

STATE OF SABAH

I assent,

TUN DATUK HAJI MOHD. SAID BIN KERUAK,
Yang di-Pertua Negeri.

23RD JULY, 1991.

No. 7 of 1991

An Enactment to provide for the control of the Islamic Religious Schools and to provide for matters related therewith.

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

PART I PRELIMINARY

Short title and commencement.

1. This Enactment may be cited as the Control of Islamic Religious Schools Enactment 1991 and shall come into force on a date to be appointed by the Yang di-Pertua Negeri of Sabah by notification in the *Gazette*. [01.02.1992]

Interpretation.

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

"Board" means the Board of Management established under section 5 of this Enactment;

"Islamic School" means any Islamic Religious School in the State or any place which includes a mosque, madrasah, surau, Islamic centre, balais, pondok and kindergarten where twenty or more persons are enlisted to learn or to be taught subject which includes any subject relating to the religion of Islam but does not include any Islamic religious school under the control of the Ministry of Education;

"Lembaga Penasihat" means a body set up by the Conference of Rulers to be known as "The Lembaga Penasihat Penyelarasan Pelajaran dan Pendidikan Agama Islam";

"Majlis" means the Majlis Ugama Islam Sabah (MUIS) constituted under section 3 of the Administration of Muslim Law Enactment, 1977 [En. No. 15 of 1977] of the State of Sabah;

"Registrar" means the Registrar appointed under section 3 of this Enactment, and includes the Deputy Registrars;

"Religious School Inspector" means an Inspector appointed under section 17 of this Enactment.

PART II

REGISTRAR AND DEPUTY REGISTRARS

Appointment of Registrar and Deputy Registrars.

3. The Majlis may, with the approval of the Yang di-Pertua Negeri, appoint –
 - (a) a Registrar of Islamic Schools; and
 - (b) such number of Deputy Registrars of Islamic Schools as may be required.

Duties of the Registrar.

4. (1) It shall be the responsibility of the Registrar to ensure that all Islamic Schools within the State are being properly administered.
 - (2) The Registrar shall, at all times, keep the Majlis informed of the state of affairs of all the Islamic Schools within the State.

(3) The Registrar shall keep or cause to be kept a register of all Islamic Schools registered under this Enactment and there shall be recorded in the register the particulars in respect of each school including –

- (a) the name and address of the school;
- (b) the members of the Board of the school;
- (c) the curriculum of the school; and
- (d) any other information as the Registrar may deem fit to record.

PART III
BOARD OF MANAGEMENT

Board of Management.

5. (1) Every application for registration of an Islamic School shall be accompanied by an instrument in the prescribed form establishing a Board of Management for the school.

(2) The Board shall be the trustee of all the assets and properties of the Islamic School.

(3) Every such Board shall consist of at least seven persons who shall hold such positions as may be necessary for any particular Islamic School and having such powers and duties as shall be prescribed by the instrument.

Board of Management subject to the control of the Registrar.

6. (1) Where the Registrar is of the opinion that any person, who has been proposed to be a member of the Board, is not a fit and proper person, he may reject that person from being a member of the Board and the Board shall, on such rejection by the Registrar, propose another person to be a member of the Board in his place failing which the Registrar, may appoint any other person to be a member of the Board.

(2) Where the Registrar is of the opinion that a member of the Board is not a fit and proper person, he shall direct the Board to remove such member and on receiving such direction the Board shall take the necessary step to remove and replace such member.

(3) Where the Board fails or refuses to comply with the direction of the Registrar under subsection (2), the Registrar shall have the power to remove such member and appoint any other person in his place.

(4) Any person who has ceased or has been removed from being a member of the Board shall forthwith hand over all properties, valuables, documents and such other things belonging to the Islamic School to the existing members of the Board.

(5) Any person who has been removed or ceased to be member of the Board –

(a) fails to hand over all properties, valuables, documents and such other things belonging to the school to the Board; or

(b) continues to act as a member,

shall be guilty of an offence and shall on conviction be liable to a fine of not exceeding two thousand ringgit, and in the case of an offence under paragraph (b), an additional fine not exceeding one hundred ringgit for each day the offence is continuing.

Duties of the Board.

7. (1) The members of the Board shall be jointly and severally responsible for the management of the Islamic School.

(2) It shall be the duty of the Board –

(a) to properly maintain the Islamic School under its control;

(b) to comply with the directions of the Registrar; and

(c) to maintain a proper record of –

(i) the teachers and staff of the school;

(ii) the names of students, their ages and sex;

- (iii) the source of finance of the school;
- (iv) the curriculum of the school; and
- (v) such other information which the Registrar may from time to time require.

(3) The Board shall –

- (a) inform the Registrar of any change to the instrument of the school; and
- (b) send to the Registrar all information as requested by the Registrar.

(4) The Board may appoint on such terms and conditions, as the Board may think fit, any number of teachers, officers and servants and shall have the power to terminate or revoke any such appointment.

Powers of the Board.

8. The Board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its name and shall have power to do all things expedient or reasonably necessary or incidental to the discharge of its duties and, in particular, but without prejudice to the generality of the foregoing –

- (a) to acquire, purchase, take, hold, enjoy movable or immovable property of every description and to convey, assign, surrender, yield, charge, transfer or otherwise dispose of, or deal with or develop any movable or immovable property or any interest therein vested in the Board upon such terms as it deems fit;
- (b) to enter into any arrangement with the State or Federal Government or authority that may seem conducive to the Board's duties or any of them and to obtain from the Government or such authority any rights, privileges and concessions which the Board may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions; and
- (c) to do all such other things as are incidental or conducive to the attainment of the duties and the exercise of the powers of the Board.

Fund.

9. (1) For the purposes of this Enactment, the Board shall establish and administer a fund to be known as "Islamic School Account" into which shall be paid –

- (a) such sums as may be received by the Board;
- (b) monies earned or arising from any property, investments, mortgages, charges, debentures or shares acquired by or vested in the Board;
- (c) monies collected from fees;
- (d) monies donated by the public or grants given by Government or local authorities;
- (e) sums borrowed and raised by the Board under this Enactment; and
- (f) all other sums or property which may in any manner become payable to or vested in the Board.

(2) A Board may pay out of its fund –

- (a) all expenditure, including capital expenditure, incurred by the Board in carrying out its functions;
- (b) monies for the repayment of loans received by the Board pursuant to its power to borrow; and
- (c) any other expenditure authorised by the Board.

(3) A Board may invest its funds in any investment for the time being authorised by any written law for the investment of trust funds or any other investment as may be authorised by the Majlis.

Reports.

10. A Board shall cause to be made and transmitted to the Registrar reports dealing with the activities of the Islamic School and the annual account of the Islamic School.

Board to adhere to curriculum drawn up by the Majlis.

11. (1) Every Board shall adhere to the curriculum drawn up by the Majlis, use the text-books so specified and carry out the programme for teacher training as set out and hold such examinations as may be specified by the Majlis.

(2) Failure to comply with any of the provisions or requirements of this section shall constitute an offence under this Enactment.

PART IV
REGISTRATION OF ISLAMIC SCHOOLS

Registration.

12. (1) Subject to subsection (2), no person shall establish or set up any Islamic School unless it is registered in accordance with the provisions of this Enactment.

(2) All Islamic Schools which have been established before the coming into force of this Enactment shall be registered in accordance with the provisions of this Enactment within six months of the coming into force of this Enactment or any longer period as the Registrar may allow.

Application for registration.

13. (1) Any person who desires to set up an Islamic School shall apply for registration, in the prescribed form, to the Registrar and shall also submit to the Registrar the proposed instrument of the Board.

(2) Upon receipt of an application the Registrar shall consider such application and either approve or reject the application.

(3) Where approval has been given, the Registrar shall forthwith register the instrument of the Islamic School together with the Board and issue a Certificate of Registration of the school with such conditions as he may deem necessary.

Conditions for granting approval.

14. For the purposes of considering whether an application for registration is to be approved, the Registrar shall take into consideration the following conditions:

- (a) the suitability of the Islamic School or building on the grounds of health and safety;
- (b) the suitability of the persons on the Board to manage an Islamic School;
- (c) the source of finance to maintain the Islamic School;
- (d) the necessity for such Islamic School within the area where the proposed Islamic School is to be set up; and
- (e) any other reason which is, in the opinion of the Registrar, necessary for the setting up of a successful Islamic School.

Deregistration.

15. (1) The Registrar shall notify the Board of any non-compliance of any conditions specified in the Certificate of Registration or any other instructions issued by him and shall instruct the Board to rectify such non-compliance.

(2) Failure to comply with such instructions may result in the cancellation of the instrument and the Certificate of Registration of the said Islamic School.

(3) Any Board whose Islamic School has been deregistered under this section may, on satisfying the Registrar that the non-compliance specified in the Registrar's instructions has been rectified, apply for re-registration of the Islamic School.

Appeal.

16. Any Board or any person who is aggrieved by any decision of the Registrar made under any of the provisions of this Enactment may, within 30 days of such a decision, appeal to the Majlis whose decision shall be final.

PART V
RELIGIOUS SCHOOL INSPECTORS

Appointment of School Inspectors.

17. The Majlis may appoint such number of Religious School Inspectors as may be necessary whose duties shall include –

- (a) to carry out, from time to time, the inspections of Islamic Schools as to the teaching of the authorised curriculum, the use of textbooks, teachers employed and the proper compliance of this Enactment and rules made thereunder on the Registrar's instructions;
- (b) to carry out investigations on any Islamic School relating to any matters as may be authorised by the Registrar;
- (c) to examine the Islamic School's accounts; and
- (d) to report any irregularities and to make such suggestions as may be necessary to the Registrar.

Majlis may authorise any person to carry out the duties of School Inspectors.

18. The Majlis may in writing authorise any person to carry out the duties of a Religious School Inspector and the person so appointed shall have all the duties, powers of a Religious School Inspector.

Management Board, teachers and employees shall assist School Inspectors.

19. (1) Any member of the Board, teacher or employee of the Islamic School shall afford every facility to any Religious School Inspector or any authorised person for any inspection and shall give all the information and to produce all books, accounts and other documents that may be required.

(2) Any person who fails to comply with any provision of this section commits an offence under this Enactment.

PART VI
MISCELLANEOUS

The Lembaga Penasihat shall give proper assistance.

20. The Lembaga Penasihat shall assist the Majlis to carry out all the things that may be necessary for proper running of the Islamic Schools including giving of any technical advice, the use of text books, curriculum, examinations, recruitment of teachers and training of teachers.

Exemption by the Majlis.

21. The Majlis shall have the power to exempt any Islamic School from all or any provisions of this Enactment.

Offences and penalties.

22. Any person who establishes, manages or operates an Islamic School without a Certificate of Registration issued under this Enactment or acts in contravention of this Enactment or any rules made thereunder, shall be guilty of an offence and, unless a punishment is prescribed for the offence, be punishable with a term of imprisonment not exceeding one year or to a fine not exceeding two thousand ringgit, or in the case of a second or subsequent offence, with imprisonment for a term not exceeding three years or to fine not exceeding five thousand ringgit.

Jurisdiction to try offences.

23. Prosecutions in respect of any offence under this Enactment or any rules made thereunder shall be made in the Magistrate's Courts.

Majlis may direct prosecution.

24. (1) The Majlis may direct any prosecution for any offence under this Enactment or any rules made thereunder.

(2) The Registrar, a Deputy Registrar, a police officer not below the rank of an Inspector or any advocate authorised in writing by the Majlis may conduct any such prosecution.

Power to enter premises.

25. The Registrar, any Deputy Registrar, Religious School Inspector or any person duly authorised in writing by the Majlis may at all reasonable times, enter any premises of an Islamic School for the purpose of exercising any power of inspection, enquiry or otherwise to ensure that the school is properly, administered.

Public Authorities Protection Act 1948.

26. The Public Authorities Protection Act 1948 [Act 198], shall apply to any action, suit, prosecution or proceeding against the Lembaga Penasihat, Majlis, Registrar, Deputy Registrars, servants, agents or any other person authorised by the Majlis or Lembaga Penasihat in respect of any act, neglect or default done or committed.

Officers to be public servants .

27. The Registrar, any Deputy Registrar, officers or employees of the Majlis or Lembaga Penasihat or agents authorised in writing by the Majlis or Lembaga Penasihat shall be deemed to be public servants within the meaning of the Panel Code [F.M.S. Cap. 45].

Rules.

28. The Yang di-Pertua Negeri, on the advice of the Majlis, may by notification in the *Gazette*, make rules for the carrying out of the provisions of this Enactment and, in particular, but without prejudice to the generality of the foregoing, such rules may provide for –

- (a) the instrument of the Board with such variations as may be permitted so as to fit any particular Islamic School;
- (b) the curriculum for the Islamic School;
- (c) the types and standard of textbooks for use in the Islamic School;

- (d) the regulation of examinations to be held and the certificates to be issued thereto;
- (e) the qualification of teachers for the Islamic School;
- (f) the manner in which the monies of the Board is to be spent and instruments of any description shall be signed or executed on behalf of the Board;
- (g) the offences committed under any such rules;
- (h) the forms for the purposes of any provision of this Enactment; and
- (i) such other matters as may be necessary for the proper administration of an Islamic School.

Enactments inconsistent with this Enactment.

29. If any Enactments, rules and regulations pertaining to Islamic schools are inconsistent with this Enactment, this Enactment shall prevail and those Enactments, rules and regulations shall, to the extent of the inconsistency, be void.

CERTIFIED by me to be a true copy of the Bill passed by the Legislative Assembly on Thursday, the 4th July, 1991.

JOHN DATUK ANGIAN ANDULAG,
Deputy Speaker.