

STATE OF SABAH

BAITULMAL CORPORATION ENACTMENT 1998

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SECOND SCHEDULE

I assent,

TUN DATUK SERI PANGLIMA HAJI SAKARAN BIN DANDAI,
Yang di-Pertua Negeri.

29TH DECEMBER, 1998.

No. 11 of 1998

An Enactment to provide for the establishment, organisation and administration of Baitulmal and for matters relating thereto.

ENACTED by the Legislature of the State of Sabah as follows:

PART I
PRELIMINARY

Citation and commencement.

1. This Enactment may be cited as Baitulmal Corporation Enactment 1998 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.
[04.01.2002]

Interpretation.

2. In this Enactment, unless the context otherwise requires -

"appointed date" means the date appointed by the Minister under section 1 for the coming into force of this Enactment;

"Corporation" means the Baitulmal Corporation established under section 3;

"Fund" means the Baitulmal Fund established under section 20;

"*Hukum Syarak*" means Islamic Law in any of the valid *Mazhab* with emphasis on *Mazhab Syafie*;

"Majlis" means the Majlis Ugama Islam Sabah established under the Administration of Islamic Law Enactment 1992 [En. No. 13/1992];

"member" includes the Chairman and Deputy Chairman;

"Minister" means the Minister charged with the responsibility relating to the affairs of Islamic Religion in the State of Sabah;

"Syura" means discussion in order to reach at final decision.

PART II BAITULMAL CORPORATION

Establishment of Baitulmal Corporation.

3. There shall be established a corporation called "Baitulmal Corporation, State of Sabah" which shall be a body corporate with perpetual succession, capable of suing and being sued in its corporate name and with power to purchase or otherwise acquire, hold and exchange or alienate or otherwise deal with in any lawful manner whatsoever, any property movable and immovable, and to enter into contracts and generally to do such acts and things as a body corporate may do by law and as are necessary for, or incidental to, the carrying out of its objects and the exercise of its powers as set out in this Enactment.

Composition of the Corporation.

4. (1) The Corporation shall consist of the following members :
- (a) a Chairman;
 - (b) a Deputy Chairman;
 - (c) the Mufti Kerajaan;
 - (d) a representative from the Ministry of Finance and State Attorney-General's Chambers representing the State Government;

- (e) not more than three members who shall be persons having knowledge of or experience or interest in commerce, industry, finance or related matters;
- (f) one member representing the Majlis; and
- (g) the person who for the time being holding the office of General Manager of the Corporation:

Provided that the General Manager shall not be entitled to vote at the meeting of the Corporation.

(2) The members specified in paragraphs (a), (b), (d), (e) and (f) of subsection (1) shall be appointed by the Yang di-Pertua Negeri on the advice of the Minister and the Majlis.

(3) A member appointed by the Yang di-Pertua Negeri may resign his office at any time by letter addressed to the Yang di-Pertua Negeri.

(4) The appointment of a member may at any time be revoked by the Yang di-Pertua Negeri without assigning any reason therefor or without giving an opportunity of being heard.

(5) Subject to such conditions as may be specified in his instrument of appointment, a member appointed by the Yang di-Pertua Negeri shall, unless he sooner resigns or his appointment is revoked, hold office for a term not exceeding three years and shall on ceasing to be a member, be eligible for reappointment.

Remuneration and allowance.

5. There shall be paid to the members, or to such of them as the Minister may determine, such salaries, fees and allowances out of the funds of the Corporation as the Cabinet may from time to time approve.

Power of Minister to give direction to the corporation.

6. (1) The Minister may, on the advice of the Majlis give to the Corporation any direction of a general or specific in nature which does not conflict with *Hukum Syarak* and the

provisions of this Enactment relating to the exercise and the performance of the functions of the Corporation and the Corporation shall give effect to such direction so given.

(2) The Corporation shall furnish to the Minister and the Majlis statement of accounts and other information with respect to the property and activities of the Corporation as and when required by the Minister or the Majlis from time to time.

Meeting of the corporation.

7. (1) In the absence of the Chairman in any of the meetings of the Corporation, the Deputy Chairman shall preside thereat and if the Deputy Chairman is not present one member elected by the members who are present shall preside thereat.

(2) All decisions of the meeting shall be made by *Syura*.

(3) The First Schedule shall apply to the Corporation.

Non-liability of members of the Corporation.

8. A member of the Corporation or any committee thereof shall not be responsible for any loss or damage as a result of any act or omission in the administration of the affairs of the Corporation except for loss or damage caused by any act or omission done wrongfully with knowledge on his part.

Functions of the Corporation.

9. It shall be the functions of the Corporation -

(a) to collect and administer funds or property, moveable or immovable, in accordance with –

(i) the provisions of this Enactment; and

(ii) *Hukum Syarak*; and

(b) to be responsible for the management of all affairs relating to *nazar* property.

Duties and powers of the Corporation.

10. (1) It shall be the duty of the Corporation to expend or defray any money or property received by it to develop, encourage, facilitate and maintain the economic, social and welfare development of the Muslims in the State of Sabah in accordance with *Hukum Syarak*.

- (2) (a) For the purpose of subsection (1), there shall be established appropriate committees to supervise the management of the affairs of the Corporation to ensure that it does not involve matters contrary to *Hukum Syarak*.
- (b) The Corporation shall make rules relating to the committees established under subsection (1).

(3) The Corporation shall have power –

- (a) (i) to carry out and implement any policy formulated by the Majlis;
- (ii) to manage and to deal with the estate of any deceased Muslim;
- (iii) *[Deleted by En. 10/2018];*
- (iv) to plan for and implement any economic or welfare project with respect to the property or the accrued funds of Baitulmal;
- (v) to receive, deal with and utilise any property or trust money, alms, gift, donation, reserve, loan and such a like;
- (vi) to distribute, expend, utilise or by whatever means, defray money of Baitulmal in accordance with the approval given by the Majlis; and
- (vii) to do any other matters relating to the affairs of Baitulmal;

Estate

- (b) (i) to inquire about the heirs of any deceased;
- (ii) to make distribution by means of *faraidh* to the heirs of the deceased;

- (iii) to inquire about the property reserved to Baitulmal being the proceeds of the balance from the distribution of estate;
- (iv) to manage and deal with redemption of property by the heirs or *zawil arham*;
- (v) to plan for project, to expand and to enhance the property of Baitulmal;
- (vi) to inquire about any heirless property and any property not claimed by any heir;

(c) [*Deleted by En. 10/2018*]

Responsibility

- (d) (i) to collect and to compile from time to time information in respect of the development of investment in shares wherein Baitulmal may invest;
- (ii) to prepare any report and proposal on investment in shares for action by the Corporation or the Baitulmal Committee;
- (iii) to keep an up-to-date record on the movement of the affected shares;
- (iv) to obtain information on and to search out sources of offer for sale of any land or building;
- (v) to prepare any working paper on the purchase of land, building and other property;
- (vi) to plan for project on property which has been purchased, particularly land;
- (vii) to carry out work of supervision and superintendence such as maintenance, leasing and such like of the property, land and building purchased by Baitulmal;

(e) [Deleted by En.10/2018]

Expenditure to be charged on Baitulmal.

11. The Baitulmal Fund may be expended according to *Hukum Syarak* for the purposes as follows :

Specific Expenses Account –

- (a) to defray expenses validly expended by the Corporation in the performance of its functions under this Enactment including, the payment of remuneration, allowance, pension and gratuity to the officers and servants of the Corporation; and

General Expenses Account

- (b) to pay for general expenses approved by *Hukum Syarak*.

Power to establish subsidiary of the Corporation.

12. (1) The Corporation may, with the approval of the Minister, establish any subsidiary of the Corporation to perform any of its duties or to carry out any of its powers under this Enactment.

(2) The Corporation may, with the approval of the Minister and on the advice of the Majlis, make regulations in respect of such subsidiary of the Corporation established under subsection (1) defining -

- (a) the responsibilities, powers and the rights of the subsidiary of the Corporation;
- (b) the system of management of the subsidiary of the Corporation; and
- (c) the relationship between the Corporation and the subsidiary of the Corporation.

(3) The provisions of the Second Schedule shall apply to every subsidiary of the Corporation established by the Corporation under subsection (1).

13. [Omitted].

ART III
ADMINISTRATION

Appointment of General Manager.

14. (1) The Corporation shall, with the approval of the Minister, appoint a General Manager of the Corporation.

(2) The General Manager shall be the Chief Executive Officer of the Corporation and shall be responsible to the Corporation and shall perform such duties and exercise such powers as may be determined or delegated to him by the Corporation.

Appointment of officers and servants of the Corporation.

15. (1) The Corporation may appoint such number of officers and servants as may be necessary to carry out its functions and duties under this Enactment.

(2) Officers and servants of the Corporation shall be under the administrative control of the General Manager.

(3) Officers and servants of the Corporation shall hold office for such period as may be specified by the Corporation with the approval of the Majlis and be subject to the conditions of service as may be determined by the Majlis.

(4) The Corporation may make rules relating to the appointment, conduct and discipline of its officers and servants.

Disqualification for appointment.

16. (1) No officer or servant shall be eligible for appointment as an officer or servant of the Corporation who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, for or on behalf of the Corporation.

(2) An officer or servant of the Corporation who has or acquires such share or interest shall be liable in the discretion of the Corporation to summary dismissal without notice.

(3) If an officer or servant of the Corporation, at the time of his appointment as officer or servant of the Corporation, already had in his possession or control any share or interest relating to any property which is included, subsequent to his appointment as an officer or servant of the Corporation, in any contract or any proposed contract with, for or on behalf of the Corporation, he shall disclose such share or interest in writing to the Corporation.

Establishment of divisions.

17. (1) Subject to the provisions of the Enactment, the General Manager may, with the approval by the Corporation, establish any division which is deemed necessary to carry out the functions of the Corporation.

Committees.

18. (1) The Corporation may appoint such committees as may be necessary to carry out any functions delegated to them by the Corporation or to investigate into and report to the Corporation any matters arising from or relating to any of its functions and powers under this Enactment. Such committees shall be subject to the general directions of the Corporation and the Majlis.

(2) A committee shall consist of a Chairman and not more than five other members.

(3) A committee may consist of people who are not members of the Corporation.

(4) A member of a committee may be paid such allowance or remuneration as the Corporation may, with the approval of the Majlis, determine.

Meetings of committee.

19. (1) In the absence of the Chairman of the committee in any meeting of the committee, such other member of the committee as may be elected by members present shall preside at the meeting.

(2) The quorum for the meeting of the committee shall be three.

(3) Decisions of the meeting shall be made by *Syura*.

(4) A committee may invite to any of its meetings any person who can in its opinion contribute to its deliberations but such a person shall have no right to vote at the meeting.

(5) Subject to this section and the directions of the Corporation, a committee shall determine its own procedure.

PART IV
FINANCE

Baitulmal Fund.

20. (1) For the purposes of this Enactment, there is hereby established a fund to be known as "the Baitulmal Fund" (hereinafter referred to as "Baitulmal") which shall be administered and controlled by the Corporation.

(2) Baitulmal shall consist of cash and property whether transferable or not according to *Hukum Syarak* as follows:

- (a) any money belonging to the Majlis immediately before the appointed date allocated to Baitulmal;
- (b) any money or property assigned by the Majlis to Baitulmal;
- (c) the balance of all moneys from the collection of *zakat* and *fitrah* paid by Muslims collected in the State after distribution to *asnaf-asnaf* in the State who are entitled to receive the same shall be paid into Baitulmal;
- (d) all fines imposed by the Syariah Courts on persons found guilty of offences provided in the Syariah Criminal Offences Enactment 1995 [*En. No. 3/1995.*] or other law in force shall be paid into Baitulmal;
- (e) any interest received by Muslims in the State who keep money in the bank and do not wish to involve themselves in *riba* and any other form of *riba* may be yielded up to Baitulmal;
- (f) all monies provided from time to time for the purposes of Baitulmal by the Majlis;

- (g) all monies earned or arising from any property and investment acquired by or vested in Baitulmal;
- (h) all grants in cash or property or gifts by Muslims for the support of Islamic teachings or for the benefit of Muslims generally or any section thereof;
- (i) all property or monies from Muslims who have become apostates and have been convicted by the Syariah Courts shall be paid into Baitulmal;
- (j) all property or monies devised and bequeathed by Muslims to Baitulmal;
- (k) all lost or unclaimed property or monies not claimed by the owner thereof for more than one year after due notice thereof has been published may be yielded up to and received by Baitulmal;
- (l) all property or monies being the inheritance of Muslims, who are heirless or where there is uninherited residuary therefrom after distribution has been made to the heirs who are entitled thereto shall be yielded up to Baitulmal;
- (m) every debt or fine required to be paid according to *Hukum Syarak* for self-redemption such as *fidyah-fidyah*, breach of oath, *diat* and the like may be paid to and yielded up to Baitulmal;
- (n) all other property and monies in whatever manner made payable to or vest in Baitulmal relating to any matter incidental to its duty and power;
- (o) all property or monies unlawfully acquired by a Muslim through gaming or the like, which, after he has repented, cannot be returned to the owner thereof, may be yielded up to Baitulmal;
- (p) every debt in the form of property or money due to any Muslim where it is not known whether he is alive or dead or whether he has any heir who may inherit the same may be yielded up to Baitulmal;

- (q) every debt required to be paid according, to *Hukum Syarak* without derogating from the Administration of Islamic Law Enactment 1992 [En. No. 13/1992.] such as *fidyah-fidyah* may be yielded up to Baitulmal; and
- (r) any other sources agreed upon and approved by the State Fatwa Council.

Charitable Fund

Amal Jariah Fund.

21. (1) (a) There shall also be established a fund to be known as "Amal Jariah Fund" to collect and to accumulate money from the Muslim community in the State as a monthly alms for the use of Islamic Religion and the welfare of the Muslims.
- (b) The Amal Jariah Fund shall be placed under Baitulmal, and it is a *Syubah* of Baitulmal which operates under Part V of the Administration of Islamic Law Enactment 1992 [En. No. 13/1992.], with the Corporation as the trustee.
- (c) Subject to section 21 (1) (b), the Corporation shall make rules on collection and accumulation of money to fill the Amal Jariah Fund in pursuance of the power provided under this Enactment.
- (d) Money of the Amal Jariah Fund shall be credited into Baitulmal but shall be separated from the accounts of Baitulmal.

Limit of Making Charity (Donation)

- (2) No person shall be allowed to make a vow in respect of more than one-third (1/3) of all his property, and, if he does so, it shall be invalid except with the permission of his heirs.

Income from Vow

- (3) (a) [Deleted by En.10/2018]

- (b) Income from every general vow shall be paid to Baitulmal to become part of the fund.
- (c) capital asset, and properties in respect of legitimate general vow shall not become part of Baitulmal, but shall be used for extension of the general vow and kept in separate accounts.
- (d) If owing to elapse or change of time, it is not beneficial to carry out what is provided in the instrument of general vow, the Corporation shall submit a proposal to the Majlis on the use of the property or other possession in some other way which is closely similar to what is intended in the conditions of such general vow.
- (e) The Corporation may, with the approval of the Majlis and on the advice of the State Fatwa Council, direct such other property be put into Baitulmal.
- (f) If the conditions of the general vow do not state clearly how to use the capital asset and other property in respect thereof, or do not state how to use such property, the Majlis may direct that the capital asset and the other property be put into Baitulmal to become part of the fund, after obtaining advice from the State Fatwa Council.
- (g) All instruments making or proposing or relating to general vow together with relevant document of ownership and the declaration in respect thereof shall be kept and held by the Majlis as the sole trustee for all general vow.
- (h) If, in the opinion of the Majlis, the meaning and purpose in the instrument of general vow or declaration creating or relating to any general vow are not clear and specific, the Majlis may refer to the State Fatwa Council to determine the meaning and purpose thereof and the Majlis shall comply with the decision given by the State Fatwa Council.

Borrowing power.

22. The Corporation may from time to time borrow any amount of money required by the Corporation to settle any of its liabilities and to perform any of its duties provided that the period and the manner of repayment and other matters shall not be contrary to *Hukum Syarak* and that the approval of the Minister shall have been obtained.

Estimate of income and expenditure.

23. (1) The Corporation shall, before the commencement of the month of March, submit to the Minister estimate of income and expenditure of the Corporation for the following year, and the Minister shall, before the commencement of the following year, inform the Corporation of the overall amount for expenses approved.

(2) The Corporation may at any time submit to the Minister an additional estimate for the financial year and Minister may approve all or any part of the additional expenses included therein.

Accounts and audit.

24. (1) The Corporation shall keep proper accounts and other records in relation to its affairs and shall prepare or cause to be prepared a statement of accounts for every financial year.

(2) The accounts of the Corporation shall be audited every year by the Auditor-General or other auditor appointed by the Auditor-General.

(3) Immediately after the accounts of the Corporation for the preceding year have been audited, but not later than six months after the end of the financial year, the Corporation shall send a copy of the audited statement of accounts to the Minister, together with a copy of any observation made by the Auditor-General or other auditor appointed under subsection (2) relating to the said statement of accounts of the Corporation.

(4) The Minister shall direct that a copy of the statement of accounts and Auditor-General's or auditor's observation be forwarded to the Minister.

Statements, report and information.

25. (1) The Corporation shall provide to the Minister all statements, reports, and information which may be required from time to time by the Minister relating to the property and activities of the Corporation.

(2) Accounting and financial procedure of the Corporation shall be in accordance with the Treasury Instructions and Islamic law which are in force from time to time.

(3) Without prejudice to the generality of the provisions of subsection (1), the Corporation shall, as soon as practicable, after the end of each financial year, direct that a report relating to the activities of the Corporation for the preceding financial year in such form and containing such information relating to the operation and policy of the Corporation as may be directed from time to time by the Minister, be made and submitted to the Minister.

(4) The Minister shall direct that a copy of the report of the Corporation be forwarded to the Minister.

PART V

DUTIES AND SPECIFIC POWERS OF THE
GENERAL MANAGER

Preparation of future development.

26. (1) The General Manager shall from time to time prepare a plan for the future development of the Corporation within such period as may be determined by the Corporation.

(2) Any plan prepared under subsection (1) shall include particulars of the development project planned to be implemented by the Corporation and the particulars of the estimate of cost of such project.

Dissemination of information.

27. The General Manager shall be responsible for the dissemination of information to the public in respect of the operation of the Corporation, the facilities and services provided by the Corporation.

Management of Zakat and Fitrah money.

28. (1) The General Manager shall manage all matters in relation to the management of the *zakat* and *fitrah* money paid to Baitulmal, the investment, expenses, aid, assistance and distribution thereof.

(2) The General Manager may appoint representatives for the purpose of performing the duties provided under subsection (1).

29. [Omitted].

PART VI
MISCELLANEOUS PROVISIONS

Seal of the Corporation.

30. (1) The common seal of the Corporation shall bear such device as may be approved by the Corporation, with the consent of the Minister, and may from time to time be replaced, altered and renewed by the Corporation.

(2) The common seal used by the Corporation immediately before the appointed date shall continue to be the common seal of the Corporation unless and until another seal is approved by the Corporation.

(3) The common seal of the Corporation shall be kept in custody and authenticated by a person authorised by the Corporation.

(4) All deeds, documents and other instruments purporting to be sealed with the common seal of the Corporation and authenticated by a person with whom the common seal is kept in custody shall, until the contrary is proved, be deemed to be validly executed.

(5) The common seal of the Corporation shall be officially and judicially noticed.

Direction of the Majlis.

31. The Majlis may from time to time give the Corporation any general instruction which is not inconsistent with the duties of the Corporation and the Corporation shall give effect to such instruction.

Public Authorities Protection Act 1948.

32. The Public Authorities Protection Act 1948 [*F.M.S. Cap. 19/48*] shall apply in any action, suit, prosecution or proceedings against the Corporation or against any member, servant, officer or agent of the Corporation or any subsidiary of the Corporation relating to any act, neglect or default done or committed by the Corporation, such member, officer, servant, agent or subsidiary of the Corporation.

Public servants.

33. All members, officers, and servants of the Corporation shall be deemed to be public servants within the meaning of the Penal Code [*Act 574.*].

Prohibition against disclosure of information etc.

34. (1) Except for the purpose of this Enactment or for the purpose of any criminal proceedings under this Enactment, no member, officer or servant of the Corporation or any subsidiary of the Corporation may disclose any information in relation to any matter obtained in the course of his duty and which is not published in pursuance of this Enactment.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one thousand ringgit or to both.

Civil proceedings.

35. Notwithstanding any provisions of any written laws –

- (a) any person holding a post of Legal Officer of the State Attorney-General's Chambers authorised by the State Attorney-General, or any officer of the Corporation authorised by the Corporation, as the case may be, in that behalf; or

- (b) any person or advocate authorised by the Chairman or Deputy Chairman of the Corporation in that behalf, may institute any civil action on behalf of the Corporation or any subsidiary of the Corporation and may, on behalf of the Corporation or subsidiary of the Corporation, appear, make and do all appearances, acts and applications in respect of such action.

Power to make rules.

36. The Minister may, on the advice of the Majlis, make rules:-

- (a) relating to any matter regarding the incorporation of the subsidiary of the Corporation under section 12 and relating to any subsidiary of the Corporation duly incorporated;
- (b) prescribing the manner in which documents, cheques and any other instruments are to be signed or executed on behalf of the Corporation or any subsidiary of the Corporation;
- (c) prescribing the responsibilities and duties of any officer and servant of the Corporation;
- (d) prescribing fee to be charged and form to be used in carrying out the provisions of this Enactment;
- (e) in respect of the opening, the keeping, the closing and the auditing of the accounts of the subsidiary of the Corporation;
- (f) relating to any matter as may be authorised under any provision of this Enactment; and
- (g) generally for the effectual carrying out the provisions of this Enactment and functions of the Corporation.

PART VII
REPEAL AND TRANSITIONAL PROVISIONS

Continuance of law, etc.

37. (1) Subject to the provisions of this Enactment, any written law, order, rule or regulation affecting or for the protection of the Majlis in respect of *baitulmal* and *nazar* in force immediately before or prior to the appointed date shall, until amended or revoked by the authority having power to do so, continue to be in force on and after the appointed date and shall be given effect to as if this Enactment had not been passed.

(2) Any order, direction, appointment, notification, rule and regulation made under the provisions of the repealed Enactment in respect of *baitulmal* and *nazar* and in force immediately before and prior to the appointed date shall, in so far as the same is not inconsistent with the provisions of this Enactment, be deemed to have been made under this Enactment and shall continue to be in force until other provisions shall be made under this Enactment or until the date of its expiry.

Transfer of powers, rights, liabilities and duties.

38. Subject to the provisions of this Enactment, any power, right, privilege, duty, liability or obligation in respect of *baitulmal* and *nazar* which immediately before or prior to the appointed date was the power, right, privilege, duty, liability or obligation of the Majlis shall, as from the appointed date, devolve upon the Corporation.

Transfer of property.

39. (1) Subject to the provisions of this Enactment and to any direction of the Corporation, any land immediately before and prior to the appointed date was the property of the Majlis for the purposes of *baitulmal* and *nazar* shall, on that date, become the property of the Corporation.

(2) Subject to the provisions of this Enactment and to any direction of the Corporation, any property other than land which immediately before or prior to the appointed date was the property of the Majlis for the purposes of *baitulmal* and *nazar* or the

property held by any person on behalf of the Majlis for the said purposes shall on that date become the property of the Corporation.

(3) [Deleted by En.10/2018]

Existing contracts.

40. Subject to the provisions of this Enactment, any deed, bond, agreement, instrument and working arrangement subsisting immediately before or prior to the appointed date affecting any of the property which is transferred under section 39 shall be of full force and effect against or in favour of the Corporation and may be enforceable as fully and effectively as if, instead of the Majlis, the Corporation had been named therein or had been a party thereof.

Continuance of civil criminal proceedings.

41. (1) Subject to the provisions of this Enactment, neither the repeal of the provisions of sections 17, 18, 19 and 22 of the Administration of Islamic Law Enactment 1977 [En. No. 15/1977.] as provided in section 47 of this Enactment or anything contained in this Enactment shall affect the liability of any person to be prosecuted or punished for offences committed under the repealed provisions before the appointed date, or any proceedings brought or any sentence imposed before that date in respect of such offence.

(2) Subject to the provisions of this Enactment, any proceedings (whether civil or criminal) or cause of action pending or existing immediately before or prior to the appointed date by or against the Majlis or any person acting on behalf of the Majlis in respect of *baitulmal* and *nazar* may be continued or instituted by or against the Corporation as it might have been by or against the Majlis or such person as if this Enactment had not been passed.

Transfer of funds.

42. Subject to the provisions of this Enactment, any money standing in or due to be paid to the Baitulmal Fund established under section 17 of the Administration of Islamic Law

Enactment 1977 [En. No. 15/1977.] shall on the appointed date be transferred to the fund established under section 20 of this Enactment.

43. [Omitted].

Prevention of difficulty and anomaly.

44. In the event of any difficulty or anomaly arises from the foregoing transitional provisions of this Enactment, the Majlis may, by order, make such modifications in those provisions as may appear to it necessary for preventing such difficulty or anomaly.

Additional duty of the Corporation.

45. Other than the obligations imposed upon the Corporation by this Enactment, the Corporation may carry out such other work, and administer and expend such other money for such purposes not contrary to *Hukum Syarak* as directed by the Minister on the advice of the Majlis and while carrying out such work and expending such money, the Corporation shall be deemed to comply with the purposes of this Enactment and the provisions of this Enactment and the provisions of this Enactment shall apply to the Corporation in respect of the carrying out of such work and in respect of the administration and expenditure of such money.

Power to amend Schedules.

46. The Minister on the advice of the Majlis shall have power by order published in the *Gazette* to amend the Schedules contained in this Enactment from time to time.

Repeal.

47. On the appointed date, sections 17, 18, 19 and 22 of the Administration of Islamic Law Enactment 1977 [En. No. 15/1997.] are hereby repealed.

FIRST SCHEDULE

(Section 7)

Appointment, revocation and resignation.

1. (1) Subject to such conditions as may be specified in his instrument of appointment, a member of the Corporation shall hold office for a term not exceeding three years and is eligible for reappointment.

(2) The appointment of any member may at anytime be revoked by the Yang di-Pertua Negeri without assigning any reason therefor.

(3) A member may at any time resign his office by letter addressed to the Yang di-Pertua Negeri.

Vacation of office.

2. (1) The office of a member of the Corporation shall be vacated –

- (a) if he dies;
- (b) if there has been proved against him, or he has been convicted on, a charge in respect of –
 - (i) an offence involving fraud, dishonesty or moral turpitude;
 - (ii) an offence under any law relating to corruption or under section 34(2); or
 - (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;
- (c) if he becomes bankrupt;
- (d) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) if he absents himself from three consecutive meetings of the Corporation without leave of the Minister;
- (f) if his resignation is accepted by the Yang di-Pertua Negeri; or
- (g) if his appointment is revoked by the Yang di-Pertua Negeri.

(2) Where any person ceases to be a member by reason of any of the provisions of this Enactment, another person shall be appointed in his place in accordance with the provisions applying.

Meetings.

3. (1) The Corporation shall meet at least once in every two months.
- (2) The quorum of the Corporation shall be five.
- (3) Subject to the provisions of this Enactment, the Corporation shall determine its own procedure.

Corporation may invite others to meetings.

4. The Corporation may invite or request any person (not being a member of the Corporation) to attend any meeting or deliberation of the Corporation for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at the said meeting or deliberation.

Disclosure of interest.

5. A member of the Corporation having, directly or indirectly, by himself or his partner any interest in any company or undertaking with which the Corporation proposes to make any contract or having any interest in any such contract or in any matter under discussion by the Corporation shall disclose to the Corporation the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Corporation and, unless specifically authorised thereto by the Chairman, such member shall not take part in any deliberation or decision of the Corporation relating to the contract or matter.

Minutes.

6. (1) The Corporation shall cause minutes of all its meetings to be maintained and kept in a proper form.
- (2) Any minutes made in respect of meetings of the Corporation shall, if duly signed, be admissible in evidence in all legal proceedings without further proof and every meeting of the Corporation in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Validity of acts and proceedings.

7. No act done or proceedings taken under this Enactment shall be questioned on the ground of –

- (a) any vacancy in the membership of, or any defect in the constitution of, the Corporation;
- (b) the contravention by any member of the Corporation of the provisions of paragraph 5; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

Chairman of the Corporation.

8. The Chairman of the Corporation shall be a citizen of Malaysia who possesses not less than ten years' experience in the service of the State Government or any statutory body or any institution recognised by the Majlis or Government of Sabah.

General manager of Corporation.

9. The General Manager of the Corporation shall be a citizen of Malaysia who possesses the following qualifications:

- (a) at least a bachelor degree from any recognised University or recognised institution of higher learning;
- (b) not less than ten years' experience in the service of the Government or any statutory body or any institution recognised by the Majlis or Government of Sabah; and
- (c) not being disqualified under paragraph 2.

SECOND SCHEDULE

(Section 12(3))

Duty, power or right of subsidiary of the Corporation.

1. Nothing in section 12 shall be construed as giving power to the Corporation to make regulations to establish any subsidiary of the Corporation having any duty, power, or right which is not included in the duties, powers or rights of the Corporation under this Enactment.

Subsidiary of Corporation bound by regulations.

2. Subject to the provisions of this Enactment and any regulations made under section 12, any subsidiary of the Corporation shall be bound by any regulation made in respect thereof and such regulations shall be in force for all purposes as if the same were enacted in this Enactment.

Amendment of regulations.

3. The Corporation may with the approval of the Majlis at any time amend, revoke, or add to any regulations made in respect of any subsidiary of the Corporation under section 12.

Register of subsidiaries of Corporation.

4. The Corporation shall keep a register of all the subsidiaries of the Corporation established under section 12 and the register together with all the regulations made under section 12 shall be open for inspection by the public at such place or places and at such time as may be decided by the Corporation.

Winding-up.

5. (1) The Corporation may with the approval of the Minister by order published in the *Gazette* direct that any subsidiary of the Corporation established by it be wound up and dissolved.

(2) Whenever a subsidiary of the Corporation is wound up and dissolved under this paragraph, the assets of the subsidiary of the Corporation shall be transferred to and vest in the Corporation after all liabilities have been discharged.

(3) The winding up of any subsidiary of the Corporation under this paragraph shall be carried out in such manner as may be determined by the Corporation.

Body corporate.

6. Every subsidiary of the Corporation established by the Corporation shall be a body corporate and shall have perpetual succession and a common seal and, for the purposes of discharging its duties and carrying out its functions, may enter into contracts, hold, transact or deal in or with any movable or immovable property and may do such other acts and things not inconsistent with the provisions of this Enactment, which are incidental to or connected with a body corporate, and subject to such restrictions and limitations as may be determined by the Corporation in each case.

Common seal.

7. (1) Every subsidiary of the Corporation shall have a common seal which shall bear such device as the subsidiary, with the approval of the Corporation, may approve and such seal may from time to time be broken, changed, altered or made anew as the subsidiary, with the approval of the Corporation, may think fit.

(2) Until a seal is provided by the subsidiary of the Corporation, a stamp bearing the name of the subsidiary may be used and shall be deemed to be the common seal of the subsidiary of the Corporation.

(3) The common seal shall be kept in the custody of such person as may be authorised by the subsidiary of the Corporation, and shall be authenticated by such person; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall, until the contrary is proved, be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the subsidiary of the Corporation; and any such document or instrument may be executed on behalf of the subsidiary of the Corporation by any officer or servant of the subsidiary generally or specially authorised by the subsidiary in that behalf.

(4) The common seal of every subsidiary of the Corporation shall be officially and judicially noticed.

CERTIFIED by me to be a true copy of the Bill passed by the Legislative Assembly on Tuesday the 17th day of November, 1998.

DATUK FRANCIS T.N. YAP,
Deputy Speaker,
State Legislative Assembly.

Sabah LawNet