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Act 566

PERBADANAN TABUNG PENDIDIKAN TINGGI NASIONAL ACT 1997

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**PERBADANAN TABUNG PENDIDIKAN
TINGGI NASIONAL ACT 1997**

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LAWS OF MALAYSIA**Act 566****PERBADANAN TABUNG PENDIDIKAN
TINGGI NASIONAL ACT 1997**

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LAWS OF MALAYSIA**Act 566****PERBADANAN TABUNG PENDIDIKAN
TINGGI NASIONAL ACT 1997**

An Act to establish the Tabung Pendidikan Tinggi Nasional, to incorporate the Perbadanan Tabung Pendidikan Tinggi Nasional, and to provide for related matters.

[1 July 1997, P.U.(B)255/1997]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I**PRELIMINARY****Short title and commencement**

1. (1) This Act may be cited as the Perbadanan Tabung Pendidikan Tinggi Nasional Act 1997.

(2) This Act shall come into force on such date as the Minister may appoint by notification in the *Gazette*.

Interpretation

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

“Board” means the Board of Management established under section 7;

“Chairman” means the Chairman of the Board appointed under paragraph 7(2)(a);

“Chief Executive” means the principal executive officer of the Perbadanan appointed under section 33;

“committee” means a committee established under section 17;

“deposits” means the deposits received by the Perbadanan under section 11;

“educational loan” means a loan approved and paid out by the Perbadanan to a student under this Act;

“higher educational institution” means—

(a) an institution of learning which provides education leading to the award of a diploma, degree or the equivalent of a diploma or degree established under—

(i) the Universities and University Colleges Act 1971 [Act 30];

(ii) the Universiti Teknologi MARA Act 1976 [Act 173]; and

(iii) the Private Higher Educational Institutions Act 1996 [Act 555];

(b) a polytechnic established and maintained by the Minister under the Education Act 1996 [Act 550]; and

(c) any other higher educational institution established or deemed to have been established under the Education Act 1996 and which is determined by the Minister to be a higher educational institution for the purposes of this Act;

“Fund” means the Tabung Pendidikan Tinggi Nasional established under section 3;

“Inland Revenue Board” means the Inland Revenue Board of Malaysia established under section 3 of the Inland Revenue Board of Malaysia Act 1995 [Act 533];

“Minister” means the Minister responsible for Education;

“Perbadanan” means the Perbadanan Tabung Pendidikan Tinggi Nasional established under section 5;

“recipient student” means a student to whom has been approved, and who is in receipt of, an educational loan under this Act;

“student” means a person receiving education, instruction or training of any description on a full-time or part-time basis from or in a higher educational institution.

PART II

THE TABUNG PENDIDIKAN TINGGI NASIONAL

Establishment of the Fund

3. (1) For the purposes of this Act there is established a fund called the “Tabung Pendidikan Tinggi Nasional” which shall be administered and controlled by the Perbadanan Tabung Pendidikan Tinggi Nasional.

(2) The Fund shall consist of—

- (a) such moneys as may be allocated by the Government from time to time for the purposes of this Act;
- (b) all grants, donations, gifts, contributions and bequests made to or in favour of the Perbadanan;
- (c) deposits received by the Perbadanan under section 11;
- (d) moneys earned by the operation of any project, agency, scheme or enterprise financed from the Fund;
- (e) fees or other charges imposed by the Perbadanan under this Act;
- (f) such moneys as may be paid from time to time to the Perbadanan from any financing or financial assistance given by the Perbadanan, and all moneys from time to time falling due to the Perbadanan in respect of the repayment of any financing or financial assistance, including educational loans, given out of the Fund;

- (g) moneys borrowed by the Perbadanan under section 14;
- (h) any property, investment, mortgage, lease, tenancy, charge or debenture acquired by or vested in the Perbadanan;
- (i) moneys earned or arising from any property, investment, mortgage, lease, tenancy, charge or debenture acquired by or vested in the Perbadanan;
- (j) all other moneys or property which may in any manner become payable to or vested in the Perbadanan in respect of any matter incidental to its functions, powers or duties; and
- (k) all other moneys lawfully received by the Perbadanan.

Expenditure to be charged on the Fund

4. The Fund may be expended for the purpose of—

- (a) the granting of educational loans to students for the payment of fees, educational equipment and aids, and cost of living expenses during the students' period of study at a higher educational institution;
- (b) the financing of, or the granting of financial assistance to, students in higher educational institutions other than by way of educational loan;
- (c) establishing insurance and unit trust schemes;
- (d) repayments on borrowings and such other outgoings and expenditure as may be permitted by this Act or any regulation made under this Act;
- (e) administrative expenses including the remuneration, retirement benefits, gratuities and other allowances of the officers and servants of the Perbadanan; and
- (f) other expenses incidental to the management of the Fund and the functions of the Perbadanan including any moneys required to satisfy any judgment, decision, or award by any court or tribunal against the Perbadanan, or any member of the Board or any committee, or any officer, servant or agent of the Perbadanan in respect of any act, neglect or default done or committed by him in carrying out the functions of the Perbadanan.

PART III

THE PERBADANAN TABUNG PENDIDIKAN
TINGGI NASIONAL

Establishment of the Perbadanan

5. (1) There is established a body corporate by the name of “Perbadanan Tabung Pendidikan Tinggi Nasional” which shall be responsible for the management of the Fund.

(2) The Perbadanan shall have perpetual succession and a common seal, and may sue and be sued in its name.

(3) Subject to and for the purposes of this Act, the Perbadanan, upon such terms as it deems fit, may—

(a) enter into contracts;

(b) acquire, purchase, take, hold and enjoy movable and immovable property of every description; and

(c) convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer, or otherwise dispose of, or deal with—

(i) any movable or immovable property; and

(ii) any interest in any movable or immovable property,

vested in the Perbadanan.

Common seal

6. (1) The common seal of the Perbadanan shall bear such device as the Perbadanan may approve and the seal may be broken, changed, altered and made anew by the Perbadanan from time to time as it may think fit.

(2) The common seal shall be kept in the custody of the Chief Executive and shall be authenticated by him or by an officer authorized by the Perbadanan in writing.

(3) All deeds, documents, and other instruments purporting to be sealed with the common seal and authenticated in accordance with subsection (2) shall be deemed to have been validly executed, until the contrary is proved.

(4) Notwithstanding subsection (3), 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 Perbadanan, and any such document or instrument may be executed on behalf of the Perbadanan by an officer or servant of the Perbadanan generally or specially authorized by the Perbadanan in that behalf.

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

The Board of Management

7. (1) There is established the Board of Management of the Perbadanan which shall exercise the powers and perform the functions of the Perbadanan.

(2) The Board shall consist of the following members:

- (a) the Chairman;
- (b) the Attorney General or his representative;
- (c) the Secretary General of the Ministry of Finance or his representative;
- (d) the Secretary General of the Ministry of Education or his representative;
- (e) the chief executive officer of the Inland Revenue Board or his representative;
- (f) three representatives of higher educational institutions in Malaysia, of whom—
 - (i) two shall be the Vice-Chancellors of higher educational institutions referred to in paragraph (a) or (b) of the definition of “higher educational institution”; and

(ii) one shall be the chief executive officer, by whatever name called, of a higher educational institution referred to in paragraph (c) of the definition of “higher educational institution”; and

(g) not more than two other members.

(3) The Chairman and members of the Board under paragraphs (2)(f) and (g) shall be appointed by the Minister.

(4) The Chairman and members of the Board under paragraph (2)(g) shall be from amongst persons of standing, achievement and experience in the academic field or from amongst professionals who possess relevant experience in educational, financial or commercial matters.

Alternate members

8. (1) The Minister may appoint a person to be an alternate member in respect of each of the members of the Board appointed under paragraphs 7(2)(f) and (g) to attend meetings of the Board in place of the member when the member is for any reason unable to attend.

(2) When attending meetings of the Board in place of a member, an alternate member or a representative of a member shall for all purposes be deemed to be a member of the Board.

(3) An alternate member may resign his office at any time by giving a month’s notice in writing to the Minister.

(4) The provisions of the Schedule shall apply to the members of the Board.

PART IV

FUNCTIONS AND POWERS OF THE PERBADANAN

Functions of the Perbadanan

9. The functions of the Perbadanan shall be—

(a) to provide and grant educational loans and financial assistance other than educational loans to students, and to provide services in administering, monitoring and collecting repayments of the loans;

- (b) to collect deposits and to design and provide a savings scheme for the purpose of saving towards higher education; and
- (c) to perform such other functions as are conferred on the Perbadanan by any written law.

Powers of the Perbadanan

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

(2) Without prejudice to the generality of subsection (1), the powers of the Perbadanan shall include power—

- (a) to enter into contracts;
- (b) to utilize all property of the Perbadanan, movable or immovable, in the interest of the Fund in such manner as the Perbadanan may think expedient including the raising of loans by mortgaging such property;
- (c) to engage in any activity, either by itself or in conjunction with other organizations, for the purpose of co-ordinating, streamlining or rationalizing the giving and administration of educational loans to students studying in higher educational institutions;
- (d) to impose fees or administrative charges for services rendered by the Perbadanan;
- (e) to grant loans and make advances to the officers and servants of the Perbadanan for any purpose specifically approved by the Perbadanan;
- (f) to provide recreational facilities and promote recreational activities for, and activities conducive to, the welfare of the officers and servants of the Perbadanan;
- (g) to provide training for the officers and servants of the Perbadanan and to grant loans or otherwise pay for such training; and
- (h) to do anything incidental to any of its powers.

Power to receive deposits

11. The Perbadanan may receive deposits from a person who is a citizen of Malaysia for the purpose of saving towards higher education in respect of a child under the person's care or in his legal custody.

Regulations as to deposits

12. The Perbadanan, with the approval of the Minister of Finance in relation to the deposits under section 11, may make regulations as to—

- (a) the manner and the terms and conditions under which deposits into the Fund are to be made;
- (b) the provision for separate accounts to be kept for each depositor;
- (c) the manner and the terms and conditions under which withdrawals are to be made of any amount standing to the credit of a depositor's account;
- (d) the evidence to be produced on an application for withdrawal; and
- (e) any other matter pertaining to the making, and withdrawal, of deposits.

Power to establish insurance and unit trust schemes

13. (1) The Perbadanan, with the approval of the Minister and the consent of the Minister of Finance, may establish, either by itself or in conjunction with other bodies, institutions or organizations, insurance and unit trust schemes for the purpose of promoting the making of deposits under section 11.

(2) The establishment of the insurance or unit trust scheme in subsection (1) shall be subject to the requirements and procedures of relevant written laws.

Power to borrow

14. The Perbadanan may borrow, from time to time, in such form and for such period and upon such terms and conditions as to the

time and method of repayment and otherwise, as the Minister, with the consent of the Minister of Finance, may approve, any moneys required by the Perbadanan for meeting any of its obligations or performing any of its functions or exercising any of its powers.

Power to invest

15. (1) The moneys of the Fund, in so far as they are not immediately required to be expended by the Perbadanan under this Act, shall be invested wholly in investments in Malaysia in accordance with subsection (2).

(2) The moneys of the Fund in subsection (1) may be invested in—

- (a) securities of the Government;
- (b) investments authorized by or under the Trustee Act 1949 [Act 208]; and
- (c) other securities or investments approved by the Minister of Finance.

(3) For the purposes of this section, “securities” has the same meaning as that assigned to “securities” under section 2 of the Securities Industry Act 1983 [Act 280].

Additional powers of the Perbadanan

15A. The Perbadanan may, with the approval of the Minister and the consent of the Minister of Finance—

- (a) where it appears to be requisite, advantageous or convenient for or in connection with the discharge of the functions, exercise of the powers and carrying on of the activities of the Perbadanan, enter into equity participation, partnership, joint-venture, undertaking or any other form of co-operation or arrangement in association, or otherwise, with—
 - (i) an enterprise, a company, a private undertaking or a syndicate of persons constituted for the carrying on of business in Malaysia or elsewhere;
 - (ii) the Federal Government or any State Government;
 - (iii) a public body or authority;

- (iv) a commission; or
 - (v) a person; and
- (b) establish or promote the establishment of companies under the Companies Act 1965 [Act 125] to carry on or engage in any activity which has been planned or undertaken by the Perbadanan.

Guarantee and indemnity

16. The Perbadanan shall not issue any letter of guarantee or indemnity to a person under this Act without the written approval of the Minister of Finance.

Committee

17. (1) For the purposes of performing the functions of the Perbadanan the Board may establish such committees as it considers necessary, and with such terms of reference as it may specify; and each of such committee shall be chaired by a member of the Board.

(2) Members of a committee established under subsection (1) may be appointed from amongst members of the Board or such other persons as the Board thinks fit.

(3) Persons who are disqualified from being members of the Board under the Schedule shall also be disqualified from being members of a committee.

(4) A member of a committee shall hold office for such term as may be specified in his letter of appointment and is eligible for reappointment.

(5) A member of a committee may resign at any time by giving notice in writing to the Chairman of the Board.

(6) The Board may revoke the appointment of any member of a committee without assigning any reason for the revocation.

(7) Subject to this Act and directions given by the Board, a committee may regulate its own procedure.

(8) Meetings of a committee shall be held at such times and places as the chairman of the committee may determine.

(9) A committee may invite any person to attend its meeting for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting.

(10) A committee shall cause—

- (a) minutes of all its meetings to be maintained and kept in a proper form; and
- (b) copies of the minutes of all its meetings to be submitted to the Board as soon as practicable.

(11) Members of a committee and any person invited under subsection (9) shall be paid such allowances and other expenses as the Board may determine, after consultation with the Minister.

Delegation of functions

18. (1) The Board may delegate to a committee established under section 17 any of the functions and powers of the Perbadanan as it may deem necessary or desirable except the power to make regulations.

(2) Any function or power delegated under this section—

- (a) may be so delegated subject to such conditions or restrictions as the Board may impose either generally or specifically; and
- (b) shall be exercised or performed by the committee in the name and on behalf of the Board.

(3) A delegation made under this section shall not preclude the Board itself from exercising or performing at any time any of the functions or powers so delegated.

Power of Minister to give directions

19. (1) The Board shall be responsible to the Minister.

(2) The Minister may give direction not inconsistent with the provisions of this Act to the Board from time to time.

(3) The Board shall give effect to all directions given under this section as soon as possible.

PART V

EDUCATIONAL LOANS

Provision of educational loans in annual estimates

20. (1) The Perbadanan shall provide in its annual estimates under section 51 such sum of moneys, as may be agreed by the Minister, for the purposes of educational loans under this Act.

(2) The provision of educational loans under this Act shall be charged to the Fund provided that the Perbadanan shall keep and maintain the Fund in credit at all times.

Disbursement of educational loans

21. (1) The educational loans under this Act shall be given and disbursed to eligible students in such sums and manner as the Perbadanan may decide from time to time.

(2) For the purpose of subsection (1), the Perbadanan may prescribe such means test as the Perbadanan deems necessary and expedient in order to determine and select students eligible for the educational loans.

Duty to maintain record of educational loans

22. (1) The Perbadanan shall keep or maintain or cause to be kept or maintained a record of all educational loans paid out of the Fund and their repayments.

(2) The record kept and maintained under subsection (1) shall include the following:

- (a) the particulars of the recipient student such as his identity card number, name and address;
- (b) the amount of the educational loan, its repayment schedule, the amount of each repayment required to be made, the date of the commencement of the repayment, and the records of the repayments;

- (c) the name of the higher educational institution where the recipient student is studying, the course of study, the length of study period and the tentative date of completion of study; and
- (d) such other particulars which the Perbadanan deems necessary or expedient for the purposes of this Act.

Perbadanan to be responsible for the recovery and collection of repayments of educational loans

23. (1) The Perbadanan shall be responsible for the recovery and collection of repayments of educational loans paid out to recipient students.

(2) For the avoidance of doubt, an educational loan which is not repaid or in arrears shall be treated as a civil debt owed by the recipient student to the Perbadanan and the Perbadanan may avail itself of such means under the law for the recovery of such debt.

Appointment of collection agents

24. Without prejudice to the responsibility and powers of the Perbadanan to recover the repayments of educational loans under section 23, the Perbadanan, with the approval of the Minister and the concurrence of the Minister of Finance, may appoint such number of agents for the purpose of recovery of the educational loans.

Inland Revenue Board as collection agent

25. Without prejudice to the provisions of section 24, the Inland Revenue Board shall be appointed to be the collection agent for and on behalf of the Perbadanan for the recovery of educational loans due for repayment to the Perbadanan by recipient students.

Commencement of repayment of educational loan

26. (1) It shall be the duty of a recipient student to repay his educational loan to the Perbadanan not later than six months from the date he completes or ceases to pursue the course of study in respect of which the loan was given in a higher educational institution.

(2) Notwithstanding subsection (1) and subject to the terms and conditions of the educational loan agreement entered into between the Perbadanan and the recipient student, the Board, on an application by the recipient student made before the expiry of the six-month period in subsection (1), may extend the period of time for repayment of the educational loan upon such terms and conditions as the Board deems fit to impose.

Recovery and collection of repayments of educational loans

27. (1) For the purpose of the recovery and collection of the repayments of educational loans—

(a) the Perbadanan shall provide the Inland Revenue Board or a collection agent appointed under section 24—

(i) a copy of the record kept and maintained under section 22;

(ii) a certificate as may be prescribed signed by the Chief Executive or an authorized officer of the Perbadanan certifying the amount of the educational loan to be recovered in respect of each recipient student, and the date the educational loan is due for repayment; and

(iii) such other particulars as may be requested by the Inland Revenue Board or collection agent; and

(b) the Inland Revenue Board or the collection agent shall—

(i) keep and maintain a record of the collection of the repayments made in respect of each recipient student in such manner and containing such particulars as the Inland Revenue Board or collection agent deems fit and necessary to show the true state of affairs of the collection of the repayments;

(ii) furnish the Perbadanan a copy of the record kept and maintained under subparagraph (b)(i) within such period as may be agreed between the Perbadanan and the Inland Revenue Board or collection agent; and

(iii) every three months commencing from the first collection of the repayments of the educational loans, pay to the Perbadanan the total sum of repayments collected under this Act together with such returns as the Inland Revenue Board or collection agent may receive on the sum so collected.

(2) The Inland Revenue Board or collection agent, in its sole discretion, may devise such administrative methods, procedures and processes to facilitate the collection of the repayments of educational loans that have fallen due to the Perbadanan.

Lawful methods for collection of repayments of educational loans

28. For the purpose of this Act the Inland Revenue Board or collection agent may use such methods that are permitted under the law to give effect to the collection of the repayments of educational loans in respect of each recipient student.

Employer to assist Inland Revenue Board

29. (1) It shall be the duty of an employer by whom a recipient student is employed, upon being notified in writing by the Inland Revenue Board from time to time—

- (a) to deduct from the salary of the recipient student such sum of moneys as notified by the Inland Revenue Board, being the monthly amount of repayment required of the recipient student towards the discharge of his educational loan; and
- (b) to remit the amount so deducted to the Inland Revenue Board on a monthly basis.

(2) An employer who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Certificate of Perbadanan to be conclusive

30. A certificate issued by the Perbadanan under subparagraph 27(1)(a)(ii) shall be conclusive proof of the amount of educational loan outstanding and due to the Perbadanan from a recipient student, for the purpose of the recovery and collection of the repayments of that educational loan by the Inland Revenue Board or a collection agent appointed under section 24.

Payment of commission to collection agents

31. The Perbadanan, with the approval of the Minister of Finance, may pay to the Inland Revenue Board or a collection agent appointed under section 24 such rate of commission for services rendered in collecting the repayments of educational loans.

PART VI

CHAIRMAN, OFFICERS, SERVANTS

Chairman

32. (1) The Chairman of the Board shall preside at all meetings of the Board.

(2) If the Chairman is temporarily absent from Malaysia or is incapacitated through illness or for any other reason is unable to perform his duties, the Minister shall appoint a member of the Board to carry out the duties of the Chairman during such temporary absence or incapacity.

Chief Executive

33. (1) The Board, with the approval of the Minister may appoint a person, designated as the “Chief Executive”, to be the principal executive officer of the Perbadanan, and shall vest in him such powers and impose upon him such duties as may be determined by the Board.

(2) The Chief Executive shall be responsible for the overall administration and management of the functions and the day to day affairs of the Perbadanan.

(3) The Chief Executive shall have general control of the officers and servants of the Perbadanan.

(4) The Chief Executive shall perform such further duties as the Perbadanan or the Minister may direct from time to time.

(5) In discharging his duties, the Chief Executive shall act under the general authority and directions of the Board.

(6) If the Chief Executive is temporarily absent from Malaysia or is incapacitated through illness or for any other reason is unable to perform his duties, the Board may direct any other officer to carry out the duties of the Chief Executive during such temporary absence or incapacity.

Appointment of officers and servants of the Perbadanan

34. (1) The Perbadanan, for the purpose of carrying out its functions under this Act, may appoint or employ such number of officers and servants to assist the Perbadanan in carrying out such functions.

(2) For the purpose of subsection (1) the Perbadanan, with the approval of the Minister, may determine the terms and conditions of service of such officers and servants.

Appointment of agents, consultants, etc.

35. The Perbadanan may appoint or employ such agents, consultants including advocates and solicitors, or other persons to transact any business or to do any act required to be transacted or done in the execution of its functions or for the better carrying into effect the purposes of this Act.

Discipline of officers and servants

36. The Perbadanan shall have disciplinary authority over all its officers and servants and shall exercise disciplinary control in respect of all such persons in accordance with this Act and any regulations made under section 39.

Disciplinary committees

37. (1) There shall be established a disciplinary committee of the Perbadanan in respect of the Chief Executive consisting of—

- (a) the Secretary General of the Ministry of Education who shall be the chairman of the committee; and
- (b) at least two members of the Board as shall be determined from amongst the members themselves.

(2) The Perbadanan may establish, by notification in the *Gazette*, different disciplinary committees for different categories of officers or servants of the Perbadanan.

(3) The following shall apply to any disciplinary committee established under subsection (2):

- (a) such disciplinary committee shall consist of any number of members of the Board, other than the Chairman of the Board, or officers of the Perbadanan, 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 any officer or servant over whom the disciplinary committee of which he is a member has disciplinary authority.

(4) The disciplinary committee established under subsection (2) shall exercise its powers in all matters relating to the discipline of officers and servants placed under its jurisdiction.

(5) In the exercise of its disciplinary functions and powers, a disciplinary committee referred to under subsections (1) and (2) 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 regulations made under section 39.

Appeal against decision of disciplinary committee

38. (1) A decision of the disciplinary committee under subsection 37(1) shall be appealable to the Minister.

(2) A decision of the disciplinary committee under subsection 37(2) shall be appealable to the Disciplinary Appeal Board which shall consist of the following members:

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

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

(4) When the Minister or the Disciplinary Appeal Board considers an appeal under subsection (1) or (2), 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.

(5) The decision of the Minister or the Disciplinary Appeal Board under subsection (3) shall be final.

Power to make disciplinary regulations

39. (1) The Perbadanan, with the approval of the Minister, may 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 disciplinary punishment as the Perbadanan may deem appropriate, and the punishments 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 person 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 of the Perbadanan 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 Perbadanan, 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 thereof 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 of the Perbadanan any order of detention, supervision, restricted residence, banishment or deportation; or
 - (B) imposed on an officer or servant of the Perbadanan any form of restriction or supervision by bond or otherwise,
under any law relating to the security of Malaysia or any part thereof, prevention of crime, preventive detention, restricted residence, banishment, immigration, or protection of women and girls;
- (d) may provide for the interdiction with reduced emoluments of an officer or servant of the Perbadanan during the pendency of a criminal 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 of the Perbadanan—
 - (i) where the officer or servant has been convicted by a criminal court; or
 - (ii) where an order of detention or restriction has been made in respect of or imposed on the officer or servant.

Imposition of surcharge

- 40.** (1) A person who is or was in the employment of the Perbadanan may be surcharged if it appears to the Perbadanan that the person—
- (a) has failed to collect moneys owing to the Perbadanan for the collection of which he is or was responsible;
 - (b) is or was responsible for any improper payment of moneys from the Fund or for any payment of moneys which is not duly approved;

- (c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any moneys, stores or other property of the Perbadanan;
- (d) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or
- (e) has failed to make any payment, or is or was responsible for any delay in the payment from the Perbadanan, of moneys 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 Perbadanan.

(2) In this section, “accounting officer” includes every officer and servant who is charged with—

- (a) the duty of collecting, receiving or accounting for, or who in fact collects, receives or accounts for, any moneys of the Fund;
- (b) the duty of disbursing, or who does in fact disburse, any moneys of the Fund; or
- (c) the receipt, custody or disposal of, or the accounting for, any stores and property of the Perbadanan or who in fact receives, holds, disposes or accounts for such stores and property.

Show cause notice before surcharge

41. (1) The Perbadanan, before a person is surcharged, shall serve on him a written notice calling on him to show cause why he should not be surcharged.

(2) If a satisfactory explanation is not received within fourteen days from the date of service of the notice in subsection (1), the Perbadanan may—

- (a) in the case of paragraphs 40(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 deficiency in or destruction of the property caused; and
- (b) in the case of paragraphs 40(1)(d) and (e), surcharge against the person, such sum as the Perbadanan thinks fit.

Notification of surcharge

42. The Perbadanan shall notify the person surcharged in respect of any surcharge made under section 40.

Withdrawal of surcharge

43. Notwithstanding sections 40 and 41, the Perbadanan may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and the Perbadanan shall forthwith notify the person surcharged of the withdrawal.

Recovery of surcharge

44. The amount of any surcharge made under section 40 and not withdrawn under section 43 shall be a debt due to the Perbadanan from the person surcharged and may be sued for and recovered in any court at the suit of the Perbadanan and may also, if the Perbadanan so 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 instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of that person.

Perbadanan may adopt regulations, etc.

45. In making regulations under this Part, the Perbadanan, with the approval of the Minister, may adopt with such modifications any regulations, rules, policies, circulars and directives enacted or issued by the Federal Government.

Protection from personal liability

46. No member of the Board or any committee, or officer, servant or agent of the Perbadanan shall incur any personal liability for any loss or damage caused by any act or omission in carrying out his powers or duties under this Act unless such loss or damage is occasioned by an intentionally wrongful act or omission on his part.

Public Authorities Protection Act 1948

47. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Perbadanan, or against any member of the Board or any committee, or any officer, servant or agent of the Perbadanan in respect of any act, neglect or default done or committed by him in such capacity.

Public servants

48. The Chairman, all members of the Board and any committee, the officers, servants and agents of the Perbadanan, while discharging their duties as the Chairman or such members, officers, servants or agents shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

PART VII

GENERAL

Power to make regulations

49. (1) The Perbadanan, with the approval of the Minister, may make such regulations as may be expedient or necessary for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made for prescribing—

- (a) the forms to be used and the information to be furnished in any application or for other purposes under this Act;
- (b) the procedure to be followed and the fee deemed proper to be prescribed in respect of any application under this Act;
- (c) the form in which a register or other records shall be kept or maintained under this Act and the entries to be made therein;
- (d) other fees or charges to be imposed in respect of anything done under this Act;

- (e) the manner of appointment, and the terms and conditions of service of the officers and servants of the Perbadanan;
- (f) the payment of gratuities and other benefits to the officers and servants of the Perbadanan;
- (g) the terms and conditions and the procedure for the grant of loans or advances to any officer or servant of the Perbadanan including, where the loan is for the purpose of purchasing or erecting a house or discharging any encumbrance on a house, the condition that the house including the land on which it stands shall be charged or assigned to the Perbadanan as security for the loan;
- (h) the payment of allowances and other benefits to members of the Board and the committees;
- (i) any matter required to be prescribed under this Act; and
- (j) any other matter which the Perbadanan deems expedient or necessary for the purposes of this Act.

Reserve Fund

50. (1) The Perbadanan shall establish and manage a Reserve Fund within the Fund.

(2) The Perbadanan may transfer assets into or from the Reserve Fund from time to time.

(3) The transfers into the Reserve Fund shall be determined by the Perbadanan and the transfers out of the Reserve Fund shall be determined by the Minister.

(4) Notwithstanding subsection (3), the amount of moneys to be transferred into the Reserve Fund in relation to the deposits under section 11 shall be such percentage of the deposits received as may be determined by the Minister.

Expenditure and preparation of estimates

51. (1) The expenditure of the Perbadanan up to such amount as may be authorized by the Minister for any one year shall be defrayed out of the Fund.

(2) Before the beginning of September of each year, the Perbadanan shall submit to the Minister an estimate of its expenditure for the following year in such form and containing such particulars as the Minister may direct.

(3) The Minister shall notify the Perbadanan before the beginning of the following year of the amount authorized for expenditure generally or of amounts authorized for each description of expenditure based on the estimates prepared under subsection (2).

(4) The Perbadanan may submit to the Minister at any time a supplementary estimate of its expenditure for any one year and the Minister may allow the whole or any part of the additional expenditure included in the supplementary estimate.

Accounts and reports

52. (1) The Perbadanan shall cause to be kept proper accounts of the Fund and proper reports of its activities and, as soon as practicable after the end of each financial year, shall cause to be prepared for the financial year—

(a) a statement of accounts of the Perbadanan which shall include a balance sheet and an account of its income and expenditure; and

(b) a statement of its activities.

(2) The Perbadanan shall as soon as possible send a copy of the statement of accounts in paragraph (1)(a) and the statement of its activities in paragraph (1)(b), certified by auditors and a copy of the auditor's report to the Minister who shall cause them to be laid before both Houses of Parliament.

Statutory Bodies (Accounts and Annual Reports) Act 1980 to apply

53. The Statutory Bodies (Accounts and Annual Reports) Act 1980 [Act 240] shall apply to the Perbadanan.

Obligation of secrecy

54. (1) Except for any of the purposes of this Act or for the purposes of any civil or criminal proceedings under any written law, no member of the Board, member of a committee, officer or servant of the Perbadanan shall disclose any information which has been obtained by him in the course of his duties and which is not published in pursuance of this Act.

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

Penalty in the case of a continuing offence

55. A person who is guilty of an offence under this Act shall, in the case of a continuing offence, be liable, in addition to any other penalty to which he is liable under this Act in respect of the offence, to a daily fine not exceeding five hundred ringgit for each day the offence continues after conviction.

Offences by bodies corporate

56. Where a body corporate is guilty of an offence under this Act—

- (a) any person who, at the time of the commission of the offence, is a director, manager, secretary, or other similar officer of the body corporate, may be charged severally or jointly in the same proceedings with the body corporate; and
- (b) every such director, manager, secretary or other similar officer of the body corporate who was, in any way, by act or omission directly or indirectly, concerned in, or party to, the commission of the offence shall be deemed to be guilty of that offence,

unless he proves that the offence was committed without his knowledge or connivance or that he took all reasonable precautions or that he had exercised due diligence to prevent the commission of the offence.

Things done in anticipation of the enactment of the Act

57. All things done by any person or authority on behalf of the Perbadanan in the preparation of and towards the proper implementation of any of the provisions of this Act, and any expenditure incurred in relation thereto, in anticipation of the enactment of this Act shall be deemed to have been authorized by this Act, and all rights acquired or obligations incurred on behalf of the Perbadanan from anything so done shall upon the coming into force of this Act be deemed to be the rights and obligations of the Perbadanan.

SCHEDULE

[Subsection 8(4)]

Appointment, revocation and resignation

1. (1) Subject to such conditions as may be specified in his instrument of appointment, the Chairman and a member of the Board appointed by the Minister shall hold office for a term not exceeding three years and shall, on ceasing to be a member, be eligible for reappointment.

(2) The Minister may revoke the appointment of the Chairman and that of any member of the Board appointed by him at any time without assigning any reason therefor.

(3) The Chairman may resign his office at any time by letter addressed to the Minister.

(4) A member appointed by the Minister may resign his office at any time by letter addressed to the Minister.

Vacation of office

2. (1) The office of the Chairman or a member of the Board appointed by the Minister 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
- (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 his conduct, whether in connection with his duties as the Chairman or a member of the Board or otherwise, has been such as to bring discredit on the Board;
- (d) if he becomes a bankrupt;
- (e) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (f) in the case of the Chairman, if he absents himself from a meeting of the Board without leave of the Minister;
- (g) in the case of a member, if he absents himself from three consecutive meetings of the Board without leave of the Chairman; and
- (h) in the case of the Chairman or a member of the Board—
 - (i) if his resignation is accepted by the Minister; or
 - (ii) if his appointment is revoked by the Minister.

Remuneration or allowance

3. There may be paid to the members of the Board such remuneration or allowances out of the Fund as the Minister may determine.

Meetings

4. (1) The Board shall meet for the despatch of its business at least once in every two months at such time and place as the Chairman may determine from time to time.

(2) At any meeting of the Board, five members shall form a quorum.

(3) If on any question to be determined by the Board there is an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

Board may invite others to meetings

5. (1) The Board may invite any person to attend any meeting or deliberation of the Board for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at the meeting or deliberation.

(2) A person invited under subparagraph (1) shall be paid such allowances as may be determined by the Board.

Minutes

6. (1) The Board shall cause minutes of all the meetings of the Board to be maintained and kept in a proper form.

(2) Any minutes made of a meeting of the Board shall, if duly signed, be admissible in evidence in all legal proceedings without further proof.

(3) Every meeting of the Board 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.

Disclosure of interest

7. (1) A member of the Board having, directly or indirectly, by himself or his partner—

(a) an interest in a company or undertaking with which the Perbadanan proposes to make a contract; or

(b) an interest in a contract or matter under discussion by the Board,

shall disclose to the Board the fact of his interest and its nature.

(2) A disclosure under subparagraph (1) shall be recorded in the minutes of the Board and such member shall take no part in the deliberation or decision of the Board relating to the contract or matter.

Validity of acts and proceedings

8. No act done or proceedings taken under this Act shall be questioned on the ground of—

(a) any vacancy in the membership of, or any defect in the constitution of, the Board;

(b) a contravention by any member of the Board of the provisions of paragraph 7; or

(c) any omission, defect or irregularity not affecting the merits of the case.

Procedure

9. Subject to this Act, the Board shall determine its own procedure at its discretion.

LAWS OF MALAYSIA**Act 566****PERBADANAN TABUNG PENDIDIKAN
TINGGI NASIONAL ACT 1997**

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A1079	Perbadanan Tabung Pendidikan Tinggi Nasional (Amendment) Act 2000	16-06-2000

LAWS OF MALAYSIA**Act 566****PERBADANAN TABUNG PENDIDIKAN
TINGGI NASIONAL ACT 1997**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Act A1079	16-06-2000
15A	Act A1079	16-06-2000

