

## STATE OF SABAH

I assent,

TUN DATUK SERI PANGLIMA HAJI AHMADSHAH BIN ABDULLAH,  
*Yang di-Pertua Negeri.*

30TH AUGUST, 2004.

### No. 5 of 2004

An Enactment to make new provisions on the administration of the religion of Islam, the establishment and functions of the Majlis Ugama Islam Negeri Sabah, and other matters related thereto.

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

#### PART I PRELIMINARY

##### Short title and commencement

1. (1) This Enactment may be cited as the Majlis Ugama Islam Negeri Sabah Enactment 2004.
- (2) This Enactment shall come into operation on a date to be appointed by the Minister by notification in the *Gazette*. [01.06.2005]

##### Interpretation

2. (1) In this Enactment, unless the context otherwise requires –  
  
“*ahli kariah*” means a person who permanently lives or habitually resides in a *kariah masjid*;

“Yang di-Pertua” means the Yang di-Pertua of the Majlis appointed under subsection 11(1);

“Fund” means the Fund established under section 45;

“Imam” means officer who is appointed under section 62(1);

“*Hukum Syarak*” means *Hukum Syarak* according to *Mazhab Syafie* or any one of *Mazhab Maliki, Hanafi* or *Hanbali*;

“*Jawatankuasa Kariah*” means *Jawatankuasa Kariah* established by regulations made under section 66(1);

“*kariah masjid*”, in relation to a mosque, means the area the boundaries of which are determined under section 60(3) in which the mosque is situated;

“Majlis” means the Majlis Ugama Islam Negeri Sabah established under subsection 4(1);

“Minister” means the Minister charged with the responsibility for the administration of Islamic affairs in the State of Sabah;

“mosque” means a building –

- (a) used for Friday prayers and other prayers and activities which are enjoined, required, recommended, or approved by religion of Islam; and
- (b) the use of which as such is permitted by the Majlis under section 60, and includes any *surau, madrasah* or other building declared by the Majlis as a mosque under that section;

“*muallaf*” means a person who is newly converted to the religion of Islam under section 69;

“Mufti” means a person who is appointed as Mufti for the State of Sabah under Fatwa Enactment 2004;

“Muslim” means –

- (a) person who professes the religion of Islam;

- (b) person either or both of whose parents were at the time of the person's birth, a Muslim;
- (c) a person whose upbringing was conducted on the basis that he was a Muslim;
- (d) a person who is commonly reputed to be a Muslim;
- (e) a person who has converted to the religion of Islam in accordance with section 69; or
- (f) a person who is shown to have stated, in circumstances in which he was bound by law to state the truth, that he was a Muslim, whether the statement be oral or written;

"*nazr*" means an expressed vow to do an act for any purpose permitted by *Hukum Syarak*;

"*nazr am*" means a *nazr* intended wholly or in part for the benefit of the Muslim community generally or any section of the Muslim community, as opposed to an individual person or persons;

"*Pegawai Masjid*" means the *Imam, Bilal and Pembantu Bilal* of a mosque;

"previous Enactment" means the Administration of Islamic Law Enactment 1992;

"previous Majlis" means the Majlis Ugama Islam Wilayah Persekutuan established under the previous Enactment;

"Secretary" means the Secretary of the Majlis mentioned in section 17;

(2) All words and expressions in this Enactment and not defined in this Enactment but defined in Interpretation and General Clauses Enactment 1963 shall have the meanings assigned to them respectively in that Part to the extent that such meanings do no conflict with *Hukum Syarak*.

(3) For the avoidance of doubt as to the identity or interpretation of the words and expressions used in this Enactment that are listed in the First Schedule, reference may be made to the Arabic script for those words and expressions as shown against them in the Schedule.

### **Saving of prerogative**

3. Save as expressly provided in this Enactment, nothing contained in this Enactment shall derogate from or affect the rights and powers of the Yang di-Pertuan Agong as the Head of the Religion of Islam in the State of Sabah as declared and set forth in the Constitution of the State of Sabah.

## PART II

### MAJLIS UGAMA ISLAM NEGERI SABAH

#### **Establishment of the Majlis**

4. (1) There shall be a body known as the “Majlis Ugama Islam Negeri Sabah” to aid and advise the Yang di-Pertuan Agong in matters relating to the religion of Islam.

(2) Upon the commencement of this Enactment, the Majlis Ugama Islam Negeri Sabah existing before such commencement by virtue of the previous Enactment shall be deemed to be the Majlis referred to in subsection (1).

(3) Every right, authority, duty and liability which before this Part comes into operation is vested in or charged on the previous Majlis shall, upon the commencement of this Enactment, vest in and be charged on the Majlis, in so far as they are not inconsistent with the provisions of this Enactment.

(4) Every description of property, movable or immovable, which before the commencement of this Enactment was vested in the previous Majlis shall, upon the commencement of this Enactment, vest in the Majlis without any conveyance, assignment or transfer.

#### **Legal identity and functions of the Majlis**

5. (1) The Majlis shall be a body corporate having perpetual succession with a common seal, and the seal may from time to time be broken, changed, altered and made anew as the Majlis deems fit, and, until the seal is provided under this section, the seal of the previous Majlis may be used as the common seal of the Majlis.

(2) The Majlis may sue and be sued by its corporate name.

(3) The Majlis may enter into contracts and may acquire, purchase, take, hold, and enjoy movable and immovable property of every description, and subject to any written law affecting the property, may convey, assign, surrender and yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable

or immovable property vested in the Majlis upon such terms as the Majlis deems fit in accordance with *Hukum Syarak*.

(4) The Majlis shall have power to act as a trustee of any trust.

(5) The Majlis shall have such further powers and carry out such duties as may be assigned to it by this Enactment or by any other Laws.

#### **The Majlis shall aid and advise the Yang di-Pertuan Agong**

6. The Majlis shall aid and advise the Yang di-Pertuan Agong in respect of all matters relating to the religion of Islam in the State of Sabah, except matters of *Hukum Syarak* and those relating to the administration of justice, and in all such matters shall be the chief authority in the State of Sabah after the Yang di-Pertuan Agong, except where otherwise provided in this Enactment.

#### **The duty of the Majlis for the economic and social development of Muslims**

7. (1) It shall be the duty of the Majlis to promote, stimulate, facilitate and undertake the economic and social development of the Muslim community in the State of Sabah consistent with *Hukum Syarak*.

(2) The Majlis shall have power, for the purpose of the discharge of its duty under subsection (1) –

- (a) to carry on all activities, which does not involve any element which is not approved by the religion of Islam, particularly the development of commercial and industrial enterprises, the carrying on of which appears to the Majlis to be requisite, advantageous or convenient for or in connection with the discharge of such duty, including the manufacturing, assembling, processing, packing, grading and marketing of products;
- (b) to promote the carrying on of any such activities by other bodies or persons, and for that purpose to establish or expand, or promote the establishment or expansion, of other bodies to carry on any such activities either under the control or partial control of the Majlis or independently, and to give assistance to such bodies or to other bodies or persons appearing to the Majlis to have the facilities for the carrying on of any such activities, including the giving of financial assistance by way of loan or otherwise;
- (c) to carry on any such activities in association with other bodies or any

person, including the department or authorities of the Federal Government or the Government of any State, or as managing agent or otherwise on behalf of the State Government;

- (d) to purchase, underwrite or otherwise acquire any stocks and shares in any public or private company, and to dispose of the same on such terms and conditions as the Majlis may determine;
- (e) to invest in any authorised investment as defined by the Trustee Act 1949 [Act 208], and to dispose of the investment on such terms and conditions as the Majlis may determine;
- (f) to establish any scheme for the granting of loans from the Baitulmal to Muslim individuals for higher education;
- (g) to establish Mosque Authority in the State of Sabah, if necessary, in order to establish the function of Mosque as unity agent, development and economic mover for Muslim;
- (h) establish and maintain Islamic schools and Islamic training and research institutions;
- (i) to establish any scheme for the granting of loans from the Fund to Muslim individuals subject to the approval of the Minister;
- (j) to establish, maintain and manage welfare home for orphans;
- (k) to ensure the food, drinks and usage to be *halal* for Muslim; and
- (l) to do such acts as the Majlis considers desirable or expedient.

#### **Power to establish corporations**

8. (1) The Majlis may, with the approval of the Yang di-Pertua Negeri from time to time by order published in the *Gazette*, establish a corporation by such name as the Majlis deems fit to carry out and have the charge, conduct and management of any project, scheme or enterprise which has been planned or undertaken by the Majlis in execution of its functions or powers under section 7.

(2) When the Majlis establishes a corporation under subsection (1), the Majlis shall, with the approval of the Yang di-Pertua Negeri, by the same or another order make provisions in respect of the corporation defining –

- (a) the duties, powers and rights of the corporation;

- (b) the system of management of the corporation; and
- (c) the relations between the corporation and the Majlis and its right of control over the corporation.

(3) The provisions of the Second Schedule shall apply to a corporation established by the Majlis under subsection (1).

#### **Power to establish companies**

9. (1) The Majlis may, with the approval of the Yang di-Pertua Negeri, establish companies under the Companies Act 1965 [Act 125] to carry on any activity by the Majlis in the execution of its duties and powers under section 7.

(2) Every company established or purported to be established by the Majlis under the Companies Act 1965 before the commencement of this section shall be deemed to have been lawfully established and shall continue to exist as if it had been established by the Majlis under subsection (1).

(3) Any financing or financial assistance given by the Majlis to a company referred to in subsection (2) shall be deemed to have been lawfully given under subsection 7(2).

#### **Power to borrow**

10. (1) The Majlis may, with the approval of the Minister and upon such terms and conditions as may be determined by him, borrow such sums as it may require for discharging any of its functions under this Enactment.

(2) Sums borrowed by virtue of subsection (1) shall be paid into the Fund.

#### **Membership of the Majlis**

11. (1) The Majlis shall consist of the following members:

- (a) a Yang di-Pertua;
- (b) a Deputy Yang di-Pertua;
- (c) six *ex-officio* members who shall be the persons for the time being holding the following appointments:
  - (i) the State Secretary or representative;
  - (ii) the State Attorney General or representative;

- (iii) Permanent Secretary of the Ministry of Finance or representative;
  - (iv) the Mufti;
  - (v) the Commissioner of Police or representative;
  - (vi) the Director of the Islamic Religious Affairs Department of Sabah or representative; and
- (d) not more than eight other members, at least five of whom shall be persons who are learned in *Hukum Syarak*.

(2) the Yang di-Pertua, Deputy Yang di-Pertua, and the members appointed under paragraph (1)(d) shall be persons who are Muslim and shall be appointed by the Yang di-Pertua Negeri on the advice of the Minister for such period, not exceeding three years, as the Yang di-Pertua Negeri may determine.

(3) A member whose term of office has expired may be reappointed.

(4) If at any time the person holding the appointment mentioned in subparagraph (1)(c) (i), (ii), (iii) or (v) is not a Muslim, the Yang di-Pertua Negeri shall appoint another officer who is a Muslim and next in seniority from the same Department or Ministry to be a member in place of that person.

(5) Every person who, immediately before the commencement of this Enactment, was the Yang di-Pertua, Deputy Yang di-Pertua or appointed member of the previous Majlis shall, subject to this Enactment, each continue to be the Yang di-Pertua, Deputy Yang di-Pertua or member of the Majlis until the expiry of his term of appointment.

#### **Termination of appointments**

**12.** The appointment of an appointed member of the Majlis shall terminate –

- (a) on his death;
- (b) if he, by letter addressed to the Yang di-Pertua Negeri, through the Chairman, resigns his appointment; or
- (c) if he has been absent from Malaysia, without the written permission of the Chairman, for a period exceeding six months.

### **Revocation of appointments**

13. The Yang di-Pertua Negeri, on the advice of the Minister, may revoke the appointment of any member of the Majlis if –
- (a) his conduct, whether in connection with his duties as a member or otherwise, has been such as to brings discredit to the Majlis;
  - (b) he has become incapable of properly carrying out his duties as a member;
  - (c) without any excuse which in the opinion of the Yang di-Pertua is sufficient, he has been absent from three consecutive meetings of the Majlis;
  - (d) he has acted contrary to the interest of the Majlis; or
  - (e) he is declared a bankrupt.

### **Publication of appointments and revocations in the Gazette**

14. All appointments and revocation of appointments under sections 11, 12 and 13 shall be published in the *Gazette*.

### **Members remuneration**

15. Payment must be made to the members of the Majlis, or any of the members as being determined by the Minister, salary and allowance from the Fund as being allowed by the Minister from time to time.

### **Control by the Yang di-Pertua**

16. The Yang di-Pertua shall exercise control over all deliberations and proceedings of the Majlis and shall be responsible for the proper and orderly conduct thereof.

### **Appointment of Secretary, Deputy Secretary and officers of the Majlis**

17. (1) The Majlis, with the approval of the Minister, shall appoint any fit and suitable person to be the Secretary.
- (2) The Secretary shall be the Chief Executive Officer and Administrative Officer of the Majlis and shall be responsible for carrying out the policies and resolutions of the Majlis.
- (3) The Majlis shall appoint such number of Deputy Secretary and some officers of the Majlis who shall be responsible to the Secretary to implement particular duties and responsibilities of the Majlis as the Majlis may deem necessary.

(4) The Secretary is entitled to attend all meetings of the Majlis and take part in the discussion, but may not vote.

(5) The Secretary shall be ex-officio member of the Majlis, who shall act as Secretary in the meetings of the Majlis.

(6) The Secretary shall subject to the direction of the Majlis, be responsible for the day-to-day administration of the Majlis and to implement decisions of the Majlis, and shall execute any powers or duties specified by the Majlis.

(7) The Deputy Secretary shall assist the Secretary in the exercise of his powers and the discharge of his duties under this Enactment.

(8) Persons who immediately before the commencement of this Enactment held offices as a Secretary, Deputy Secretary or officers of the Majlis shall, subject to this Enactment, be deemed to have been appointed to their respective offices under this section.

#### **Attendance of non-members at meetings of the Majlis**

18. (1) If a member who is appointed under paragraph 11(1)(c) or subsection 11(4) is unable to attend a meeting of the Majlis, the member may be represented by any Muslim officer in the same Department or Ministry as the member at the meeting.

(2) The Yang di-Pertua may invite any person who is not a member of the Majlis to attend any meeting of the Majlis, if the business before the meeting makes the presence of the person desirable.

(3) A person attending a meeting under subsection (1) or (2) is entitled to participate in the deliberations of the Majlis but is not entitled to vote.

#### **Presiding over meetings**

19. (1) The Yang di-Pertua, or in his absence, the Deputy Yang di-Pertua shall preside over all meetings of the Majlis.

(2) If the Yang di-Pertua and the Deputy Yang di-Pertua are absent from a meeting, the members present shall elect one of the members to preside over the meeting.

#### **Quorum**

20. No business, except that of adjournment, shall be transacted at a meeting, and no

resolution or action of the Majlis made or performed at a meeting shall be valid unless, one-third of the members, including the person presiding over the meeting, are present at the meeting.

### **Conduct of business**

21. (1) Except as otherwise expressly provided by this Enactment, all business of the Majlis shall be conducted in a meeting of the Majlis regularly convened and shall be disposed of by the resolution of the majority of the members present and entitled to vote.

(2) A resolution in writing signed by all members of the Majlis shall, unless in any special case or class of cases the Yang di-Pertua Negeri otherwise directs, have the same effect as a resolution duly passed under subsection (1).

### **Summoning of meetings**

22. (1) All meetings of the Majlis shall be summoned by the Secretary.

(2) The Yang di-Pertua may at any time direct the Secretary to summon a meeting.

(3) Any five members of the Majlis may at any time in writing require the Secretary to summon a meeting of the Majlis on condition that they inform the Secretary the purpose for which they desire the meeting to be summoned.

(4) The Secretary shall summon a meeting within fourteen days from the date of receipt of the direction under subsection (2) or the requirement under subsection (3).

(5) At least seven days notice in writing shall be given of any meeting, but the Yang di-Pertua, if he considers that there is urgent need to summon a meeting at shorter notice, direct that the requirement of seven days notice be dispensed with.

(6) Notice of a meeting may be sent by post, facsimile or E-mail.

(7) A notice sent to a member by post shall be addressed to his last-known place of residence and shall be deemed to have been served in due course of post.

(8) A notice sent to a member by facsimile shall be sent to the facsimile number given by the member in writing to the Secretary and shall be deemed to have been received by the member when the call back code is received by the Secretary.

(9) A notice sent to a member by E-mail shall be sent to the E-mail address of the member given to the Secretary in writing and shall be deemed to have been received

by the member if the relevant mail administrator informs that the mail has been successfully delivered or if there is no information from the mail administrator that the mail has not been successfully delivered.

(10) No notice of meeting shall be necessary in the case of a member who is for the time being outside Malaysia.

### **Minutes**

23. (1) The Secretary shall keep the minutes of all meetings of the Majlis.

(2) At every meeting the minutes of the previous meeting shall be read and confirmed, subject to any amendment which may be required.

(3) The minutes shall be entered in the minute book of the Majlis and shall contain a full verbatim record of every resolution made by the Majlis.

(4) As soon as possible after every meeting of the Majlis, a copy of the draft minutes shall be sent to the Yang di-Pertua Negeri, and if on confirmation of the draft minutes the minutes are amended, the Yang di-Pertua Negeri shall forthwith be informed of the amendments made.

(5) No decision made in any meeting of the Majlis shall be acted upon until the minutes of the meeting have been confirmed or, if action is required to be taken before the minutes have been confirmed, the Yang di-Pertua Negeri has signified his assent in writing.

### **Order of business in meetings**

24. (1) The Yang di-Pertua shall determine the order of business in meetings.

(2) The Yang di-Pertua may decide in what order members may address the and may at any time require any member to cease addressing the meeting.

(3) If on any resolution there is an equality of votes, the Yang di-Pertua shall have a casting vote.

### **Certified copies of resolution**

25. A copy of any resolution of the Majlis certified by the Secretary to be a true copy of the resolution shall be sufficient evidence thereof, and all courts shall take judicial notice of the resolution without proof of the Secretary's signature.

### **Application for leave by the Yang di-Pertua and other members**

26. (1) If the Yang di-Pertua expects to be absent from Malaysia for a period of more than thirty days, he shall apply for leave from the Yang di-Pertua Negeri and the Yang di-Pertua Negeri may give such directions as he thinks fit.

(2) If any member of the Majlis expects to be absent from Malaysia for more than thirty days, he shall apply for leave from the Yangdi-Pertua.

### **Action in cases of urgency**

27. (1) In any case of urgency, the Yang di-Pertua may, do or direct to be done on behalf of the Majlis any act or thing that may lawfully be done by resolution of the Majlis.

(2) If any act or thing is done pursuant to subsection (1), a meeting of the Majlis shall be held within seven days thereafter for the purpose of ratifying and confirming the act or thing done; and if the Majlis declines to ratify and confirm the act or thing done, the Yang di-Pertua Negeri may issue any direction with respect thereto as he thinks fit.

### **Committees**

28. (1) The Majlis may appoint committees to assist it in the discharge of its duties or exercise of its powers.

(2) There shall be paid to members of the Majlis, or to any of them as specified by the Minister, allowance from the Fund of the Majlis as approved by the Minister from time to time.

(3) Any person immediately before the commencement of this Enactment is a committee member of the previous Enactment shall be deemed to be a member under this Enactment.

### **Delegation of duties and powers of the Majlis**

29. (1) The Majlis may, by resolution, and subject to such conditions and restrictions as the Majlis thinks fit, delegate to the Yang di-Pertua or Secretary or to any committee of the Majlis the discharge of any of its duties or the exercise of any of its powers.

(2) The discharge of duties and exercise of powers in pursuance of a delegation under subsection (1) shall be subject to the control and direction of the Majlis.

(3) The Yang di-Pertua, Secretary, or committee to whom or to which a delegation is made under subsection (1) shall inform the Majlis of all acts and things done by him or it in pursuance of such delegation.

(4) No delegation made under this section shall exclude the Majlis from carrying out or exercise by itself any of the duties, powers or responsibility so delegated.

#### **Appointment of officers and servant**

30. (1) The Majlis may appoint such number of officers and servant as may be necessary to assist it in carrying out its function.

(2) The Majlis may, with the approval of the Yang di-Pertua Negeri, make regulations with respect to conditions of services of its officers and servants.

#### **Discipline**

31. The Majlis shall have disciplinary authority over all its officers and servants and shall exercise disciplinary control in respect of all such persons.

#### **Disciplinary committees**

32. (1) The Majlis may establish different disciplinary committees for different categories of its officers and servant.

(2) The following shall apply to a disciplinary committee –

(a) a disciplinary committee shall consist of any number of members of the Majlis, other than the Yang di-Pertua, or officers of the Majlis or any combination of such members and officers; and

(b) an officer who is a member of a disciplinary committee shall not be lower in rank than an officer over whom the disciplinary committee of which he is a member has disciplinary authority.

(3) A disciplinary committee shall exercise its powers in all matters relating to the discipline of officers and servants placed under its jurisdiction.

(4) In the exercise of its disciplinary functions and powers, a disciplinary committee shall have the power to take disciplinary action and impose any disciplinary punishment or any combination of two or more disciplinary punishments as may be provided for under any disciplinary regulation made under section 33.

#### **Disciplinary regulations**

33. (1) The Majlis may, with the approval of the Yang di-Pertua Negeri, make

regulations to provide for the discipline of its officers and servants.

- (2) The disciplinary regulations made under this section –
- (a) may create disciplinary offences;
  - (b) may provide for such disciplinary punishments as the Majlis may deem appropriate and the punishment may extend to –
    - (i) a warning;
    - (ii) a fine;
    - (iii) a forfeiture of emoluments;
    - (iv) a deferment of salary movement;
    - (v) a reduction of salary;
    - (vi) a reduction in rank; and
    - (vii) a dismissal;
  - (c) shall provide for an opportunity to the officers and servants against whom disciplinary proceedings are taken to make representations against the disciplinary charge laid against him before a decision is arrived at by the disciplinary committee except in the following cases–
    - (i) where an officer or servant is dismissed or reduced in rank on the ground of misconduct in respect of which a criminal charge has been proved against him;
    - (ii) where the Majlis, on the recommendations of the Minister charged with the responsibility for home affairs, is satisfied that in the interest of the security of Malaysia or any part of Malaysia it is not expedient to carry out the requirements of this paragraph; or
    - (iii) where there has been –
      - (A) made against an officer or servant any order of detention, supervision, restricted residence, banishment or deportation; or

- (B) imposed on an officer or servant any form of restriction or supervision by bond or otherwise,

under any law relating to the security of Malaysia or any part of Malaysia, prevention of crime, preventive detention, restricted residence, banishment, immigration, or protection of women and girls or children;

- (d) may provide for the interdiction with reduced emoluments of an officer or servant during the pendency of a criminal proceeding against him or disciplinary proceeding against him or disciplinary proceeding against him with the view to his dismissal or reduction in rank; and
- (e) may provide for the suspension without emoluments of an officer or servant –
  - (i) where the officer or servant has been convicted by a criminal court; or
  - (ii) where an order of detention or restriction has been imposed on the officer or servant; and
- (f) may provide for the procedure for the hearing of an appeal by the Disciplinary Appeal Board established under section 34.

### **Disciplinary Appeal Board**

**34.** (1) A decision of a disciplinary committee shall be appealable to the Disciplinary Appeal Board which shall consist of the following members –

- (a) the Yang di-Pertua of the Majlis, who shall be the Yang di-Pertua of the Disciplinary Appeal Board and who shall have a casting vote; and
- (b) two other members of the Majlis, not being members of the disciplinary committee whose decision is the subject-matter of the appeal, to be appointed by the Yang di-Pertua of the Disciplinary Appeal Board with the approval of the Majlis for the purpose of the appeal.

(2) When the Disciplinary Appeal Board considers an appeal, a member of the disciplinary committee against whose decision the appeal is made shall not be present or in any way participate in any proceedings relating to that appeal.

(3) The Disciplinary Appeal Board may confirm, reverse or vary the decision of the disciplinary committee.

### **Imposition of surcharge**

35. (1) A person who is or was in the employment of the Majlis may be surcharged if it appears to the Majlis that the person –
- (a) has failed to collect money owing to the Majlis for the collection of which he is or was responsible;
  - (b) is or was responsible for any improper payment of money from the Majlis for any payment of money which is not duly approved;
  - (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any money, store or other property of the Majlis;
  - (d) has failed to make any payment, or is or was responsible for any delay in the payment from the Majlis, of any money to any person to whom such payment is due under any law, or under any contract, agreement or arrangement entered into between that person and the Majlis; or
  - (e) being or having been an accounting officer, fails or has failed to keep proper accounts or records.
- (2) In this section, “accounting officer” includes an officer who is charged with –
- (a) the duty of collecting, receiving or accounting for, or who in fact collects, receives or accounts for, any money of the Majlis;
  - (b) the duty of disbursing, or who does in fact disburse, any money of the Majlis; or
  - (c) the duty of receiving, keeping in custody, disposing of or accounting for, any store and property of the Majlis who in fact receives, holds, disposes or accounts for such store and property.

### **Show cause notice before surcharge**

36. The Majlis shall, before a person is surcharged, serve on him a written notice calling on him to show cause why he should not be surcharged.

### **Amount of surcharge**

37. If a satisfactory explanation is not received within fourteen days from the date a notice is served on a person under section 36, the Majlis may –

- (a) in the case of any of the acts or omissions mentioned in paragraphs 35

(1)(a), (b) and (c), surcharge against the person a sum not exceeding the amount not collected, or of the improper payment made, or of the value of the deficiency in the property or of the property destroyed; and

(b) in the case of any of the acts or omissions mentioned in paragraphs 35(1)(d) and (e), surcharge against the person such sum as the Majlis thinks fit.

#### **Notification of surcharge**

**38.** The Majlis shall notify the person surcharged in respect of any surcharge made under section 37.

#### **Withdrawal of surcharge**

**39.** Notwithstanding sections 37 and 38, the Majlis may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it is otherwise appears that no surcharge should have been made, and the Majlis shall forthwith notify the person surcharged of the withdrawal.

#### **Recovery of surcharge**

**40.** The amount of any surcharge made under section 37 and not withdrawn under section 39 shall be a debt due to the Majlis from the person surcharged and may be sued for and recovered in any court at the suit of the Majlis and may also, if the Majlis directs, be recovered by deduction –

(a) from the salary of the person surcharged; or

(b) from the pension of the person surcharged,

by equal monthly installments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of that person.

#### **Majlis may adopt regulations, etc.**

**41.** In making any regulations under this Enactment, the Majlis may, with the approval of the Yang di-Pertua Negeri, adopt with such modifications as it deems fit any regulations, policies, circulars and directives enacted or issued by the Federal Government or State Government.

#### **Secrecy**

**42.** The proceedings of the Majlis shall be kept secret and no member or servant

thereof shall disclose or divulge to any person other than the Yang di-Pertua Negeri or Minister or any member of the Majlis any matter that has arisen at any meeting unless he is expressly authorized by the Majlis.

**Public servant**

**43.** Every member, officer and servant of the Majlis shall be deemed to be a public servant within the meaning of the Penal Code [Act 574].

**Majlis may determine its own procedure**

**44.** Subject to the other provisions of this Enactment, the Majlis may determine all questions relating to its own procedure and practice.

PART IIA  
PROSECUTION AND ENFORCEMENT

Appointment of Chief *Syar'ie* Prosecutor and *Syar'ie* Prosecutors

**44A.** (1) The Yang di-Pertua Negeri may, on the recommendation of the Majlis, appoint a fit and proper person amongst the members of the public service of Sabah as the Chief *Syar'ie* Prosecutor.

(2) The Chief *Syar'ie* Prosecutor shall have power exercisable at his discretion to institute, conduct or discontinue any proceeding for an offence before any syariah Court.

(3) The Majlis may, on the recommendation of Chief *Syar'ie* Prosecutor, appoint fit and proper persons from amongst the members of the public service of Sabah to be *Syar'ie* Prosecutors.

(4) *Syar'ie* Prosecutors shall act under the general control and direction of the Chief *Syar'ie* Prosecutor and may exercise all or any of the rights and powers vested in or exercisable by the Chief *Syar'ie* Prosecutor, except rights and powers expressed to be exercisable by the Chief *Syar'ie* Prosecutor personally.

(5) A person who, immediately before the commencement of this Enactment, was holding the post of Chief *Syar'ie* Prosecutor or *Syar'ie* Prosecutor under the Syariah Courts Enactment 2004 [No, 6 of 2004] shall, on the commencement of this Enactment, continue to hold office as a Chief *Syar'ie* Prosecutor or *Syar'ie* Prosecutor as if he had been appointed under subsection (1).

### **Appointment of Chief Religious Enforcement Officers and Religious Enforcement Officers**

**44B.** (1) The Majlis may appoint from amongst the members of the public service of Sabah a Chief Religious Enforcement Officer and Religious Enforcement Officers to carry out the investigation of offences under Syariah Criminal Offences Enactment 1995 [No. 3 of 1995], or under any other written law which prescribes offences within the jurisdiction of the Syariah Court.

(2) A person who, immediately before the commencement of this Enactment, was holding the post of Chief Religious Enforcement Officer or Religious Enforcement Officer under the Syariah Courts Enactment 2004 shall, on the commencement of this Enactment, continue to hold office as a Chief Religious Enforcement Officer or Religious Enforcement Officer as if he had been appointed under subsection (1).

### **Syar'ie Prosecutor code of ethics**

**44C.** The Yang di-Pertua Negeri may, on the recommendation of the Chief *Syar'ie* Judge, prescribe a code of ethics which must be observed by all *Syar'ie* Prosecutors.

## PART III

## FINANCE

### *Financial Procedure of the Majlis*

### **Establishment of the Fund**

**45.** There shall be established a fund to be known as "the Fund" which shall consist of-

- (a) save as otherwise provided for by this Enactment, all moneys and properties, movable or immovable, which accrued to the Fund or which was donated by the Government or any person or which is payable to the Fund in accordance with *Hukum Syarak* or under the provisions of this Enactment or rules made thereunder;
- (b) any money which is from time to time obtained by the Majlis through loan;
- (c) all rents and proceeds of sale, profit and income and all moneys obtained by the Majlis directly or indirectly from property or other investments belonging to the Majlis;

- (d) all moneys obtained from the management or disposal of any project, scheme or enterprise of the Majlis; and
- (e) all other moneys paid to the Majlis from time to time.

#### **Estimates of income and expenditure**

46. (1) The Secretary should not less than one month before the commencement of each financial year, deliver to the Majlis an estimate of income and expenditure of the Fund including capital expenditure for the following year in such form and containing particulars as directed by the Majlis.

(2) A copy of such expenditure shall be delivered to each member of the Majlis not less than fourteen days prior to the meeting in which such estimate will be tabled.

(3) The Majlis shall prepare and submit to Yang di-Pertua Negeri, not later than the 31st day of October in each year estimates of all income and expenditure of the Majlis, including the estimates of all property and disposables in kind, in respect of the ensuing year.

(4) The Yang di-Pertua Negeri on the advice of the Minister, may approve such estimates or may direct that the estimates be amended.

(5) Estimates which have been amended, with or without amendments under subsection (4), shall be published in the *Gazette*. The Majlis may at any time submit to the Yang di-Pertua Negeri supplementary estimates of expenditure in respect of the current year, or, at any time prior to the 31<sup>st</sup> day of March in any year, in respect of the preceding year, and the estimates may be approved or amended, and shall be published, in accordance with subsections (4) and (5).

(6) No money shall be expended, or property disposed of in kind, except in accordance with such estimates as are provided for in this section and upon a voucher signed by the Yang di-Pertua or the Secretary or any officer of the Majlis or any other officer authorized by the Majlis.

#### **Expenses of the Majlis**

47. (1) All costs, charges and expenses of administering the property and assets vested in the Majlis, including the cost of maintenance and repair of any immovable property, the salaries and allowances payable to any officer or member of the Majlis, fees and allowances payable to any officer or members of the Majlis in respect of this services as a servant, officer

or member of the Majlis, money which is needed to pay back the loan and other general expenses which is allowed under this Enactment in undertaking the Majlis duties including expenses which is considered as necessary in fulfilling its obligations, shall be paid out of the property and assets of the Fund.

(2) All costs, payments and expenses in administering property and assets vested in the Majlis, including the cost of maintenance and repairs of any immovable property, salary and allowance of all servants of Majlis and fee and allowance payable to any officer or member of the Majlis relating to his service, shall be paid from the property and assets of the Fund.

### **Bank accounts**

48. (1) The Majlis may operate such account or accounts as it may deem proper with any bank which is suitable.

(2) Payments by Majlis of amounts exceeding two hundred ringgit shall be made by cheques.

(3) All moneys received by or for the Majlis shall be paid into a bank account of the Majlis in the manner provided in the Financial Procedure of the Majlis.

(4) Cheques drawn on any bank account of the Majlis shall be signed by the Yang di-Pertua or the Secretary or Deputy Secretary together with any officer of the Majlis being a financial officer authorized and with responsibility as Treasurer of the Majlis; or by any member or officer authorized by the Majlis together with the Treasurer.

### **Accounts and Audit**

49. (1) The Majlis shall keep proper accounts and other records in respect of the operation of the Fund and shall prepare statement of accounts in respect of each financial year.

(2) The accounts of the Fund shall be audited annually by the Auditor-General.

(3) After the end of each financial year, as soon as the accounts of the Fund have been audited, the Majlis shall cause to be published in the *Gazette* the statement of accounts and any observations made by the Auditor-General on such statement or on any accounts of the Majlis.

(4) The provisions of the Statutory Bodies (Supplementary Provisions) Enactment 1997 shall apply to the Majlis.

### **Power to collect zakat and fitrah**

50. Subject to the provisions of the Zakat and Fitrah Enactment 1993, Majlis is empowered to collect *zakat* and *fitrah* due from every Muslim person in the State of Sabah in accordance with *Hukum Syarak* on behalf of the Yang di-Pertua Negeri.

### *Wakaf, Nazr* and Trust

#### **Majlis to be sole trustee of *wakaf, nazr* and trust**

51. Notwithstanding any provision to the contrary contained in any instrument or declaration creating, governing or affecting it, the Majlis shall be the sole trustee of –

- (a) all *wakaf*, whether *wakaf am* or *wakaf khas*;
- (b) all *nazr am*; and
- (c) all trusts of every description creating any charitable trust for the support and promotion of the religion of Islam or for the benefit of Muslims in accordance with *Hukum Syarak*,

to the extent of any property affected by the *wakaf, nazr am* or trust and situated in the State of Sabah.

#### **Vesting of *nazr* and trust property in Majlis**

52. (1) All property subject to section 51 shall without any conveyance, assignment or transfer, and, in the case of immovable property, upon registration under the Land Ordinance Cap. 68, vest in the Majlis, for the purpose of the *nazr am* or trust affecting the property.

(2) The Majlis shall take all necessary steps to vest in itself for the like purposes any such property situated elsewhere then in the State of Sabah.

#### **Restriction on creation of charitable trust**

53. (1) Whether or not made by way of will or death-bed gift, no *nazr* made after the commencement of this section and involving more than one-third of the property of the person making the *nazr* shall be valid in respect of the excess beyond such one-third.

(2) Every *nazr* made after the commencement of this section shall be null and void unless –

- (a) the Yang di-Pertua Negeri on the advice of the Majlis, has expressly sanctioned and validated the *nazr*, or
- (b) the *nazr* made while the maker was seriously ill and the maker subsequently dies of such illness and was made in writing by an instrument executed by him and witnessed by two adult Muslim living in the same *kariah masjid* as the maker.

(3) This section shall not operate to render valid any death-bed gift or *nazr* which is invalid under the provisions of *Hukum Syarak*.

(4) Any *nazr* which is valid in accordance with the previous Enactment shall remain valid for the purpose of this Enactment.

#### **Income from *nazr***

**54.** (1) Deleted by En.9/2018

(2) The income of every *nazr am* shall be paid into and form part of the Baitulmal.

#### **Capital of *nazr***

**55.** (1) Subject to subsections (2) and (3), the capital property and assets affected by any lawful *nazr am* shall not form part of the Baitulmal, but shall be applied in pursuance of such *nazr am* and held as segregated funds.

(2) If, due to lapse of time or change of circumstances, it is no longer possible beneficially to carry out the exact provisions of any *nazr am*, the Majlis shall prepare a scheme for the application of the property and assets affected thereby in a manner as closely as may be analogous to that required by the terms of such *nazr am*, and shall apply the property and assets accordingly.

(3) Notwithstanding subsection (2), the Majlis may, with the approval in writing of the Yang di-Pertua Negeri, direct that the property and assets referred to in subsection (2) shall be added to and form part of the Baitulmal.

(4) If the terms of any *nazr am* are such that no method of application of the capital property or assets affected thereby is specified, or it is uncertain from such terms in what manner the capital property of assets should be applied, the Majlis may

direct that such capital property and assets shall be added to and form part of the Baitulmal.

(5) All instruments creating, evidencing or affecting any *nazr am*, together with any documents of title or other securities relating thereto, shall be held and retained by the Majlis.

#### **Construction of instruments on *nazr***

56. If in the opinion of the Majlis the meaning or effect of any instrument or declaration creating or affecting any *nazr* is obscure or uncertain, the Majlis may refer the matter to the Mufti for its opinion as to the meaning or effect of the instrument or declaration, and shall act on any opinion so given by the Mufti.

#### **Publication of list of *nazr* and trust property**

57. As soon as possible after the 31st day of December in every year the Majlis shall prepare, issue and publish in the *Gazette* a list of all properties, investments and assets vested in the Majlis, subject to any trust or *nazr* and not forming part of the Baitulmal.

### PART IV MOSQUES

#### **Majlis to be sole trustee of mosques and related land**

58. (1) Notwithstanding any provision to the contrary in any written instrument, the Majlis shall be the sole trustee of all mosques in the State of Sabah.

(2) Every mosque, together with the land on which it stands and any land which is appurtenant to and used for the purposes of the mosque, other than State land or land reserved for a public purpose, shall, upon registration under Sabah Land Ordinance Chapter 68, and without any conveyance, assignment, or transfer, vest in the Majlis for the purposes of this Enactment.

#### **Restriction on establishment of mosques**

59. No person shall, without the permission in writing of the Majlis, erect any building to be used or use or cause to be used any building for purposes which may only be carried on in or by a mosque.

### **Establishment of mosques**

60. (1) The Majlis may at any time –

- (a) permit a building to be erected for use as a mosque;
- (b) permit the use of any building as a mosque; or
- (c) prescribe any *surau*, *madrrasah* or other building to be a mosque.

(2) The Majlis shall not give its permission or make a prescription under subsection (1) unless the site of the building to be used as a mosque has been made a *wakaf* in perpetuity.

(3) The Majlis may, by notification in the *Gazette* determine or alter the boundaries of any *kariah masjid*.

(4) A mosque which has already been constructed, which construction was not funded by the Majlis and not surrendered to the Majlis, shall be used subject to this section.

### **Maintenance of mosque and their compounds**

61. (1) The Majlis shall ensure that all mosques in the State of Sabah are kept in a proper state of repair and that the compounds thereof are maintained in a proper state of cleanliness.

(2) The Majlis may raise and apply, or authorize the raising and application of, special funds for the purpose of such repairs and maintenance, or may defray the cost of such repairs and maintenance from the Fund.

(3) The *Imam* shall promptly inform the Majlis of any want of repair in his mosque, and shall inspect or supervise any repairs as agent for and on behalf of the Majlis.

(4) No material alteration to the structure of a mosque shall be made without the permission in writing of the Majlis.

(5) The Majlis may direct a *Jawatankuasa Kariah* to keep the mosque for which it is responsible in a proper state of repair.

### **Appointment of *Pegawai Masjid***

62. (1) For every mosque in the State of Sabah there shall be appointed one or

several *Imam, Bilal, and Pembantu Bilal*.

(2) For every mosque that is determined by the Yang di-Pertua Negeri on the advice of the Majlis and the Minister, the *Imam* and *Bilal* be appointed from amongst members of the joint service or the general public service of the State of Sabah.

(3) For every mosque that is not determined under subsection (2) the Majlis shall appoint the *Imam* and *Bilal* from amongst the *ahli kariah* of the mosque.

(4) The *Pembantu Bilal* of the mosque shall be appointed from amongst the *ahli kariah* of a mosque.

(5) Upon the commencement of this Enactment, every person who, immediately before the commencement of this Enactment, was the *Imam, Bilal* or *Pembantu Bilal* of mosques appointed under the previous Enactment shall be deemed to have been duly appointed under this section to be the *Imam, Bilal* or *Pembantu Bilal* respectively of the mosques and shall, subject to section 64, continue to hold office as the *Imam, Bilal* or *Pembantu Bilal* of such mosque.

#### **Tauliah of Pegawai Masjid**

**63.** (1) Every person appointed by the Majlis to be a *Pegawai Masjid*, including every person deemed to have been so appointed under subsection 62(5), shall be given a *tauliah* by the Majlis.

(2) Every *Pegawai Masjid* shall have such powers and duties as may be set out in the regulations made under this Enactment and in his *tauliah*.

#### **Tenure of office of Pegawai Masjid**

**64.** (1) The appointment of a *Pegawai Masjid* other than the *Imam* and *Bilal* of a mosque determined under subsection 62(2) or deemed to be appointed under subsection 62(5) as a *Pegawai Masjid*, may be terminated by written notice from the Majlis.

(2) No *Pegawai Masjid* appointed or deemed to be appointed under subsection 62(5) shall remain in office after reaching the age of sixty years:

Provided that the Majlis may, if it deems fit, appoint any person to be a *Pegawai Masjid* notwithstanding that he has attained the age of sixty years or extend the tenure of office of the *Pegawai Masjid* who has attained the age of sixty years.

(3) The Secretary shall inform the Majlis of any disgraceful conduct on the part of any *Pegawai Masjid*, whether in relation to his duties as *Pegawai Masjid* or otherwise and to make any reasonable recommendations.

**Control and direction of *Pegawai Masjid***

65. In the performance of their duties, the *Imam*, *Bilal* and *Pembantu Bilal* shall be subject to the control and direction of the *Majlis*.

***Jawatankuasa Kariah***

66. (1) The *Majlis* may, with the approval of the Yang di-Pertua Negeri, make regulations for –

- (a) the establishment of a *Jawatankuasa Kariah* for a *kariah masjid*;
- (b) prescribing the manner in which the members of the *Jawatankuasa Kariah* shall be appointed; and
- (c) prescribing the functions of the *Jawatankuasa Kariah*.

(2) The *Jawatankuasa Kariah* of a *kariah masjid*, in conjunction with the *Pegawai Masjid*, shall –

- (a) be responsible for the proper conduct and good order of the mosque and all Muslim burial grounds within the *kariah masjid*;
- (b) be responsible for the good conduct of the *anak kariah* in matters relating to the religion of Islam; and
- (c) give due and prompt information to the *Majlis* of all matters arising in the *kariah masjid* that require the attention of the *Majlis*.

**Exemption of mosques**

67. The *Majlis* may, with the approval of the Yang di-Pertua Negeri by notification in the *Gazette* exempt any mosque from all or any of the provisions of this Part.

PART V  
CHARITABLE COLLECTIONS

**Charitable collections**

68. (1) Subject to the provision of Baitulmal Corporation Enactment 1998, *Majlis* may collect, or by an authorization letter issued by the *Majlis*, authorize any person or body of persons, on such terms as the *Majlis* deems fit, to collect moneys or other contributions for any charitable purpose for the support and promotion of the religion of Islam or for the

benefit of Muslims in accordance with *Hukum Syarak*.

(2) It shall be deemed to be a term of every authorization granted under subsection (1) that the grantee of such authorization and all other person authorized thereby to collect moneys or other contribution shall –

- (a) issue in respect of every sum so collected a serially numbered receipt in the prescribed form;
- (b) keep true and full accounts of all sums so collected and of the disposal thereof with all proper vouchers;
- (c) produce on demand the counterfoils of such receipts and all such accounts and vouchers for inspection and audit by the Majlis; and
- (d) apply and dispose of all sums so collected in accordance with the terms of such authorization or, if no method for the disposal of the sums is expressly authorized by the authorization letter, pay and account for the sums to the Baitulmal.

(3) Moneys collected pursuant of this section may be applied for any purpose specified by the Majlis, and if there is no purpose so specified, shall form part of the Baitulmal.

(4) No person shall make or take part in any collection of money for any purpose as mentioned in subsection (1) except with the express authority of the Majlis or by virtue of an authorization letter under subsection (1).

(5) Any person who contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.

## PART VI

### CONVERSION TO THE RELIGION OF ISLAM

#### **Requirements for conversion to the religion of Islam**

69. (1) The following requirements shall be complied with for a valid conversion of a person to the religion of Islam –

- (a) the person must utter in reasonably intelligible Arabic the two clauses of the Affirmation of Faith;
- (b) at the time of uttering the two clauses of the Affirmation of Faith, the

person must be aware that they mean “I bear witness that there is no God but Allah and I bear witness that the Prophet Muhammad s.a.w. is the Messenger of Allah”; and

(c) the utterance must be made of the person’s own free will.

(2) A person who is incapable of speech may, for the purpose of fulfilling the requirement of paragraph (1)(a), utter the two clauses of the Affirmation of Faith by means of signs that convey the meaning specified in paragraph (1)(b).

### **Moment of conversion to the religion of Islam**

**70.** A person is converted to the religion of Islam and becomes a Muslim as soon as he finished uttering the two clauses of the Affirmation of Faith provided that the requirements of section 69 are fulfilled; and that person shall thereupon be referred to as a *muallaf*.

### **Duties and obligations of a *muallaf***

**71.** From the moment of his conversion, a *muallaf* becomes subject to the same duties and obligations as any other Muslim.

### **Registrar of *Muallafs***

**72.** The Majlis shall appoint a Registrar of *Muallafs* to maintain a Register of *Muallafs* in the prescribed form for the registration of *muallaf*.

### **Registration of *muallafs***

**73.** (1) A person who has converted to the religion of Islam may apply to the Registrar in the prescribed form for registration as a *muallaf*.

(2) If the Registrar is satisfied that the requirements of section 69 have been fulfilled in respect of the applicant, the Registrar may register the applicant’s conversion to the religion of Islam by entering in the Register of *Muallafs* the name of the applicant and other particulars as indicated in the Register of *Muallafs*.

(3) The Registrar shall also determine the date of conversion to the religion of Islam and enter the date in the Register of *Muallafs*.

(4) In order to satisfy himself of the fact and date of conversion to the religion of Islam by the applicant, and the other particulars to be entered in the Register of *Muallafs*, the Registrar may make such inquiries and call for such evidence as he considers necessary; but this subsection shall not be construed as precluding the Registrar from

relying solely on the words of the applicant as far as the fact and date of conversion are concerned.

(5) If the Registrar is not satisfied that the requirements of section 69 have been fulfilled in respect of the applicant, he may permit the applicant to utter, in his presence or in the presence of any of his officers, the two clauses of the Affirmation of Faith in accordance with the requirements of that section.

#### **Certificate of Conversion to the religion of Islam**

**74.** (1) The Registrar shall furnish every person whose conversion to the religion of Islam has been registered a Certificate of Conversion to the Religion of Islam in the prescribed form.

(2) A Certificate of Conversion to Religion of Islam shall be conclusive proof of the facts stated in the Certificate.

#### **Recognition of *muallafs* as Muslims**

**75.** (1) A person who has converted to the religion of Islam and has been registered in the Register of *Muallafs* shall, for the purposes of any Federal or State law, and for all time, be treated as a Muslim.

(2) A person whose conversion to the religion of Islam has been registered under any law of any State shall, for all purposes in the State of Sabah and for the purposes of implementing the provisions of any law in the State of Sabah, be treated as a Muslim.

#### **Determination whether a non-registered person is a *muallaf***

**76.** If any question arises as to whether a person is a *muallaf*, and the person is not registered in the Register of *Muallafs* or under any law of any State as a *muallaf*, that question shall be decided on the merits of the case in accordance with section 69.

#### **Offence of giving false information**

**77.** Any person who, in an application for registration under section 73, or in response to any request for information or evidence made by the Registrar under that section, wilfully furnishes to the Registrar any false or misleading information or evidence shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.

**Power to make regulations**

78. The Majlis may make regulations for the carrying into effect of the provisions of this Part.

**Capacity to convert to the religion of Islam**

79. For the purpose of this Part, a person who is not a Muslim may convert to the religion of Islam if he is of sound mind and –

- (a) has attained the age of eighteen years; or
- (b) if he has not attained the age of eighteen years, his parent or guardian consents to his conversion.

PART VII  
RELIGIOUS EDUCATION

**Islamic Religious Teaching Supervisory Committee**

80. (1) The Majlis shall appoint a committee known as the Religious Teaching Supervisory Committee, which shall consist of –

- (a) the Mufti, as a Yang di-Pertua;
- (b) not less than three and not more than seven persons with appropriate experience, knowledge and expertise; and
- (c) a Secretary who is appointed from amongst the State Public Service and shall be responsible to the committee.

(2) The Religious Teaching Supervisory Committee shall have power to grant a *tauliah* for the purpose of the teaching of the religion of Islam or any aspect of the religion of Islam and to withdraw such *tauliah*.

- (3) The Majlis may make regulations providing for –
- (a) the procedure, requirements and other matters relating to the granting of a *tauliah* under this section, including the fees chargeable;
  - (b) the procedure of the Islamic Religious Teaching Supervisory Committee; and
  - (c) the allowance payable to members of the committee.

### **Religious schools**

**81.** Subject to the Religious Islamic School Enactment 1991, the Majlis shall have power, to register all Islamic Religious Schools and any Islamic Religious Institutions in the State of Sabah.

### **Exemption**

**82.** The Majlis may exempt any person or class of persons from any provisions of this Part.

## PART VIII GENERAL

### **General power to make regulations**

**83.** (1) The Majlis, with the approval of the Yang di-Pertua Negeri, may make regulations, which shall be published in the *Gazette*, for carrying into effect the provisions of this Enactment.

(2) Without prejudice to the generality of powers conferred under subsection (1), regulations may be made to provide for—

- (a) the procedure of the Majlis, the form and method of executing of instruments by the Majlis, and the appointment of officers of the Majlis;
- (b) the fees to be paid in respect of any act or thing done under or in pursuance of this Enactment, and the method of collecting and disposing of such fees;
- (c) the appointment of committees of the Majlis and their powers, duties, and procedure;
- (d) the forms, registers, books of account, reports, accounts, estimates, and other documents to be used in respect of any act or thing done under or in pursuance of this Enactment;
- (e) the conduct of any charitable collection and the disposal of its proceeds;
- (f) the conduct of any mosque or *sura* or burial ground and all matters relating thereto;

- (g) the powers and duties of any *Pegawai Masjid*;
- (h) the determination and amendment of the boundaries of a *kariah masjid*;
- (i) the care and instruction of *muallafs*, and the method of registering *muallafs*;
- (j) the administration of Islamic schools and activities relating to the teaching of the religion of Islam; and
- (k) other matters necessary for the implementation of the provisions of this Enactment.

**The Majlis and corporations set up under the Majlis shall be deemed to be Natives**

**84.** For the purpose of any written law relating to the rights of Natives, the Majlis and every corporation set up under the Majlis shall be deemed to be Natives.

**Savings and transitional**

**85.** All rules, proclamations, orders, notices, forms, authorization letters and appointments issued or made under or by virtue of any written law repealed by virtue of this Enactment shall remain in force, in so far as they are not inconsistent with this Enactment, until revoked or replaced by regulations, rules, proclamations, orders, notices, forms, authorization letters or appointments issued or made under this Enactment.

**Repeal**

**86.** The Administration of Islamic Law Enactment 1992 is repealed.

FIRST SCHEDULE  
(Subsection 2(3))

ARABIC SCRIPT FOR CERTAIN WORDS AND EXPRESSIONS

Fatwa	فتوى
Fitrah	فطرة
Hukum Syarak	حكم شرع
Imam	امام
Kariah	قرية
Muallaf	مؤلف
Mufti	مفتي
Nas	نص
Nazr	نذر
Ratib	راتب
Syariah	شريعة
Wakaf	وقف
Wakaf am	وقف عام
Wakaf khas	وقف خاص
Zakat	زكاة

SECOND SCHEDULE

(Subsection 8(3))

1. Nothing in section 8 shall be deemed to authorize the Majlis to make an order to establish any corporation having any duty, power or right which is not within the duties, powers or rights of the Majlis under this Enactment.
2. Subject to the other provisions of this Enactment, any order made under section 8 shall be binding on the corporation in respect of which it was made and shall have effect for all purposes as if it had been enacted in this Enactment.
3. The Majlis may, with the approval of the Yang di-Pertua Negeri at any time amend, revoke or add to any order made in respect of any corporation under section 8.
4. The Majlis shall keep a register of all corporations established by it under section 8 and such register together with copies of all orders made under that section shall be open to public inspection at such place or places and at such times as it may prescribe.
5.
  - (1) The Majlis may, with the approval of the Yang di-Pertua Negeri, by order published in the *Gazette*, direct that any corporation established by it shall be wound-up and dissolved.
  - (2) Upon the dissolution of any corporation under this paragraph, the assets of the corporation, after payment of all liabilities, shall be transferred to and be vested in the Majlis.
  - (3) The winding-up of a corporation under this paragraph shall be conducted in such manner as the Majlis may prescribe.
6. Every corporation established under section 8 –
  - (a) shall be a body corporate by such name as the Majlis shall give to it;
  - (b) shall have perpetual succession;
  - (c) may sue and be sued in the name given by the Majlis; and
  - (d) for the purpose of furthering or fulfilling its functions may –
    - (i) enter into contracts;

- (ii) hold and deal in or with any movable or immovable property; and
- (iii) do all other matters and things incidental or appertaining to a body corporate not inconsistent with the provisions of this Enactment.

subject to such restrictions as may be prescribed by the Majlis in each case.

7. (1) Every corporation shall have a corporate seal, which shall bear such device as the corporation, with the approval of the Majlis, may approve, and such seal may from time to time be broken, changed, altered and made anew by the corporation with the approval of the Majlis.
- (2) Until a seal is provided by a corporation under this paragraph, a stamp bearing the name of the corporation may be used as a common seal.
- (3) The common seal, or the stamp referred to in subparagraph (2), shall be in the custody of such person as the corporation shall direct and shall be authenticated by that person; and all deeds, documents and other instruments purporting to be sealed with such seal, authenticated as aforesaid, shall until the contrary is proved be deemed to have been validly executed.
- (4) 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 corporation.
- (5) The seal of every 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 10th day of August, 2004.

DATUK JAMES ANDREW VITALES,  
*Deputy Speaker,*  
*State Legislative Assembly.*