith inform him in writing that he has been so struck off and of the grounds thereof.

Retirement of governors.

94. (1) Upon the retirement or cessation of a person to act as a governor of an educational institution, the chairman of the board of governors of that educational institution or any person authorised by him in that behalf shall, within 21 days of the retirement or cessation, report such fact to the Registrar General in writing.

(2) The Registrar General, upon receiving a report under subsection (1), shall forthwith strike off the governor from the register.

Appeal against striking off from register.

95. A governor struck off the register under section 92 or 92(2) may, within 21 days of the notice being served upon him in accordance with section 93, appeal to the Minister whose decision shall be final.

Surrender of certificate of registration.

96. Any person who has been struck off the register shall, within 21 days of the service of the notice under section 93 or after the determination by the

Minister of any appeal in favour of the Registrar General, surrender to the Registrar General the certificate of registration issued to him under this Act or any previous written law relating to the registration of governors of an educational institution.

Registration of pupils.

97. The governors, head teacher, principal or other person responsible for the management of an educational institution shall keep or cause to be kept, in such manner as may be prescribed, a register containing the prescribed particulars with respect to all pupils at the educational institution.

PART VIII

REGISTRATION OF TEACHERS

Teachers to be registered.

98. Every person who teaches in an educational institution as a teacher shall be registered as such.

Exemption.

99. Section 98 does not apply to —

(a) persons appointed by the Public Service Commission to act as teachers; and

(b) persons being trained as student teachers in educational institutions established by and under the direct control of the Minister.

Register of teachers and power of Registrar General to strike off teacher from register.

100. (1) The Registrar General shall keep or cause to be kept, in such form as may be prescribed, a register of teachers in which shall be entered such particulars as may be prescribed.

(2) The Registrar General may strike off a teacher from the register upon revocation of his registration under section 106(3).

Application for registration as teacher.

101. An application for registration as a teacher shall be made to the Registrar General in such form and manner as may be prescribed.

Power of Registrar General to refuse to register a person as teacher.

102. The Registrar General may refuse to register any person as a teacher under this Act if he is satisfied that the person —

(a) is under the age of 18 years;

(b) has no qualifications to teach or has qualifications which in the opinion of the Registrar General are inadequate for the purpose;

(c) has made a statement which is false or misleading in, or in connection with, his application for registration, or has intentionally suppressed any fact which is material to the application;

(d) suffers from some physical or mental illness or disease rendering him, in the opinion of the Registrar General, unsuitable to be a teacher;

(e) has been convicted of any offence and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$2,000;

(f) is not a fit and proper person to be registered as a teacher; or

(g) has not complied with the prescribed procedure for application under any regulations relating to the registration of teachers.

Notice of refusal to register person as teacher.

103. When the Registrar General refuses to register a person under section 102, he shall inform that person in writing of the refusal, specifying the grounds of the refusal.

Appeal against refusal to register person as teacher.

104. A person aggrieved by the refusal of the Registrar General to register him as a teacher may, within 21 days of the notice being served upon him in accordance with section 103, appeal to the Minister whose decision shall be final.

Registration of teachers.

105. (1) Subject to sections 103 and 104, the Registrar General shall, upon an application for registration under this Part and after such inquiry as he may consider necessary and upon payment of such fee as may be prescribed, register the applicant and issue to him in the prescribed manner a certificate of registration as a teacher.

(2) The Registrar General may impose such conditions as he thinks fit when registering an applicant under subsection (1) and may at any time revoke or alter the conditions.

Revocation of registration after notice.

106. (1) The Registrar General may serve on a registered teacher a notice of intention to revoke his registration, specifying the grounds of the intention, if the Registrar General is satisfied that —

(a) it is expedient to do so on any of the grounds set out in sections 102(c) to (e) ;

(b) the registered teacher has committed a breach of or has failed to comply with any condition imposed under section 105(2);

(c) the registration of the teacher was obtained in consequence of a mistake or due to any false or misleading statement in connection with his application for registration; or

(d) there are reasonable grounds to believe that the continued registration of the teacher will be prejudicial to the interests of an educational institution or the pupils.

(2) A teacher upon whom a notice pursuant to subsection (1) is served may, within 21 days of the notice being served upon him, appeal to the Minister whose decision shall be final.

(3) If no appeal is made within the period specified in subsection (2) or if an appeal having been made is rejected by the Minister, the Registrar General shall forthwith revoke the registration and serve on the teacher a notice informing him that the registration has been revoked and specifying the grounds of the revocation.

Power of Minister to establish advisory body relating to registration of teachers.

107. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, establish an advisory body for the purpose of advising the Registrar General on the suitability of persons to be registered or to continue to be registered as teachers.

Issue of permits to teach.

108. (1) The Registrar General may issue a permit to teach to the following persons, not being registered teachers —

(a) a student teacher in a private educational institution;

(b) a person who has applied for registration as a teacher and whose application is pending; or

(c) a person who is needed to act temporarily as a teacher.

(2) An application form for a permit to teach shall be in such form and subject to such conditions as may be prescribed.

(3) The Registrar General may, at any time, revoke a permit to teach by giving notice in writing to the holder of the permit.

Surrender of certificates of registration as teacher or permit to teach.

109. A certificate of registration as a teacher issued under section 105(1) or a permit to teach issued under section 108 shall be surrendered by the person to whom it was issued or by the person in whose possession it is, to the Registrar General within 21 days of —

(a) the revocation of the certificate or permit;

- (b) that person ceasing to teach in an educational institution for a continuous period exceeding 2 years or the death of that person;
- (c) a written demand by the Registrar General for the purpose of amendment, endorsement or replacement; or
- (d) the expiration of a permit's period of validity.

Duty of teacher to notify change of educational institution.

110. Every registered teacher shall within 14 days of commencing or ceasing to teach in an educational institution report in writing to the Registrar General the name of the educational institution in which he is teaching or has ceased to teach and the date on which he so commenced teaching or ceased to teach.

PART IX

INSPECTION OF EDUCATIONAL INSTITUTIONS

Registrar General to inspect or cause to be inspected educational institutions.

111. The Registrar General shall, from time to time, inspect or cause to be inspected an educational institutions registered under this Act for the purpose of ascertaining that this Act and the regulations made thereunder have been and are being complied with.

Powers of Registrar General on inspection of registered educational institutions.

- 112.** (1) Pursuant to section 111, the Registrar General may —
- (a) enter any premises and examine such book, document, electronic media material or other article as he may consider necessary; and
 - (b) remove and detain any book, document, electronic media material or other article which appears to him to be detrimental to the

interests of the public or the pupils or which, in his opinion, may furnish evidence of the commission of an offence against this Act.

(2) The Registrar General at any time whilst lawfully carrying out any inspection of an educational institution under this Act may require any person, being a member of the board of governors, an employee, a principal or head teacher, a teacher or a pupil of the educational institution, to produce for his inspection any book, document, electronic media material or other article relating to the management of, or to the teaching carried on in, the educational institution which is in that person's possession or under his control or within his power to furnish.

Inspection of premises of unregistered educational institutions.

113. Where the Registrar General, a public officer authorised in writing by the Registrar General in that behalf or a police officer not below the rank of Inspector has reasonable cause to believe that any house, building or other place is being used as an educational institution without being registered under this Act, the Registrar General, public officer or police officer, accompanied by such persons as he may consider necessary, may —

(a) enter and inspect the house, building or place; and

(b) seize and detain any book, document, electronic media material or other article found therein which appears to him to furnish evidence of the commission of an offence against this Act or which appears to be the property of, or to have been used in connection with, an educational institution not registered under this Act.

Power to close unregistered educational institution.

114. (1) Where the Registrar General, a public officer authorised in writing by the Registrar General in that behalf or a police officer not below the rank of Inspector has reasonable cause to believe that any house, building or other place is being used as an educational institution without being registered under this Act, the Registrar General, public officer or police officer, accompanied by such persons as he may consider necessary may, without prejudice to the exercise of the powers conferred under section 111, 112 or 113, forthwith take such steps as he may consider necessary or by any other lawful means to close the educational institution.

(2) Any action taken under subsection (1) in respect of any house, building or other place shall not prohibit the prosecution of any person for using such house, building or place as an educational institution without its being registered under this Act.

PART X

INSPECTORATE OF SCHOOLS

Duties of Director of Schools' Inspectorate.

115. The Director of Schools' Inspectorate shall —

(a) be responsible, in collaboration with such authority as the Minister may appoint, for ensuring that an adequate standard of teaching is developed and maintained in educational institutions;

(b) inspect educational institutions or cause educational institutions to be inspected by an Inspector at such intervals as he shall consider appropriate; and

(c) undertake such other duties in relation to the inspection of educational institution as the Minister may direct or as may be prescribed.

Advisory powers of Director.

116. The Director may give advice to the governors, head teachers, principals or any other person responsible for the management of an educational institution and to teachers, on matters relating to teaching and teaching methods.

Restriction on issue of orders by Director.

117. The Director shall not, except to such extent as he may be authorised by any regulations made under this Act, issue any order or direction to the governors or any other person responsible for the management of an educational institution.

Reports by Director.

118. (1) The Director shall submit to the Minister a report on every educational institution inspected pursuant to section 115, and where the report is made by an Inspector, he shall endorse thereon such comments as he may consider appropriate.

(2) A report on an educational institution submitted under subsection (1) shall be a confidential document but may, at the discretion of the Minister, be made available by the Director to the persons responsible for the administration of the educational institution, any teacher therein and any other person who, in the opinion of the Minister, has a reasonable interest in the institution, and the report so made available may be made available in part or in its entirety.

General powers of Inspectors of Schools.

119. For the purpose of making any inspection of an educational institution under section 115, the Director or an Inspector may —

(a) at any time enter an educational institution; and

(b) require the chairman of the board of governors, a governor, principal, head teacher, teacher or pupil of the educational institution or any other person found in the educational institution —

(i) to produce for his inspection any timetable, syllabus or record pertaining to subjects taught or to be taught or any book, material, document or other article relating to or which in the opinion of the Inspector may relate to the teaching carried on in the educational institution or the management of the educational institution; and

(ii) to furnish the Inspector with such information relating to the teaching in, or the organisation of, the educational institution as the Inspector may demand, and which it is within the power of the chairman, governor, principal, head teacher, teacher, pupil or other person to furnish.

Director may authorise District Education Officers to act on his behalf.

120. The Director may authorise in writing a District Education Officer appointed under section 7 to act on his behalf in exercising his powers or carrying out his duties under this Act.

PART XI

FINANCE

Saving relating to Minister.

121. Except in so far as monies are approved or provided for the purpose of establishing and maintaining any government educational institution by the government, nothing in this Act shall impose any duty upon the Minister to establish and maintain any educational institution under this Act either wholly or partially.

Accounts of private educational institution to be audited annually.

122. It shall be the responsibility of the board of governors of an educational institution to ensure that there shall be an annual auditing of the accounts of the educational institution by an accredited auditor appointed by the board for such a purpose, and a copy of the auditor's report shall forthwith be submitted by the board to the Registrar General.

PART XII

APPEALS

Minister to decide on appeals after investigations.

123. (1) On an appeal being made to the Minister under this Act from a decision of the Registrar General, the Minister shall either —

(a) allow the appeal; or

(b) establish a Committee of Enquiry consisting of such persons as he shall consider suitable (including one legally-qualified person

recommended by the Attorney General) to investigate the facts and to submit a report to the Minister thereon.

(2) Upon due consideration of the report submitted by the Committee of Enquiry under subsection (1), the Minister shall allow or disallow the appeal or make such other order thereon as he thinks appropriate.

(3) The decision of the Minister on any appeal shall be final.

Powers of Committee of Enquiry.

124. Subject to section 123 and any regulations made under this Act, a Committee of Enquiry shall have the power to —

(a) procure and receive all such evidence, written or oral, and to examine all such persons (including the appellant) as the Committee of Enquiry may consider desirable;

(b) require the evidence of any person to be given on oath or by statutory declaration;

(c) summon any person (including the appellant) to attend and give evidence subject to the provisions of any other written law;

(d) admit any evidence, written or oral, notwithstanding that it would be inadmissible in civil or criminal proceedings;

(e) exclude the public from any investigation or any part thereof; and

(f) receive evidence in the absence of the appellant if the Committee of Enquiry considers it in the public interest to do so.

Evidence received in absence of appellant.

125. Where evidence is received in the absence of the appellant under section 124(f), the Committee of Enquiry shall communicate to the appellant the substance of the evidence so far as it may be compatible with public interest to do so and shall in every such case include in the report to the Minister a statement of the circumstances in which the evidence was received.

No appearance by advocate and solicitor before Committee of Enquiry.

126. Notwithstanding anything to the contrary in any written law, no advocate or solicitor shall be allowed to appear in any proceedings before the Committee of Enquiry.

Evidence before Committee of Enquiry.

127. (1) No person required to give evidence before a Committee of Enquiry shall be obliged to disclose the name or address of any person who has given information in confidence to a public officer in relation to any facts which are the subject of investigation nor shall that person be obliged to state any matter which in his opinion might lead to the discovery of the person who has given the information.

(2) No person required under section 124 to give evidence shall be obliged to give any evidence which has the possibility of incriminating him.

PART XIII

REGULATIONS

Power of Minister to make regulations.

128. (1) Without prejudice to the power conferred upon him to make regulations under any other provision of this Act, the Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations for the purpose of giving effect to or carrying out the provisions of this Act.

(2) Subject to subsection (1), the Minister may make regulations in respect of all or any of the following matters —

(a) the admission of pupils to educational institutions, the keeping of registers of pupils in the educational institutions, the age limits and conditions under which pupils may be retained in the educational institution or in any class in the educational institution;

(b) the duration of terms of educational institutions, the days on which and the hours during which pupils shall attend the educational

institutions and the days which shall be observed as holidays by all educational institutions or class of educational institutions;

(c) the establishment and management of educational institutions, and the duties of governors or other persons responsible for the management of the educational institutions;

(d) the form in which any register for the registration of educational institutions or governors shall be kept or maintained and the procedure for the issue of extracts therefrom;

(e) the procedure to be followed and fees considered appropriate to be levied on an application for registration under this Act or in respect of any certificate, permit or any other document issued under this Act;

(f) the procedure to be followed for the amendment of certificates of registration or permits issued under this Act and the replacement of certificates or permits which are lost or defaced;

(g) discipline in educational institutions and any activity of pupils, whether in an educational institution or not, which in the opinion of the Minister may have an effect on the discipline of an educational institution;

(h) the National Curriculum, including subjects and matters on which instruction may or shall be given in an educational institution and the times to be devoted to the study of each subject taught in that educational institution;

(i) the establishment, organisation, management, control and dissolution of associations of pupils, or pupils and teachers, or teachers and parents whether within an educational institution or not, and regulations made under this paragraph may provide for an association of teachers and parents to include any person other than the teachers or parents of the pupils of the educational institution concerned;

(j) the books, materials and apparatus to be used in educational institutions, and the methods of purchase of the books, materials and apparatus;

(k) the prohibition of the use in an educational institution or any specified class of educational institutions of any book or material, the use of which appears undesirable;

(l) the prohibition of the use or delivery to any pupil by a distance education centre or the supply, import or sale for use or delivery by a distance education centre of any material, book, lesson, instruction or other matter printed or written or otherwise, the use of which by the distance education centre appears undesirable;

(m) the keeping of books of account and the audit of accounts in educational institutions in receipt of grants;

(n) the standards, including standards of health and safety, and uses to which the premises of educational institutions shall conform, and prescribing different standards and uses for such descriptions of educational institutions as may be specified in the regulations;

(o) the registration of pupils in educational institutions, the inspection of the registers of such pupils, the taking of extracts from the registers for the purposes of this Act by persons duly authorised in that behalf under the regulations, and the provision to such authority as may be prescribed by regulations, of returns as to the contents of the registers as may be expedient, by the persons who are required to keep such registers;

(p) the form in which the register of teachers kept under section 100 shall be kept, and the procedure for the issue of certified copies of entries made therein;

(q) the procedure to be followed for endorsement or amendment of certificates of registration as a teacher issued under section 105, and for the replacement of lost or defaced certificates or permits to teach;

(r) the procedure to be followed and the consequences which shall ensue on the revocation of a certificate of registration as a teacher issued under section 105 or of a permit to teach;

(s) any fees considered appropriate to be levied on an application for registration as a teacher under, or on the issue of a

certificate or a permit to teach or otherwise in regard to any matter mentioned in Part VIII;

(*t*) technical and vocational education;

(*u*) the practice and procedure to be followed in connection with an investigation made by a Committee of Enquiry established under section 123(1)(*b*);

(*v*) the manner in which appeals shall be made to the Minister from decisions of the Registrar General and the fees to be paid in respect of an appeal;

(*w*) the establishment, organisation, management, control and dissolution of any sports council, body or committee at the educational institution, and of educational institutions at the district or national level;

(*x*) the provision of extension education in educational institutions established and maintained by the Minister under this Act;

(*y*) the circulation by a pupil or pupils, whether within an educational institution or not, of any multi-media material, magazine, pamphlet or printed or written matter of a like nature;

(*z*) the determination of approved fees to be charged in respect of attendance at educational institutions and the payment or remission of the fees;

(*za*) the manner of transferring or vesting any property transferred or vested under this Act and the manner of registering a title to the property;

(*zb*) any fees considered appropriate to be levied in respect of any matter provided for under this Act;

(*zc*) the forms which may be used for carrying out the provisions of this Act and which may be used in connection with any matter stated or required in this Act to be prescribed by the Minister; and

(*zd*) any other matter which the Minister considers expedient or necessary for carrying out and giving effect to any of the provisions of this Act.

PART XIV

OFFENCES AND PENALTIES

Offences and penalties relating to registration of educational institutions.

129. (1) Any person who, being a chairman of a board of governors, a governor or any other person responsible for the management of an educational institution, makes a false or misleading statement in promoting the educational institution is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 5 years or both.

(2) Any person who —

(a) on making an application under this Act for the registration of an educational institution or for registration as a governor, makes any statement which he knows to be false or does not believe to be true, or intentionally suppresses any material fact, or furnishes any information which is misleading;

(b) obstructs or impedes the Registrar General, a public officer or a police officer in the exercise of any power conferred upon him by section 112, 113 or 114;

(c) refuses to produce any book, document, electronic media material or other article, or refuses to furnish information in contravention of section 112(2) or furnishes any information which he knows to be false or does not believe to be true;

(d) being a person required to be registered as a governor under section 87, acts as a governor without being so registered;

(e) being a governor or person responsible for the management of an educational institution, causes or permits any person to act as governor or the person responsible for the management of the educational institution without being registered under this Act;

(f) acts as a governor of an educational institution which is not registered under this Act; or

(g) being the chairman of a board of governors, a governor or the person responsible for the management of an educational institution, has failed to prevent the educational institution from being used for any activity or purpose of an unlawful nature, or for any activity or purpose of an unlawful organisation, society or other body of persons,

is guilty of an offence and liable on conviction to a fine not exceeding \$30,000, imprisonment for a term not exceeding 2 years or both.

(3) Any person who —

(a) being the chairman of a board of governors or being the person responsible for the management of an educational institution, fails to cause a copy of the certificate of registration of the educational institution to be exhibited in accordance with section 79(2);

(b) fails to surrender to the Registrar General any certificate of registration or instrument of government under section 86(5) or 96;

(c) being the chairman of the board of governors of an educational institution, contravenes section 94(1); or

(d) being the owner or occupier of any premises and having reasonable cause to believe that the premises or any part thereof is being used as an educational institution which is required to be registered under this Act but is not so registered, fails to take all reasonable steps to prevent such use,

is guilty of an offence and liable on conviction to a fine not exceeding \$5,000.

Offences and penalties relating to registration of teachers.

130. (1) Any person who, in making an application for registration as a teacher or otherwise for the purpose of inducing the Registrar General to exercise or refrain from exercising any power under this Act, makes any statement which he knows to be false or does not believe to be true or intentionally suppresses any material fact or furnishes any information which is misleading, is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding one year or both.

(2) Any person who —

(a) acts as a teacher in an educational institution without being registered as such, in contravention of section 98;

(b) causes, permits or employs to act as a teacher a person who is not registered as such under section 98;

(c) acts as a teacher in an unregistered educational institution;

(d) being a registered teacher, teaches in an educational institution in contravention of any condition imposed under section 105(2), or being the holder of a permit to teach issued under section 108 teaches in an educational institution in contravention of any condition imposed by the permit;

(e) causes, permits or employs a registered teacher to teach in an educational institution in contravention of any condition imposed under section 105(2), or causes, permits or employs the holder of a permit to teach issued under section 108 to teach otherwise than in accordance with the conditions imposed by the permit;

(f) fails to surrender a certificate or permit in accordance with section 109; or

(g) being a registered teacher, fails to report to the Registrar General in accordance with section 110,

is guilty of an offence and liable on conviction of an offence against paragraph (b) or (e) to a fine not exceeding \$10,000, and on conviction of an offence against paragraph (a), (c), (d), (f) or (g) to a fine not exceeding \$5,000.

Offences and penalties relating to Inspectors.

131. Any person who —

(a) obstructs or impedes the Director or an Inspector, in the exercise of any power conferred by section 115;

(b) refuses to produce any timetable, syllabus, record, book, material, document or other article, or to furnish any information, in contravention of section 119(b); or

(c) furnishes any information under section 119(b) which is false in any material particular or which he knows to be false or does not believe to be true,

is guilty of an offence and liable on conviction to a fine not exceeding \$30,000, imprisonment for a term not exceeding 2 years or both.

General penalty.

132. (1) Any person who is guilty of an offence against this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 6 months or both.

(2) Any person who is guilty of an offence against this Act shall be liable on conviction, in the case of a continuing offence, in addition to any other penalty to which he is liable under this Act in respect of that offence, to a fine not exceeding \$500 per day for each day the offence continues.

Power to investigate.

133. (1) The Registrar General, a public officer authorised by the Registrar General in that behalf in writing or a police officer not below the rank of Inspector shall have the power to investigate in respect of the commission of any offence against this Act or any regulations made thereunder.

(2) The Registrar General, a public officer authorised by the Registrar General in that behalf in writing or a police officer not below the rank of Inspector shall, in relation to any investigation in respect of an offence against this Act or any regulations made thereunder, have all the powers of a police officer under the Criminal Procedure Code (Chapter 7) in relation to a police investigation, except that the power to arrest without warrant in any seizable offence shall not be exercised by the Registrar General or the public officer authorised by him in that behalf in writing.

Power to enter without warrant.

134. Without prejudice to section 133, where the Registrar General, a public officer authorised by the Registrar General in that behalf in writing or a police officer not below the rank of Inspector has reasonable grounds for

believing that the object of any search to be conducted on any premises for the purposes of this Act is likely to be frustrated by reason of any delay in obtaining a search warrant under the Criminal Procedure Code (Chapter 7), he may, without the warrant, enter the premises for such purposes by the use of only such force as may be necessary.

Power to compound offences.

135. (1) The Registrar General may, in a case where he considers it fit and proper to do so, and with the written consent of the Public Prosecutor, compound any offence committed by a person which is punishable under this Act (except an offence against section 36 or 129(1)) or any regulations made under this Act, by making a written offer to that person to compound the offence on payment to the Registrar General, within such time as may be specified in the offer, of such sum of money, as may be so specified, which shall not exceed 50 per centum of the amount of the maximum fine to which that person would have been liable if he had been convicted of the offence.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or within such extended period as the Registrar General may grant, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer was made.

(3) Where an offence has been compounded under subsection (1) —

(a) no prosecution shall thereafter be instituted in respect of that offence against the person to whom the offer to compound was made; and

(b) any goods, things or other articles seized in connection with the offence shall be released immediately.

PART XV

GENERAL

Delegation of power.

136. The Minister may delegate all or any of his powers (except his powers under this section) to any person or group of persons by name or by office on the condition that any delegation of power shall not prejudice the right of the Minister to exercise those powers himself.

Officers deemed to be public servants.

137. Every person appointed, or lawfully exercising the powers of a person appointed, under Part II, shall be deemed to be a public servant for the purposes of the Penal Code (Chapter 22).

Requirements as to premises.

138. (1) A governor or any other person responsible for the management of an educational institution shall ensure that the premises of the educational institution conform to such standards as may be prescribed for educational institutions of the description to which the educational institution belongs.

(2) If the Minister is satisfied with respect to an educational institution that, having regard to the nature of the site or to an existing building thereof or to other special circumstances affecting the premises, it would be unreasonable in that case to require conformity with the prescribed standards referred to in subsection (1) in any particular respect, he may direct that the premises shall be deemed to conform to the prescribed standards if *in lieu* of conforming to the prescribed standards the premises conform to such other requirements as may be specified in the direction.

Special Committee.

139. Notwithstanding any other provision in this Act, the Minister may establish a special committee consisting of such persons as the Minister may appoint in respect of —

(a) any particular educational institution or class of educational institutions; or

(b) educational matter or project,

for the purpose of advising him on matters relating thereto, and may in his discretion confer on that committee all or any of the powers conferred on a Committee of Enquiry by section 124.

Service of notices etc.

140. Any notice, order or communication which is required to be, or which may be, sent to or served on —

(a) the chairman of a board of governors, a governor or any other person responsible for the management of an educational institution registered under this Act, may be served by letter addressed to him at the registered address of the educational institution or may be served by affixing the notice, order or communication on a conspicuous part of the premises of the educational institution;

(b) any person applying for the registration of an educational institution or for registration as a teacher or a governor, may be served by letter addressed to him at the address stated in his application form;

(c) a registered teacher, may be served by letter addressed to him at the educational institution or address last reported to the Registrar General under section 110;

(d) the holder of a permit to teach issued under section 108(1) may be served by letter addressed to him at the educational institution in respect of which the permit was issued; and

(e) any person other than the persons specified in paragraph (a) to (d), may be served by letter addressed to him at his last known place of residence.

PART XVI

TRANSITIONAL

Saving in respect of certain exempted educational institutions etc.

141. Until such date as the Minister may appoint by notification in the *Gazette*, all educational institutions exempted from the provisions of the Education (Non-Government Schools) Act (Chapter 55) (repealed by the Education Order, 2003 (S 59/03)) by section 3 of that Act shall be exempted from the corresponding provisions of this Act.

Saving in respect of registered schools, governor or manager.

142. Any schools, governor or manager registered or deemed to be registered under the provisions of the Education (Non-Government Schools) Act (Chapter 55) (repealed by the Education Order, 2003 (S 59/03)) shall within 6 months of the commencement of this Act, be required to register under this Act.

References to governor or board of governors to include manager and board of directors.

143. References in this Act to a governor shall include references to a manager registered under the Education (Non-Government Schools) Act (Chapter 55) (repealed by the Education Order, 2003 (S 59/03)) and references to a board of governors shall include references to a board of directors registered under the Act.