



LAWS OF MALAYSIA

Act 679

MALAYSIAN QUALIFICATIONS AGENCY ACT 2007

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LAWS OF MALAYSIA

Act 679

MALAYSIAN QUALIFICATIONS AGENCY ACT 2007

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SCHEDULE

LAWS OF MALAYSIA**Act 679****MALAYSIAN QUALIFICATIONS AGENCY ACT 2007**

An Act to establish the Malaysian Qualifications Agency as the national body to implement the Malaysian Qualifications Framework, to accredit higher educational programmes and qualifications, to supervise and regulate the quality and standard of higher education providers, to establish and maintain the Malaysian Qualifications Register and to provide for related matters.

[]

ENACTED by the Parliament of Malaysia as follows:

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

1. (1) This Act may be cited as the Malaysian Qualifications Agency Act 2007.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

Interpretation

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

“Agency” means the Malaysian Qualifications Agency established under section 4;

“accreditation” means a recognition granted by the Agency after examining and assessing—

- (a) a higher education programme or qualification; or
- (b) a higher education provider under Chapter 4 or 7 of Part VIII,

which is in accordance with the Framework;

“provisional accreditation” means provisional accreditation granted under section 39;

“institutional audit” means an evaluation of an institution, to determine whether it is achieving its mission and goals, to identify strengths and areas of concern and to enhance quality, which is carried out in accordance with the provisions of section 80;

“examination or certification body” means any body, within or outside Malaysia, which is specified by the Minister by way of order published in the *Gazette*, which affirms that a student has achieved the learning outcome;

“professional body” means any body established under any written law for the purposes of regulating a profession and its qualifications or any other body recognized by the Government;

“academic load” means the quantitative measure of learning activities which includes lectures, tutorials, seminars, practical work, field work, self study and examinations to achieve a set of learning outcomes;

“Register” means the Malaysian Qualifications Register established and maintained by the Agency under section 81;

“diploma” means the diploma awarded to a person after successful achievement by the person of a set of learning outcomes which is designed to lead to the award of such diploma or the equivalent thereof;

“advanced diploma” means the advanced diploma awarded to a person after successful achievement by the person of a set of learning outcomes which is designed to lead to the award of such advanced diploma or the equivalent thereof;

“appointed day” means the day on which this Act or any of its provisions comes into operation;

“learning outcome” means the standard to be achieved from an educational or skill training programme or qualification as determined by the Framework;

“degree” means the degree awarded to a person at a Bachelor level, or a Masters level or a Doctorate level after successful achievement by the person of a set of learning outcomes which is designed to lead to the award of such degree or the equivalent thereof;

“higher education qualification” means a certificate, diploma, advanced diploma or degree or their equivalent and includes any other qualification stipulated in the Framework;

“Framework” means the Malaysian Qualifications Framework referred to under section 35;

“credit” means a representative measure to reflect the academic load;

“Fund” means the Malaysian Qualifications Agency Fund established under section 28;

“course of study” means a single or a set of related courses and includes short or long term courses leading to an award of a higher education qualification;

“skills training” means work based and industry oriented activities which aim to provide the knowledge, skills and attitude required for effective and efficient performance of a task or job;

“Council” means the Council of Malaysian Qualifications Agency constituted under section 11;

“Minister” means the Minister charged with the responsibility for higher education;

“authorized officer” means an officer authorized by the Minister under section 85;

“higher education provider” means a body corporate, organisation or other body of persons which conducts higher education or

training programmes including skills training programmes leading to the award of a higher education qualification or which awards a higher education qualification and includes the public or private higher education providers, examination or certification bodies or their branch representatives;

“credit transfer” means the recognition of credits earned in an accredited programme for the purpose of transferring to another accredited programme;

“Chairman” means the Chairman of the Council appointed under paragraph 11(2)(a);

“skills training provider” means a body corporate, organization or other body of persons which conducts a skills training programme leading to a higher education qualification;

“programme” means any arrangement of a course of study that is structured or designed to achieve a learning outcome leading to an award of a higher education qualification;

“accredited programme or qualification” means a programme or qualification which is accredited under Part VIII;

“foreign programme or qualification” means a programme leading to a qualification awarded by a foreign higher education provider or any qualification awarded by a foreign higher education provider;

“higher education programme” means a programme leading to a higher education qualification;

“certificate” means the certificate awarded to a person after successful achievement by the person of a set of learning outcomes which is designed to lead to the award of such certificate or the equivalent thereof;

“self-accreditation” means a formal recognition granted to a higher education provider in the form of a certificate issued by the Agency under subsection 61(2);

“branch representative of an examination or certification body” means any body established under any written law for the purposes of representing an examination or certification body.

(2) For the avoidance of doubt, it is declared that any accreditation granted under this Act shall not be construed as a recognition of the higher education programme or qualification, or higher education provider, for the purposes of eligibility to practise as a professional in any professional body.

Prevailing law

3. (1) The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other written law relating to accreditation of programmes or qualifications.

(2) Except for professional programmes or professional qualifications, in the event of any conflict or inconsistency between the provisions of this Act and those of any other written law pertaining to accreditation of programmes or qualifications, the provisions of this Act shall prevail and the conflicting or inconsistent provisions of such other written law shall, to the extent of the conflict or inconsistency, be deemed to be superceded.

PART II

MALAYSIAN QUALIFICATIONS AGENCY

Establishment of the Agency

4. (1) A body corporate by the name of “Malaysian Qualifications Agency” is established with perpetual succession and a common seal.

(2) The Agency may sue and be sued in its corporate name.

Common seal

5. (1) The common seal of the Agency shall bear a device as approved by the Agency and the seal may from time to time be broken, changed, altered and made anew as the Agency thinks fit.

(2) The common seal shall be kept in the custody of the Chief Executive Officer or any other person authorized by the Chief

Executive Officer, and shall be authenticated by either the Chief Executive Officer or by such other person authorized by the Chief Executive Officer 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, until the contrary is proved, be deemed to have been validly executed.

(4) Any deed, document and other instrument which, if executed by a person not being a body corporate, is not required to be under seal may in like manner be executed by an employee of the Agency authorized in that behalf.

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

Functions of the Agency

6. (1) The Agency shall carry out the policies and guidelines as set out by the Council.

(2) Without prejudice to the generality of subsection (1), the Agency shall have the following functions:

- (a) to implement and update the Framework;
- (b) to accredit programmes, qualifications and higher education providers;
- (c) to conduct institutional audit and review of programmes, qualifications and higher education providers;
- (d) to establish and maintain a register to register programmes, qualifications and higher education providers;
- (e) to conduct courses, training programmes and to provide consultancy and advisory services relating to quality assurance;
- (f) to establish and maintain liaison and cooperation with quality assurance and accreditation bodies in higher education within and outside Malaysia;

- (g) to act as a qualifications reference centre on accredited programmes, qualifications and higher education providers;
- (h) to advise the Minister on any matter relating to quality assurance in higher education; and
- (i) to do all things reasonably necessary for the performance of its functions under this Act.

Powers of the Agency

7. (1) The Agency shall have the power to do all things expedient or reasonable for and incidental to the carrying out of its functions.

(2) The powers of the Agency shall include power—

- (a) to enter into contracts;
- (b) to acquire, purchase, take, hold and enjoy movable and immovable property of every description;
- (c) to convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of or deal with any movable or immovable property and any interest in any movable or immovable property, vested in the Agency;
- (d) to undertake, coordinate or commission any person to undertake or coordinate activities relating to research and development on matters relating to quality assurance;
- (e) to impose fees or any other charges as it deems fit for its services relating to examination, assessment, audit, supervision, provisional accreditation, accreditation, evaluation, or any other services provided by the Agency;
- (f) to collect or receive monies for services rendered by the Agency;
- (g) to enter into negotiations, agreements or arrangements as it deems fit for the discharge of its functions;

- (h) to appoint officers, agents, servants and consultants for permanent, temporary or special services as it may from time to time consider fair and reasonable and to determine their duties, powers and terms of service; and
- (i) to do all things reasonably necessary for the performance of its duties under this Act.

(3) The Chief Executive Officer shall perform the functions and exercise the powers of the Agency, and the functions and powers so performed and exercised shall be in the name of the Agency.

Directions by Minister

8. (1) The Agency shall be responsible to the Minister.

(2) The Minister may give the Agency directions of a general character consistent with the provisions of this Act relating to the performance of the functions and powers of the Agency and the Agency shall give effect to such directions.

Committees on accreditation

9. (1) The Agency shall from time to time establish accreditation committees for the purposes of—

- (a) receiving institutional audit reports and recommendations on the applications made for provisional accreditation under Part VII or accreditation of programmes or qualifications under Part VIII from the institutional audit committees established under section 80;
- (b) evaluating and analysing provisional accreditation reports or accreditation of programmes or qualifications reports; and
- (c) granting, refusing or revoking provisional accreditation or accreditation of programmes or qualifications.

(2) The Agency may elect any person whom the Agency deems fit and suitable to be the chairman of a committee.

(3) The Agency may appoint any person to be a member of a committee.

(4) A member of a committee shall hold office for such terms and conditions as may be specified in his letter of appointment.

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

(6) A member of a committee may, at any time, resign by giving a notice in writing to the chairman of the committee.

(7) The Agency may, at any time, discontinue the constitution or alter the composition of a committee.

(8) A committee may regulate its own procedure.

(9) A committee shall be subject to, and act in accordance with, any direction given to it by the Agency.

(10) The meetings of a committee shall be held at such times and places as the chairman of the committee may determine.

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

(12) The members of a committee and any person invited under subsection (11) shall be paid from the Fund such allowances and other expenses as the Agency may determine after consultation with the Minister.

(13) This section does not apply to any professional programme or professional qualification referred to in Chapter 2 of Part VIII.

Returns, reports, accounts and information

10. (1) The Agency shall furnish to the Minister, and such public agency as may be directed by the Minister, such returns, reports, accounts and information with respect to its property and activities as the Minister may require or direct.

(2) The returns, reports, accounts and information shall be in such form and shall contain such information relating to the proceedings and the policy of the Agency and any other matter as the Minister may from time to time specify.

PART III

COUNCIL OF MALAYSIAN QUALIFICATIONS AGENCY

Council of Malaysian Qualifications Agency

11. (1) A council to be known as the Council of Malaysian Qualifications Agency is established for the purposes of this Act.

(2) The Council shall consist of the following members who, with the exception of the members under paragraphs (b) to (g), shall be appointed by the Minister:

- (a) a Chairman;
- (b) the Chief Executive Officer;
- (c) the Secretary General of the Ministry of Higher Education or his representative;
- (d) the Secretary General of the Ministry of Education or his representative;
- (e) the Secretary General of the Ministry of Human Resources or his representative;
- (f) the Director General of the Public Services Department or his representative;
- (g) the Director General of the Higher Education Management Department or his representative;
- (h) a representative of the public higher education providers;
- (i) a representative of the private higher education providers; and
- (j) eight other members who, in the opinion of the Minister,

have special knowledge, experience and professionalism in matters relating to higher education or employment, at least two of whom shall be from a professional body.

(3) The provisions of the Schedule shall apply to the Council.

(4) The Minister may amend the provisions of the Schedule by order published in the *Gazette*.

Functions of the Council

12. (1) The functions of the Council shall be—

- (a) to approve plans and policies for the management of the Agency;
- (b) to approve any amendment or update of the Framework;
- (c) to approve policies and guidelines relating to accreditation of programmes, qualifications or higher education providers or institutional audit;
- (d) to approve any matter relating to the functions, powers, duties, remuneration, allowance, honorarium, benefits and code of conduct of officers, employees, agents and consultants of the Agency;
- (e) to receive and monitor reports, returns, statements and any other information relating to accreditation, institutional audit and evaluation; and
- (f) to do all things reasonably necessary for the performance of its functions under this Act.

(2) The Council may give the Chief Executive Officer specific directions consistent with the provisions of this Act in respect of the powers and functions of the Agency and such directions shall not be inconsistent with the general directions of the Minister under section 8, and the Chief Executive Officer shall give effect to such directions.

Temporary exercise of functions of the Chairman

13. The Minister may appoint temporarily any member of the Council, other than the Chief Executive Officer, to act as the Chairman for the period when—

- (a) the office of the Chairman is vacant;
- (b) the Chairman is absent from duty or from Malaysia; or
- (c) the Chairman is, for any other reason, unable to perform the duties of his office.

Tenure of office

14. (1) Subject to such conditions as may be specified in his instrument of appointment, the Chairman appointed under paragraph 11(2)(a) and every member of the Council appointed under paragraphs 11(2)(h), (i) and (j) shall hold office for a period not exceeding three years.

(2) The Chairman appointed under paragraph 11(2)(a) and every member of the Council appointed under paragraphs 11(2)(h), (i) and (j) shall be eligible for reappointment but no member shall hold office for more than two successive terms.

Allowances

15. The Chairman and all other members of the Council, other than the Chief Executive Officer, shall be paid such allowances at such rates as the Minister may determine after consultation with the Minister of Finance.

Revocation of appointment and resignation

16. (1) The Minister may at any time revoke the appointment of any member of the Council, other than the members appointed under paragraphs 11(2)(b) to (g), without assigning any reason for the revocation.

(2) A member of the Council may at any time resign his office by giving a notice in writing to the Minister.

Vacation of office

17. (1) The office of the Chairman or a member of the Council, other than the member appointed under paragraph 11(2)(b) to (g), shall be vacated—

- (a) if he dies;
- (b) if there has been proved against him, or he has been convicted of, 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 a member of the Council or otherwise, has been such as to bring discredit on the Council;
- (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 Council without leave of the Minister;
- (g) in the case of a member of the Council, if he absents from three consecutive meetings of the Council without leave in writing of the Chairman;
- (h) if his appointment is revoked by the Minister; or
- (i) if his resignation is accepted by the Minister.

Filling of vacancies

18. Where a person ceases to be a member of the Council, the Minister may appoint another person to fill the vacancy.

Secretary

19. The Agency, with the concurrence of the Council, shall appoint a secretary to the Council.

Committees

20. (1) The Council may establish any committee as it considers necessary or expedient to assist it in the performance of its functions.

(2) The provisions of subsections 9(2) to (12) shall apply in the like manner to the committees established under subsection (1).

PART IV**PROVISIONS RELATING TO OFFICERS AND EMPLOYEES****Appointment of Chief Executive Officer**

21. (1) The Minister shall appoint a Chief Executive Officer of the Agency on such terms and conditions as the Minister may determine.

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

(3) The Chief Executive Officer shall have general control of the officers and employees of the Agency.

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

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

(6) The Minister may appoint such number of Deputy Chief Executive Officer, to assist the Chief Executive Officer in the performance of his functions and the exercise of his powers under this Act.

(7) If for any reason the Chief Executive Committee is unable to perform the functions and duties of his office, one of the Deputy Chief Executive Officers shall perform the functions and duties of the Chief Executive Officer.

Appointment of employees

22. The Agency, with the concurrence of the Council, may from time to time appoint and employ such number of employees as the Agency deems necessary and upon such terms as it considers appropriate for carrying out the purposes of this Act.

Conditions of service

23. The Agency may, with the approval of the Council, determine the conditions of service of its employees.

Loans, scholarships and advances

24. The Agency may grant loans, scholarships and advances to its employees for such purposes and on such terms as the Agency may determine.

Payment of retirement benefit, etc.

25. The Agency may make arrangements for the payment to its employees and their dependants such retirement benefits, gratuities and other allowances as the Agency may determine.

Application of Statutory Bodies (Discipline and Surcharge) Act 2000

26. The Statutory Bodies (Discipline and Surcharge) Act 2000 [Act 605] shall apply to the Agency.

Agency may adopt regulations, etc.

27. The Agency may, with the approval of the Minister, adopt with such modifications as it deems fit any regulations, rules, policies, circulars and directives enacted or issued by the Federal Government.

PART V

FINANCIAL PROVISIONS

Malaysian Qualifications Agency Fund

28. (1) A fund to be known as the “Malaysian Qualifications Agency Fund” is established and shall be administered and controlled by the Agency.

(2) The Fund shall consist of—

- (a) such monies as may be provided by Parliament from time to time for the purposes of this Act;
- (b) all monies earned from the examination, assessment, audit, supervision, provisional accreditation, accreditation, evaluation or any other services provided by the Agency;
- (c) all monies derived as income from investments by the Agency;
- (d) all monies derived from the sale, disposal, lease or hire, or any other dealing with, any property, mortgages, charges or debentures vested in or acquired by the Agency;
- (e) all monies earned from consultancy and advisory services and any other services provided by the Agency;
- (f) monies borrowed by the Agency under section 32;
- (g) all other monies lawfully received by the Agency; and
- (h) all other monies and property which may in any manner become payable to or vested in the Agency in respect of any matter incidental to its functions and powers.

Expenditure to be charged on Fund

29. The Fund shall be expended for the following purposes:

- (a) paying any expenditure lawfully incurred by the Agency;

- (b) paying for the remuneration, allowances and other expenses of the members of the Council, members of the committees, officers and employees of the Agency, including the granting of loans and advances, superannuation allowances, retirement benefits and gratuities;
- (c) paying any other expenses, costs or expenditure in relation to the procurement of goods and services, including the engagement of consultants, legal fees and costs and other fees and costs, properly incurred or accepted by the Agency in the performance of its functions and exercise of its powers under this Act;
- (d) paying any other expenses, costs or expenditure properly incurred or accepted by the Agency in the performance of its functions or the exercise of its powers under this Act;
- (e) purchasing or hiring equipment, machinery and any other materials, acquiring land and erecting buildings, and carrying out any other works and undertakings in the performance of its functions or the exercise of its powers under this Act;
- (f) repaying monies borrowed under section 32 and the interest due on the borrowed monies;
- (g) granting loans, scholarships and advances to its employees under section 24; and
- (h) generally, paying any expenses for carrying into effect the provisions of this Act.

Conservation of Fund

30. It shall be the duty of the Agency to conserve the Fund by so performing its functions and exercising its powers under this Act as to secure that the total revenues of the Agency are sufficient to meet all sums properly chargeable to its revenue account, including depreciation and interest on capital, taking one year with another.

Expenditure and preparation of estimates

31. (1) The expenditure of the Agency 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 June of each year, the Agency shall submit to the Minister an estimate of its expenditure, including those for research and development programmes, for the following year in such form and containing such particulars as the Minister may direct.

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

(4) The Agency may, at any time, submit to the Minister 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 therein.

Power to borrow

32. The Agency may, from time to time, borrow in such form and at such rate of interest and for such period and upon such terms as to the time and method of repayment and otherwise, as may be approved by the Minister with the concurrence of the Minister of Finance, any money required by the Agency for meeting any of its obligations or discharging any of its duties.

Investment

33. The monies of the Agency shall, in so far as they are not immediately required to be expended by the Agency under this Act, be invested in such manner as the Minister may, with the concurrence of the Minister of Finance, approve.

Accounts and reports

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

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

(b) a statement of its activities.

(2) The Agency shall as soon as possible send a copy of the statement of accounts certified by the auditors and a copy of the auditor's report to the Minister who shall cause them to be laid before both Houses of Parliament.

(3) The Statutory Bodies (Account and Annual Reports) Act 1980 [*Act 240*] shall apply to the Agency.

PART VI

MALAYSIAN QUALIFICATIONS FRAMEWORK

The Framework

35. (1) The Agency shall be responsible for the implementation of the national framework to be known as the “Malaysian Qualifications Framework”, consisting of qualifications, programmes and higher education providers based on a set of criteria and standards, including learning outcomes achieved and credits based on students' academic load.

(2) Subject to subsection (4), the Agency may for the purposes of subsection (1) from time to time amend the Framework and may collaborate, cooperate and coordinate with any person, including government agencies, higher education providers, students, academic staff, quality assurance and accreditation bodies, examination or certification bodies and employers, and in the case of professional programmes, professional qualifications and higher education providers, the Framework shall be amended in accordance to the criteria and standards set by the relevant professional bodies.

(3) The parts of the Framework amended under subsection (2) shall not be implemented unless the approval of the Council is obtained.

(4) The Minister may direct that any part of the Framework may not be amended or varied.

Objectives of the Framework

36. The objectives of the Framework include the following:

- (a) to secure standards of qualifications and reinforce policies on quality assurance;
- (b) to promote accuracy or consistency of nomenclature of qualifications;
- (c) to provide mechanisms for the progression or inter relation between qualifications, including non-degree and degree qualifications;
- (d) to encourage collaboration between public and private sector higher education providers and skills training providers;
- (e) to encourage parity of esteem among academic, professional, technical, vocational and skills qualifications;
- (f) to establish a credit system to facilitate credit accumulation and transfer which is acceptable within and outside Malaysia;
- (g) to provide clear and accessible public information on programmes or qualifications in higher education;
- (h) to promote where applicable, the presentation of qualifications in forms that facilitate their evaluation by any person, including government agencies, higher education providers, students, academic staff, quality assurance and accreditation bodies, professional bodies, examination bodies and employers; and

- (i) to articulate links with qualifications from outside Malaysia.

Compliance with the Framework

37. (1) No programme or qualification shall be accredited unless it complies with the Framework.

(2) All higher education providers conducting an accredited programme or awarding an accredited qualification shall comply with the Framework.

(3) The Agency or, in the case of a professional programme, professional qualification or higher education provider, the relevant professional body, may direct that the Framework or any part of the Framework may not apply to any programme, qualification or higher education provider subject to such terms and conditions as it deems fit.

PART VII

PROVISIONAL ACCREDITATION

Application for provisional accreditation

38. (1) An application by a higher education provider, other than a higher education provider referred to under Chapter 4 of Part VIII, for the provisional accreditation of its programme or qualification shall be made to the Agency in such form and manner as may be prescribed.

(2) Every application shall be accompanied by such documents, information and fees as may be prescribed.

(3) The form, manner, documents and fees required under subsections (1) and (2) may differ as between different programmes or qualifications.

(4) At any time after receiving an application for provisional accreditation and before it is determined, the Agency may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or any such extended period as may be allowed by the Agency, the application shall be deemed to have been withdrawn and shall not be further proceeded with, without prejudice to the right of the higher education provider to submit a fresh application.

Power to grant or refuse application

39. (1) After having considered an application under subsection 38(1), the Agency may—

- (a) grant the application and issue a certificate of provisional accreditation to the higher education provider upon payment of the prescribed fees; or
- (b) refuse the application, stating the grounds for refusal.

(2) The Agency may issue separate certificates of provisional accreditation for different premises.

(3) For the purpose of considering an application under subsection 38(1), the Agency may conduct an institutional audit.

Certificate of provisional accreditation

40. (1) A certificate of provisional accreditation issued under paragraph 39(1)(a) shall be valid for such period as shall be specified in the certificate by the Agency and may be extended by the Agency upon an application by the higher education provider.

(2) The certificate of provisional accreditation shall specify the period within which the higher education provider shall apply for accreditation and where applicable, shall state the premises in which the programme shall be conducted or facilitated.

(3) In the case of a foreign programme or qualification, the Agency may specify in the certificate of provisional accreditation that the programme or qualification is equivalent to a programme or qualification in the Framework.

(4) The higher education provider shall cause a copy of the certificate of provisional accreditation to be exhibited in a conspicuous place in the premises specified in the certificate of provisional accreditation.

(5) The higher education provider shall surrender the certificate of provisional accreditation to the Agency within thirty days from—

- (a) the date of revocation of the certificate under section 42;
or
- (b) the date of cessation of the programme.

Power to impose conditions

41. The Agency may, at the time of or at any time after issuing a certificate of provisional accreditation under paragraph 39(1)(a), impose such conditions as it may deem necessary or expedient and may vary, amend or revoke any such conditions or impose new or additional conditions from time to time.

Revocation of provisional accreditation

42. (1) Subject to the provisions of this section, the Agency may, at any time, revoke the certificate of provisional accreditation if the higher education provider has breached any condition attached to the certificate of provisional accreditation.

(2) A written notice of the intention to revoke the certificate of provisional accreditation shall be served on the higher education provider and the notice shall specify the grounds for such revocation.

(3) The higher education provider shall be given an opportunity to make written representations within thirty days from the date of receipt of the notice in subsection (2).

(4) After the expiry of the period of thirty days stated in subsection (3) and after considering any representation made, the Agency shall—

- (a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the Agency within a specified period; or

(b) proceed with the proposed action to revoke the certificate of provisional accreditation.

(5) If the higher education provider fails to rectify the situation as required under paragraph (4)(a) the Agency may proceed to revoke the provisional accreditation.

(6) The revocation of the certificate provisional accreditation shall not preclude the higher education provider from submitting a fresh application.

(7) Where the certificate of provisional accreditation is revoked under this section, the Agency shall give notice to the relevant authority or professional body notifying such revocation including any recommendations as may be necessary.

Provisional accreditation of professional programme or professional qualification

43. In the case of provisional accreditation of a local or foreign professional programme or professional qualification, the Agency shall cooperate and coordinate with the relevant professional body for the purpose of—

- (a) considering an application under subsection 38(1) and granting or refusing to grant the application under section 39;
- (b) conducting an institutional audit under subsection 39(3);
- (c) imposing conditions under section 41; and
- (d) revocation of the certificate of provisional accreditation under section 42.

Provisional accreditation of skills training programme or skills training qualification

44. In the case of provisional accreditation of a local or foreign skills training programme or skills training qualification,

the Agency shall cooperate and coordinate with the Department of Skills Development for the purpose of—

- (a) considering an application under subsection 38(1) and granting or refusing to grant the application under section 39;
- (b) conducting an institutional audit under subsection 39(3);
- (c) imposing conditions under section 41; and
- (d) revocation of the certificate of provisional accreditation under section 42.

PART VIII

ACCREDITATION

Chapter 1

Programmes and qualifications under the Malaysian Qualifications Framework

Application for accreditation

45. (1) An application by a higher education provider for the accreditation of its programme or qualification which complies with the Framework, other than the programme or qualification under Chapters 2, 4 and 5, shall be made to the Agency within the specified period in the certificate of provisional accreditation in such form and manner as may be prescribed.

(2) Every application shall be accompanied by such documents, information and fees as may be prescribed.

(3) The form, manner, documents and fees required under subsections (1) and (2) may differ between different programmes or qualifications.

(4) At any time after receiving an application for accreditation and before it is determined, the Agency may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or any such extended period as may be allowed by the Agency, the application shall be deemed to be withdrawn and shall not be further proceeded with, without prejudice to the right of the higher education provider to submit a fresh application.

Power to grant or refuse accreditation

46. (1) After having considered an application under subsection 45(1), the Agency may—

- (a) grant the application and issue a certificate of accreditation to the higher education provider upon payment of the prescribed fees; or
- (b) refuse the application, stating the grounds for refusal.

(2) Upon issuance of the certificate of accreditation under paragraph (1)(a), the Agency shall enter the particulars of the certificate into the Register.

(3) For the purpose of considering an application under subsection 45(1), the Agency may conduct an institutional audit.

Certificate of accreditation

47. (1) The certificate of accreditation shall specify the programme and state the premises in which the programme shall be conducted or facilitated.

(2) The higher education provider shall cause a copy of the certificate of accreditation to be exhibited in a conspicuous place in the premises specified in the certificate of accreditation.

(3) The higher education provider shall surrender the certificate of accreditation to the Agency within thirty days from—

- (a) the date of revocation of the certificate under section 49; or
- (b) the date of cessation of the programme.

Power to impose conditions

48. The Agency may, at the time of or at any time after issuing a certificate of accreditation under paragraph 46(1)(a), impose such conditions as it may deem necessary or expedient and may vary, amend or revoke any such conditions or impose new or additional conditions from time to time.

Revocation of accreditation

49. (1) Subject to the provisions of this section, the Agency may, at any time, revoke the certificate of accreditation issued to a higher education provider under paragraph 46(1)(a)—

- (a) if the higher education provider has failed to comply with the Framework or any part of it; or
- (b) if the higher education provider has breached any condition attached to the certificate of accreditation.

(2) A written notice of the intention to revoke the certificate of accreditation shall be served on the higher education provider and the notice shall specify the grounds for such revocation.

(3) The higher education provider shall be given an opportunity to make written representations within thirty days from the date of the notice in subsection (2).

(4) After the expiry of the period of thirty days stated in subsection (3) and after considering any representation made under that subsection, the Agency shall—

- (a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the Agency within a specified period; or
- (b) proceed with the proposed action to revoke the certificate.

(5) If the higher education provider fails to rectify the situation as required under paragraph (4)(a), the Agency may proceed to revoke the accreditation.

(6) Where the certificate of accreditation has been revoked, the Agency shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

Chapter 2

Professional programmes and professional qualifications

Application for accreditation

50. (1) An application by a higher education provider for the accreditation of its local or foreign professional programme or professional qualification which complies with the Framework shall be made to the Agency within the specified period in the certificate of provisional accreditation in such form and manner as may be prescribed.

(2) Every application shall be accompanied by such documents, information and fees as may be prescribed.

(3) The form, manner, documents and fees required under subsections (1) and (2) may differ as between different professional programmes or professional qualifications.

(4) At any time after receiving an application for accreditation and before it is determined, the Agency, in consultation with the Joint Technical Committee established under section 51, may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or any such extended period as may be allowed by the Agency, the application shall be deemed to be withdrawn and shall not be further proceeded with, without prejudice to the right of the higher education provider to submit a fresh application.

(6) The Agency shall refer an application under this section to the Joint Technical Committee which shall then make recommendation to the relevant professional body under subsection 52(1) for the purposes of accreditation.

Joint Technical Committee

51. (1) A Joint Technical Committee consisting of representatives of the relevant professional body, an officer of the Agency and such other persons as may be deemed necessary by the relevant professional body shall be established by the relevant professional body for the purpose of—

- (a) considering an application for accreditation under subsection 50(1);
- (b) making recommendations to grant or refuse the application for accreditation under subsection 52(1);
- (c) making recommendations for imposing conditions under section 54;
- (d) entering and conducting an institutional audit under subsection 52(3); and
- (e) making recommendations for the revocation of accreditation under section 55.

(2) The representatives of the relevant professional body and the officer of the Agency in the Joint Technical Committee established under subsection (1) may differ as between different professional programmes or professional qualifications.

Power to grant or refuse accreditation

52. (1) After having considered the recommendation of the Joint Technical Committee under section 51, the relevant professional body may—

- (a) approve the granting of accreditation; or
- (b) refuse the granting of accreditation, stating the grounds for refusal.

(2) Where accreditation is granted under paragraph (1)(a), the Agency shall issue a certificate of accreditation to the higher education provider upon payment of the prescribed fees and shall enter the particulars of the certificate into the Register.

(3) For the purpose of considering an application under subsection 50(1), any officer of the professional body and the Agency may conduct an institutional audit.

Certificate of accreditation

53. (1) The certificate of accreditation shall specify the professional programme and state the premises in which the professional programme shall be conducted or facilitated.

(2) The higher education provider shall cause a copy of the certificate of accreditation to be exhibited in a conspicuous place in the premises specified in the certificate of accreditation.

(3) The higher education provider shall surrender the certificate of accreditation to the Agency within thirty days from—

- (a) the date of revocation of the certificate under section 55;
or
- (b) the date of cessation of the professional programme.

Power to impose conditions

54. The relevant professional body may, upon recommendation of the Joint Technical Committee at the time of or at any time after a certificate of accreditation has been issued under subsection 52(2), impose such conditions as it may deem necessary or expedient and may vary, amend or revoke any such conditions or impose new or additional conditions from time to time.

Revocation of accreditation

55. (1) Subject to the provisions of this section, the relevant professional body may, upon recommendation of the Joint Technical Committee at any time, withdraw the approval for accreditation granted to a higher education provider under paragraph 52(1)(a) and the Agency shall revoke the certificate of accreditation—

- (a) if the higher education provider fails to comply with the Framework or any part of it; or

(b) if the higher education provider breaches any condition for which the accreditation has been granted.

(2) A written notice of the intention to withdraw the approval and to revoke the certificate of accreditation under subsection (1) shall be served by the Agency, upon the direction of the relevant professional body, on the higher education provider and the notice shall specify the grounds for such withdrawal and revocation.

(3) The higher education provider shall be given an opportunity to make written representations within thirty days from the date of the notice in subsection (2).

(4) After the expiry of the period of thirty days stated in subsection (3) and after considering any representation made under that subsection, the relevant professional body upon recommendation of the Joint Technical Committee shall—

- (a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the relevant professional body within a specified period; or
- (b) proceed with the proposed action to withdraw the approval for accreditation.

(5) If the higher education provider fails to rectify the situation as required under paragraph (4)(a), the Agency may, upon the decision of the relevant professional body, proceed to revoke the certificate of accreditation.

(6) Where the certificate of accreditation has been revoked, the Agency shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

Chapter 3

Foreign programmes and qualifications

Application for accreditation

56. (1) An application by a higher education provider for the accreditation of a foreign programme or qualification, foreign qualification offered by distance learning and

joint and collaborative qualifications, other than a programme or qualification under Chapters 2 and 5, shall be made to the Agency within the specified period in the certificate of provisional accreditation in such form and manner as may be prescribed.

(2) Every application shall be accompanied by such documents, information and fees as may be prescribed.

(3) The form, manner, documents and fees required under subsections (1) and (2) may differ as between different programmes or qualifications.

(4) At any time after receiving an application for accreditation and before it is determined, the Agency may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or any such extended period as may be allowed by the Agency, the application shall be deemed to be withdrawn and shall not be further proceeded with, without prejudice to the right of the higher education provider to submit a fresh application.

Power to grant or refuse accreditation

57. (1) After having considered an application under subsection 56(1), the Agency may—

- (a) grant the application and issue a certificate of accreditation to the higher education provider upon payment of the prescribed fees; or
- (b) refuse the application, stating the grounds for refusal.

(2) Upon issuance of the certificate of accreditation under paragraph (1)(a) the Agency shall enter the particulars of the certificate into the Register.

(3) For the purpose of considering an application under subsection 56(1), the Agency may conduct an institutional audit.

Certificate of accreditation

58. (1) The certificate of accreditation shall specify the programme and state the premises in which the programme shall be conducted or facilitated.

(2) In the case of a foreign programme or qualification, the Agency may specify in the certificate of accreditation the programme or qualification as being equivalent to a programme or qualification in the Framework.

(3) The higher education provider shall cause a copy of the certificate of accreditation to be exhibited in a conspicuous place in the premises specified in the certificate of accreditation.

(4) The higher education provider shall surrender the certificate of accreditation to the Agency within thirty days from—

(a) the date of revocation of the certificate under section 60;
or

(b) the date of cessation of the programme.

Power to impose conditions

59. The Agency may, at the time of or at any time after issuing a certificate of accreditation under paragraph 57(1)(a), impose such conditions as it may deem necessary or expedient and may vary, amend or revoke any such conditions or impose new or additional conditions from time to time.

Revocation of accreditation

60. (1) Subject to the provisions of this section, the Agency may, at any time, revoke the certificate of accreditation granted to a higher education provider under paragraph 57(1)(a) if the higher education provider breaches any condition attached to the certificate.

(2) A written notice of the intention to revoke the certificate of accreditation shall be served on the higher education provider and the notice shall specify the grounds for such revocation.

(3) The higher education provider shall be given an opportunity to make written representations within thirty days from the date of the notice in subsection (2).

(4) After the expiry of the period of thirty days stated in subsection (3) and after considering any representation made under that subsection, the Agency shall—

- (a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the Agency within a specified period; or
- (b) proceed with the proposed action to revoke the certificate of accreditation.

(5) If the higher education provider fails to rectify the situation as required under paragraph (4)(a), the Agency may proceed to revoke the certificate of accreditation.

(6) Where the certificate of accreditation has been revoked, the Agency shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

Chapter 4

Self-accrediting higher education providers

Application for self-accreditation status on invitation

61. (1) Upon an invitation of the Minister, an application by a higher education provider for self-accreditation status may be made to the Agency on his invitation to do so in such form and manner as may be prescribed.

(2) The Agency, after having considered an application under subsection (1) and conducted an institutional audit, may grant the application and issue a certificate of self-accreditation status to the higher education provider upon payment of the prescribed fees.

(3) The Agency may, at the time of or at any time after issuing a certificate of self-accreditation status under subsection (2), impose such conditions as it may deem necessary or expedient

and may vary, amend or revoke any such conditions or impose new or additional conditions from time to time.

(4) This Chapter does not apply to any professional programme or professional qualification referred to in Chapter 2.

Registering programmes or qualifications

62. (1) A self-accrediting higher education provider may apply to the Agency for the registration of any programme or qualification in such form and manner as may be prescribed.

(2) The Agency, upon receiving an application under subsection (1), may conduct an institutional audit and may register in the Register the programme or qualification.

(3) The Agency, in registering a programme or qualification, may impose such conditions as it may deem necessary or expedient and may vary, amend or revoke any such conditions or impose new or additional conditions from time to time.

(4) Upon registering the programme or qualification in the Register the Agency shall issue a certificate of accreditation upon payment of the prescribed fees.

Certificate of self-accreditation and certificate of accreditation

63. (1) The certificate of accreditation shall specify the programme and state the premises in which the programme shall be conducted or facilitated.

(2) In the case of a foreign programme or qualification, the Agency may specify in the certificate of accreditation the programme or qualification as being equivalent to a programme or qualification in the Framework.

(3) The higher education provider shall cause a copy of the certificate of self-accreditation and the certificate of accreditation to be exhibited in a conspicuous place in the premises specified in the certificate of self-accreditation and the certificate of accreditation, as the case may be.

(4) The self-accrediting higher education provider shall surrender the certificate of self-accreditation or the certificate of accreditation to the Agency within thirty days from—

- (a) the date of revocation of certificate of self-accreditation under subsection 64(1) or the cancellation of registration under subsection 64(2); or
- (b) the date of cessation of the self-accreditation higher education provider or the programme.

Revocation of self-accreditation status or cancellation of registration

64. (1) Subject to the provisions of this section, the Agency may, at any time, revoke the certificate of self-accreditation status issued to a self-accrediting higher education provider under subsection 61(2) if the higher education provider breaches any condition attached to the certificate.

(2) The Agency may, at any time, cancel the registration of any programme or qualification registered under subsection 62(2) if the self-accrediting higher education provider fails to comply with the requirements of the registered programme or qualification under that subsection.

(3) A written notice of the intention to revoke the certificate of accreditation or cancel the registration of any programme or qualification shall be served on the self-accrediting higher education provider and the notice shall specify the grounds for such revocation.

(4) The self-accrediting higher education provider shall be given an opportunity to make written representations within thirty days from the date of the notice in subsection (3).

(5) After the expiry of the period of thirty days stated in subsection (4) and after considering any representation made under that subsection, the Agency shall—

- (a) issue a warning and give directions for the self-accrediting higher education provider to rectify the situation to the satisfaction of the Agency within a specified period; or

- (b) proceed with the proposed action to revoke the certificate of self-accreditation or cancel the registration of the programme or qualification, as the case may be.

(6) If the self-accrediting higher education provider fails to rectify the situation as required under paragraph (5)(a), the Agency may proceed to revoke the certificate of self-accreditation or cancel the registration of the programme or qualification, as the case may be.

(7) Where the certificate of self-accreditation has been revoked or any programme or qualification has been revoked, the Agency shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

Chapter 5

Skills training programmes and qualifications

Application for accreditation

65. (1) An application by a higher education provider for accreditation of any—

- (a) skills training programme or qualification, which complies with the Framework, leading to an award of—
 - (i) a diploma, advanced diploma or degree other than the Malaysian Skills Diploma or Malaysian Skills Advanced Diploma under the National Skills Development Act 2006 [Act 652]; or
 - (ii) a certificate other than the Malaysian Skills Certificate under the National Skills Development Act 2006; or
- (b) foreign skills training programme or qualification which complies with the Framework,

shall be made to the Agency within the specified period in the certificate of provisional accreditation in such form and manner as may be prescribed.

(2) Every application shall be accompanied by such documents, information and fees as may be prescribed.

(3) The form, manner, documents and fees required under subsections (1) and (2) may differ between different programmes or qualifications.

(4) At any time after receiving an application for accreditation and before it is determined, the Agency may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or any such extended period as may be allowed by the Agency, the application shall be deemed to be withdrawn and shall not be further proceeded with, without prejudice to the right of the higher education provider to submit a fresh application.

Power to grant or refuse accreditation

66. (1) After having considered an application under subsection 65(1), the Agency may—

- (a) grant the application; or
- (b) refuse the application, stating the grounds for refusal.

(2) The Agency may, in considering and determining an application under subsection 65(1), seek the assistance of any regulatory body regulating the skills development or any body or association monitoring the particular skills development.

(3) Where the application for accreditation of any programme or qualification has been granted under paragraph (1)(a), the Agency shall issue a certificate of accreditation to the higher education provider upon payment of the prescribed fees.

(4) The Agency shall enter the particulars of the certificate of accreditation issued under subsection (3) into the Register.

(5) For the purpose of considering an application under subsection 65(1), the Agency may conduct an institutional audit.

Certificate of accreditation

67. (1) The certificate of accreditation shall specify the programme and state the premises in which the programme shall be conducted or facilitated.

(2) In the case of a foreign programme or qualification, the Agency may specify in the certificate of accreditation the programme or qualification as being equivalent to a programme or qualification in the Framework.

(3) The higher education provider shall cause a copy of the certificate of accreditation to be exhibited in a conspicuous place in the premises specified in the certificate of accreditation.

(4) The higher education provider shall surrender the certificate of accreditation to the Agency within thirty days from—

- (a) the date of revocation of certificate of accreditation under section 69; or
- (b) the date of cessation of the programme.

Power to impose conditions

68. The Agency, with the concurrence of the regulatory body may, at the time of or at any time after issuing a certificate of accreditation under subsection 66(3), impose such conditions as it may deem necessary or expedient and may vary, amend or revoke any such conditions or impose new or additional conditions from time to time.

Revocation of accreditation

69. (1) Subject to the provisions of this section, the Agency with the concurrence of the regulatory body may, at any time, revoke the certificate of accreditation granted to a higher education provider under paragraph 66(3)—

- (a) if the higher education provider fails to comply with the Framework or any part of it; or

(b) if the higher education provider breaches any condition attached to the certificate.

(2) A written notice of the intention to revoke the certificate of accreditation shall be served on the higher education provider and the notice shall specify the grounds for such revocation.

(3) The higher education provider shall be given an opportunity to make written representations within thirty days from the date of the notice in subsection (2).

(4) After the expiry of the period of thirty days stated in subsection (3) and after considering any representation made under that subsection, the Agency shall—

- (a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the Agency within a specified period; or
- (b) proceed with the proposed action to revoke the certificate of accreditation.

(5) If the higher education provider fails to rectify the situation as required under paragraph (4)(a), the Agency may proceed to revoke the certificate of accreditation.

(6) Where the certificate of accreditation has been revoked, the Agency shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

Registering accredited skills training programmes and qualifications

70. (1) Subject to subsection (2), a higher education provider may apply to the Agency for the registration of its programme or qualification which has been accredited by any regulatory body regulating the skills development under any written law of a particular skill in such form and manner as may be prescribed.

(2) The Agency may, upon receiving an application under subsection (1), register such programme or qualification in the Register after having satisfied that the programme or qualification complies with the Framework.

(3) Upon registration of the programme or qualification, the Agency shall issue a certificate of accreditation upon payment of the prescribed fees and the certificate shall specify the programme and state the premises in which the programme shall be conducted or facilitated.

(4) The Agency in consultation with the relevant regulatory body may, at the time of or at any time after issuing a certificate of accreditation, impose such conditions as it may deem necessary or expedient and may vary, amend or revoke any such conditions or impose new or additional conditions from time to time.

(5) This section shall not apply to any programme or qualification which falls under subsection 65(1).

Cancellation of registration

71. (1) Subject to the provisions of this section, the Agency in consultation with the relevant regulatory body may, at any time, cancel the registration of any programme or qualification under subsection 70(2)—

- (a) if the higher education provider fails to comply with the Framework or any part of it; or
- (b) if the higher education provider breaches any condition attached to the certificate.

(2) A written notice of the intention to cancel the registration shall be served on the higher education provider and the notice shall specify the grounds for such cancellation.

(3) The higher education provider shall be given an opportunity to make written representations within thirty days from the date of the notice in subsection (2).

(4) After the expiry of the period of thirty days stated in subsection (3) and after considering any representation made under that subsection, the Agency shall—

- (a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the Agency within the stipulated time; or

(b) proceed with the proposed action to cancel the registration.

(5) If the higher education provider fails to rectify the situation as required under paragraph (4)(a), the Agency may proceed to cancel the registration.

(6) Where the registration has been cancelled, the Agency shall enter the date of cancellation into the Register and shall give notice of the cancellation to the relevant authority.

(7) The higher education provider shall surrender the certificate of accreditation issued under subsection 70(3) to the Agency within thirty days from the date of cancellation of the registration.

Chapter 6

Programmes and qualifications of a branch campus

Registration of accredited programmes or qualifications of a branch campus

72. (1) Where a programme or qualification has been accredited under this Act and a higher education provider intends to conduct a similar programme or award a similar qualification in a branch campus, the higher education provider may apply for registration in the Register of the programme or qualification which is to be conducted in the branch campus.

(2) The application for registration under subsection (1) shall be in such form and manner as may be prescribed.

(3) After having considered an application under subsection (1) and in the case of a professional programme or professional qualification, after obtaining prior approval of the relevant professional body, the Agency may—

(a) register the programme or qualification; or

(b) refuse to register the programme or qualification, stating the grounds for refusal.

(4) In considering the application, the Agency or, in the case of a professional programme or professional qualification, the relevant professional body, may conduct an institutional audit on the branch campus.

(5) Upon registering the programme or qualification in the Register, the Agency shall issue a certificate of accreditation upon payment of the prescribed fees and the certificate shall specify the programme and state the premises in which the accredited programme shall be conducted or facilitated.

(6) The Agency or, in the case of a professional programme or professional qualification, the relevant professional body, may, at the time of or at any time after issuing a certificate of accreditation, impose such conditions as it may deem necessary or expedient and may vary, amend or revoke any such conditions or impose new or additional conditions from time to time.

(7) For the purpose of this section, “branch campus” means a branch of a higher education provider established under any written law.

Cancellation of registration

73. (1) Subject to the provisions of this section, the Agency or, in the case of a professional programme or professional qualification, the relevant professional body, may, at any time, cancel the registration of any programme or qualification under subsection 72(3) if the higher education provider breaches any condition attached to the certificate of accreditation.

(2) A written notice of the intention to cancel the registration shall be served on the higher education provider and the notice shall specify the grounds for such cancellation.

(3) The higher education provider shall be given an opportunity to make written representations within thirty days from the date of the notice in subsection (2).

(4) After the expiry of the period of thirty days stated in subsection (3) and after considering any representation made under that subsection, the Agency or, in the case of a professional

programme or professional qualification, the relevant professional body, shall—

- (a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the Agency or the relevant professional body, as the case may be, within the stipulated time; or
- (b) proceed with the proposed action to cancel the registration.

(5) If the higher education provider fails to rectify the situation as required under paragraph (4)(a), the Agency or, in the case of a professional programme or professional qualification, upon the advice of the relevant professional body, the Agency may proceed to cancel the registration.

(6) Where the registration has been cancelled, the Agency shall enter the date of cancellation into the Register and shall give notice of the cancellation to the relevant authority.

(7) The higher education provider shall surrender the certificate of accreditation issued under subsection 72(5) to the Agency within thirty days from the date of revocation.

Chapter 7

Prior learning and credit transfer

Application for accreditation

74. (1) An application by a higher education provider for the accreditation of the criteria and procedures for the recognition of a person's prior learning and for credit transfer between accredited programmes or accredited qualifications shall be made to the Agency in such form and manner as may be prescribed.

(2) Every application shall be accompanied by such documents, information and fees as may be prescribed.

(3) The form, manner, documents and fees prescribed under subsections (1) and (2) may differ as between different experience, learning and credit transfer.

(4) At any time after receiving an application for accreditation under subsection (1) and before it is determined, the Agency may by written notice require the higher education provider to provide additional documents and information within a specified period.

(5) Where the additional documents and information required under subsection (4) are not provided by the higher education provider within the specified period or any such extended period as may be allowed by the Agency, the application shall be deemed to have been withdrawn and shall not be further proceeded with, without prejudice to the right of the higher education provider to submit a fresh application.

(6) For the purpose of this Chapter, “prior learning” means knowledge, skills or attitudes previously acquired and includes prior experience.

Power to grant or refuse accreditation

75. (1) Upon considering an application under subsection 74(1) other than for credit transfer between accredited professional programmes or accredited professional qualifications, the Agency may —

(a) grant the application and issue a certificate of accreditation to the higher education provider upon payment of the prescribed fees; or

(b) refuse the application, stating the grounds for refusal.

(2) The Agency shall enter the particulars of the certificate of accreditation into the Register.

(3) For the purpose of considering an application under subsection 74(1), the Agency may conduct an institutional audit.

(4) The provisions of Chapter 2 shall apply in the like manner for the credit transfer between accredited professional programmes or accredited professional qualifications.

Power to impose conditions

76. The Agency may, at the time of or any time after issuing a certificate of accreditation under paragraph 75(1)(a), impose such conditions as it may deem necessary or expedient and may vary, amend or revoke any such conditions or impose new or additional conditions from time to time.

Revocation of accreditation

77. (1) Subject to the provisions of this section, the Agency may, at any time, revoke the certificate of accreditation granted to a higher education provider under subsection 75(1)(a)—

- (a) if the higher education provider fails to comply with the Framework or any part of it; or
- (b) if the higher education provider breaches any condition attached to the certificate.

(2) A written notice of the intention to revoke the certificate of accreditation shall be served on the higher education provider and the notice shall specify the grounds for such revocation.

(3) The higher education provider shall be given an opportunity to make written representations within thirty days from the date of the notice in subsection (2).

(4) After the expiry of the period of thirty days stated in subsection (3) and after considering any representation made under that subsection, the Agency shall—

- (a) issue a warning and give directions for the higher education provider to rectify the situation to the satisfaction of the Agency within a specified period; or
- (b) proceed with the proposed action to revoke the certificate of accreditation.

(5) If the higher education provider fails to rectify the situation as required under paragraph (4)(a), the Agency may proceed to revoke the certificate of accreditation.

(6) Where the certificate of accreditation has been revoked, the Agency shall enter the date of revocation into the Register and shall give notice of the revocation to the relevant authority.

PART IX

EVALUATION OF OTHER QUALIFICATIONS

Application for equivalent evaluation

78. (1) Any person may apply to the Agency for an evaluation of a qualification of a higher education provider or programme conducted within or outside Malaysia to be certified as being equivalent to a qualification in the Framework.

(2) An application under subsection (1) shall be in such form and manner as may be prescribed.

(3) Every application shall be accompanied by such documents, information and fees as may be prescribed.

Evaluation

79. (1) Upon receiving an application under subsection 78(1), the Agency or in the case of a professional programme or professional qualification, the relevant professional body, shall evaluate the programme or qualification and may certify the programme or qualification as being equivalent to a qualification in the Framework.

(2) For the purpose of evaluation under subsection (1), the Agency or the relevant professional body, as the case may be, may—

- (a) require any person to furnish it with such information and particulars as may be required to determine the application;
- (b) collaborate, cooperate or coordinate with any person, including the government agencies, higher education providers, student bodies, academic staff, quality assurance and accreditation bodies, professional bodies and employers; and

- (c) establish a committee for the purpose of considering, verifying and making recommendations on the application.

(3) Where the Agency or the relevant professional body, as the case may be, certifies the programme or qualification as being equivalent to a qualification in the Framework, the Agency shall issue a certificate of equivalence, in the form as may be prescribed, to the applicant upon payment of the prescribed fees.

(4) No action shall lie against the Agency, the relevant professional body, the Chief Executive Officer or against any officer of the Agency where the certificate issued under subsection (3) is not accepted for purposes of employment or for entry of further education.

PART X

INSTITUTIONAL AUDIT

Institutional audit

80. (1) For the purposes of this Act, the Agency may establish institutional audit committees consisting of persons who possess special knowledge and experience in matters relating to institutional audit as may be prescribed, to perform such duties relating to institutional audit under this Act.

(2) An institutional audit shall be carried out for the purposes of this Act in accordance with the procedure on institutional audit as may be prescribed.

(3) The composition of the institutional audit committees and the procedure on institutional audit may differ according to the purpose of the institutional audit.

PART XI

MALAYSIAN QUALIFICATIONS REGISTER

Malaysian Qualifications Register

81. (1) The Agency shall establish and maintain a national register known as the “Malaysian Qualifications Register” in such

form and manner as may be prescribed containing programmes, qualifications and higher education providers accredited under this Act.

(2) The Register shall be the national reference for standards and articulation point for all accredited programmes, qualifications and institutions.

(3) The Agency shall make the Register available for public inspection subject to such conditions as it thinks fit.

(4) Any person may on payment of a prescribed fees—

(a) inspect the Register; and

(b) make a copy of, or take extracts from, the Register.

PART XII

APPEALS

Appeal

82. (1) Subject to subsection (2), any higher education provider who is aggrieved by—

(a) the refusal of the Agency to grant a provisional accreditation or accreditation under Part VII or Part VIII, respectively; or

(b) the revocation of certificate of provisional accreditation or accreditation under Part VII or Part VIII, respectively,

may appeal in writing to the Minister within thirty days from the date on which the refusal or revocation is served on the higher education provider.

(2) Any higher education provider who is aggrieved by—

(a) the refusal of the relevant professional body to grant an accreditation in respect of a professional programme or professional qualification under Chapter 2 of Part VIII; or

- (b) the revocation of certificate of accreditation in respect of a professional programme or professional qualification under Chapter 2 of Part VIII,

may appeal in writing to an Appellate Committee within thirty days from the date the refusal or revocation is served on the higher education provider.

(3) For the purposes of this Part, “Appellate Committee” means a body of persons consisting of such number of representatives appointed by the relevant professional body and an officer of the Agency.

Power of Minister or Appellate Committee on appeals

83. (1) The Minister or the Appellate Committee, as the case may be, may, on an appeal being made under section 82, confirm, revoke or vary the decision appealed upon.

(2) The results of an appeal shall be communicated in writing to the Agency and the person making the appeal in subsection (1).

Decision of Minister or Appellate Committee on appeals

84. The decision of the Minister or Appellate Committee, as the case may be, on an appeal shall be final.

PART XIII

ENFORCEMENT AND INVESTIGATION

Authorized officer

85. For the purposes of this Act or any regulations made under this Act, the Minister may appoint any officer as an authorized officer to perform such duties relating to enforcement and investigation under this Act as may be specified in the authorization.

Powers of authorized officer

- 86.** An authorized officer shall have all the powers to—
- (a) investigate any offence under this Act or any regulations made under this Act;
 - (b) conduct any inquiry under this Act or any regulations made under this Act; and
 - (c) enforce any provision of this Act or any regulations made under this Act.

Powers of examination

87. (1) An authorized officer may, by notice in writing, require any person acquainted with the facts and circumstances of a case to appear before him and to be examined orally and shall reduce into writing any statement made by the person so examined.

(2) Any statement made by any person under this section shall be admissible as evidence in any proceedings in court under this Act or any regulations made under this Act against the person or against any other person.

Production of documents, etc.

88. (1) In the course of an investigation or examination under this Act or any regulations made under this Act the authorized officer may—

- (a) require any such person to produce to him such book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium; and
- (b) inspect, make copies of, take extracts from, remove and detain any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium.

(2) An authorized officer may grant permission to any person, as may be necessary, to inspect any book, minute book, register, document, financial statement, material or other article in the

physical form or in the electronic medium detained and taken possession of by the authorized officer.

Seizure of documents, etc.

89. Where an authorized officer carrying out an investigation under this Act or any regulations made under this Act has reason to believe that an offence has been committed against this Act or any regulations made under this Act, he may seize any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, produced under section 88 and such book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium shall be admissible in evidence in any proceedings in court under this Act or any regulations made under this Act against the person or against any other person.

Application for a search warrant

90. If an authorized officer has reasonable cause to believe that any premises has been used, is used or are about to be used for, or there is in any premises evidence necessary to establish the commission of an offence under this Act or any regulations made under this Act, he may apply to a Magistrate by way of written information on oath for a search warrant.

Power of Magistrate to issue a search warrant

91. If the Magistrate is satisfied that there is a commission of an offence under any provision of this Act or any regulations made under this Act, he may issue a search warrant authorizing the authorized officer, at any reasonable time by day or by night and with or without assistance—

- (a) to enter any premises, if need be by force, that has been used or are about to be used for the commission of an offence under this Act or any regulations made under this Act;
- (b) to search for and seize, and to remove any book, minute book, register, document, financial statement, material

or other article in the physical form or in the electronic medium—

- (i) in respect of which an offence has been committed;
 - (ii) in respect of which an offence is suspected to have been committed; or
 - (iii) that is reasonably believed to furnish evidence of the commission of the offence; or
- (c) to detain every person found in the premises until it has been searched.

Search and seizure without warrant

92. If an authorized officer has reasonable cause to believe that, by reason of delay in obtaining a search warrant under section 91—

- (a) the investigation would be adversely affected;
- (b) the object of the entry is likely to be frustrated;
- (c) the book, minute book, register, document, financial statement, material or other article sought may be removed or interfered with; or
- (d) the evidence sought may be tampered with or destroyed,

he may exercise in, and in respect of, the premises of any higher education provider all the powers referred to in section 91 in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

Production of authority card

93. (1) An authorized officer when exercising any powers under this Act or any regulations made under this Act shall declare his office and shall produce to the person against whom he is acting or from whom he seeks any information, such authority card as the Minister may direct to be carried by such officer.

(2) The authority card specified in subsection (1) shall be issued by the Minister.

No costs or damages arising from seizure to be recoverable

94. No person shall, in any proceedings before any court in respect of anything seized or detained in the exercise or the purported exercise of any power conferred under this Act or any regulations made under this Act, be entitled to the costs of such proceedings or any damages or other relief, other than an order for the return of such thing seized or detained, or the payment of its value unless such seizure or detention was made without reasonable cause.

PART XIV

OFFENCES AND PENALTIES

Interpretation

95. For the purposes of this Part—

“certificate” means the certificate of provisional accreditation, the certificate of accreditation, certificate of self-accreditation or the certificate of equivalence, as the case may be;

“accredited programme” means programme which is provisionally accredited or accredited under this Act, as the case may be;

“accreditation” means a provisional accreditation or accreditation granted under this Act.

Enrolment of students for a programme claimed to be accredited

96. Any person who enrolls students for a programme claimed to be an accredited programme without a certificate commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Prohibition on advertisement, etc.

97. (1) No person shall hold himself out to be or promote a higher education provider as a higher education provider providing accredited programmes or granting accredited qualifications, whether by advertisement, prospectus, brochure or otherwise, unless the higher education provider is accredited under this Act.

(2) No person shall promote a programme as an accredited programme, whether by advertisement, prospectus, brochure or otherwise, unless the programme has been accredited under this Act.

(3) Any person who contravenes subsections (1) and (2) commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Offences and penalties relating to higher education qualification

98. Any person which has not been granted accreditation under this Act issues or awards any higher education qualification claimed to be complying with the Framework commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Offences and penalties relating to applications made under the Act

99. Any higher education provider which, on making an application for provisional accreditation or accreditation or any person making a request for evaluation under this Act, makes any statement which it or he knows to be false, or does not believe to be true, or intentionally suppresses any material fact, or furnishes any information which is misleading in any material particular commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Offences and penalties relating to certificate

100. (1) Where—

- (a) any higher education provider fails to cause a copy of the certificate to be exhibited in accordance with this Act;
- (b) any higher education provider has ceased to provide programmes fails to surrender the certificate to the Agency in accordance with this Act; or
- (c) any higher education provider, upon the revocation of a certificate, fails to surrender the certificate to the Agency in accordance with this Act,

such higher education provider commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) Any person who is in possession of any false certificate commits an offence and shall be liable, on conviction, to a fine not less than twenty thousand ringgit or to imprisonment for a term not less than one year but not exceeding three years or to both.

Offences relating to inspection, enforcement and investigation

101. Any person—

- (a) who fails to produce such book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, required by the authorized officer under this Act; or
- (b) who obstructs or refuses to allow the authorized officer under this Act to—
 - (i) enter any area including the building or structure thereon which belongs to or is used, whether permanently or otherwise, or whether or not registered for use, by a higher education provider;

- (ii) examine such book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, as he may consider necessary;
 - (iii) remove and detain any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium which, in his opinion, may furnish evidence of the commission of an offence under this Act or any regulations made under this Act; or
 - (iv) require any person, being a member of the council, a chief executive, an officer or an employee of such higher education provider, to produce for his inspection any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, which is in possession or custody of the person or under his control or within his power to furnish relating to management of the higher education provider or relating to the programmes carried on by the higher education provider;
- (c) who is summoned under section 87 and without reasonable excuse fails to attend at the time and place mentioned in the summons, or who, having attended, refuses to answer any question that may lawfully be put to him;
- (d) who fails to produce such book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, required by the authorized officer under section 88; or
- (e) who obstructs or hinders an authorized officer while exercising any of his powers under section 86, 87, 88 or 89,

commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

PART XV

MISCELLANEOUS

Institution of prosecution

102. No prosecution for or in relation to any offence under this Act or any regulations made under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

Jurisdiction of Court of First Class Magistrate

103. Notwithstanding anything contained in any written law to the contrary, a Court of a First Class Magistrate shall have the jurisdiction to try any offence under this Act or any regulations made under this Act and to award the full punishment for any such offence.

Offences by body corporate, etc.

104. Where an offence under this Act or any regulations made under this Act has been committed by a body corporate, partnership or society—

- (a) in the case of a body corporate, any person who was a director, manager, secretary or other similar officer of the body corporate at the time of the commission of the offence;
- (b) in the case of a partnership, every partner in the partnership at the time of the commission of the offence; or
- (c) in the case of a society, every office bearer of the society at the time of the commission of the offence,

may be charged severally or jointly in the same proceedings with the body corporate, partnership or society and 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 and had exercised due diligence to prevent the commission of the offence.

Compounding of offences

105. (1) The Agency may, with the consent of the Public Prosecutor, offer in writing to compound any offence committed by any person under this Act or any regulations made under this Act and prescribed to be a compoundable offence under this Act by making a written offer to such person to compound the offence upon payment to the Agency of such amount not exceeding fifty per cent of the amount of maximum fine for that offence, within the time specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) If the amount specified in the offer under subsection (1) is not paid within the time specified in the offer or within such extended period as the Agency may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall be instituted after that in respect of the offence against the person to whom the offer to compound was made and where possession has been taken of any books, records or other documents or any other thing, such books, records, documents or things may be released subject to such conditions as may be imposed in accordance with the conditions of the compound.

(5) The amounts of money received under this section shall be paid into and form part of the Consolidated Fund.

General penalty

106. A person who commits an offence under this Act or any regulations made under this Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Penalty in the case of a continuing offence

107. Any person who commits an offence under this Act or any regulations made 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 or any regulations made under this Act in respect of such offence, to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Presumption

108. In any proceeding for an offence under this Act or any regulations made under this Act when it has been proven that any application, information, particular, return, account, record, document or statement, whether written or not, is—

- (a) false or incorrect in whole or in part; or
- (b) misleading in any material particular,

it shall be presumed until the contrary is proved that such application, information, particular, return, account, record, document or statement is false or incorrect in whole or in part or misleading in any material particular, as the case may be, to the knowledge of the person signing, delivering or supplying it.

Public servant

109. Every member of the Council or any of its committees, any officer, employee or agent of the Agency and any member of its committees and any member of the Joint Technical Committee while discharging his duties or performing his functions or exercising his power under this Act or any regulations made under this Act shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

Protection against suit and legal proceedings

110. No action shall lie or prosecution shall be brought, instituted or maintained against—

- (a) the Agency, any member of its committees or any officer, employee or agent of the Agency;

- (b) the Council, any member of the Council, or any member of its committees;
- (c) the Joint Technical Committee or any of its member;
or
- (d) any person lawfully acting on behalf of the Agency or the Council,

in respect of any act, neglect or default done or committed by him or it in good faith or any omission omitted by him or it in good faith in such capacity.

Public Authorities Protection Act 1948

111. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Agency, Council, any member of the Council and its committees, any officer, employee or agent of the Agency and its committees and any member of the Joint Technical Committee in respect of any act, neglect or default done or committed by him in such capacity.

Obligations of secrecy

112. (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 Council, officer, employee or agent of the Agency 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) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Power to exempt

113. (1) The Minister may other than professional programmes or professional qualifications, by order published in the *Gazette*

exempt, subject to such conditions as he may deem fit to impose—

- (a) any higher education provider duly registered under any other law in force;
- (b) any person or class of persons; or
- (c) any higher education provider,

from all or any of the provisions of this Act or any regulations made under this Act.

(2) The Minister may, at any time, by order published in the *Gazette*, revoke any order made under subsection (1) if he is satisfied that the exemption should no longer be granted.

Power to make regulations

114. (1) The Minister may make regulations as are necessary or expedient to give full effect to or for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for—

- (a) prescribing the manner of applying for provisional accreditation or accreditation under this Act, the particulars to be supplied by an applicant, the manner of accreditation and the conditions to be imposed;
- (b) prescribing the forms for the purposes of this Act;
- (c) prescribing the fees and charges payable under this Act and the manner for collecting and disbursing such fees and charges;
- (d) prescribing the records and documents to be kept and the returns to be submitted;
- (e) prescribing the procedure to be followed for the administration of the Fund;

- (f) prescribing the procedure and the offences which may be compounded;
- (g) providing for the regulation of all or any of the activities of the Agency and generally the performance of the functions, the exercise of the powers and the discharge of the duties of the Agency under this Act;
- (h) providing for such other matters as are contemplated by, or necessary for giving full effect to, the provisions of this Act and for their due administration.

PART XVI

REPEAL, SAVINGS AND TRANSITIONAL

Repeal and dissolution

115. The Lembaga Akreditasi Negara Act 1996 [*Act 556*] is repealed (“the repealed Act”) and the Lembaga Akreditasi Negara (“the Lembaga”) is dissolved.

Transfer of powers, etc.

116. The powers, rights, privileges, liabilities, obligations and duties that before the appointed day were those of the Lembaga shall devolve as from that day on the Agency.

Transfer of property

117. (1) All lands that before the appointed day were vested in, or reserved under any written law relating to land for the purposes of the Lembaga shall on that day vest in or be deemed to be reserved for the purposes of the Agency.

(2) All property and assets other than land that before the appointed day were vested in the Lembaga or in any person on behalf of the Lembaga, as the case may be, shall on that day vest in the Agency.

Existing contracts

118. All deeds, bonds, agreements, instruments and working arrangements subsisting before the appointed day and affecting any of the property transferred under section 117 shall have full force and effect against or in favour of the Agency and shall be enforceable as fully and effectually as if, instead of the Lembaga or any person acting on behalf of the Lembaga, the Agency had been named therein or been a party thereto.

Transfer of monies in funds

119. All monies standing in or due to be paid to the funds of the Lembaga established under the repealed Act shall on the appointed day be transferred to and be deemed to be part of the Fund established under section 28 of this Act.

Membership of the Lembaga

120. (1) Notwithstanding anything to the contrary, the members of the Lembaga and the members of any committee appointed under the repealed Act who held office before the appointed day shall cease to hold office on that day.

(2) Nothing in subsection (1) shall affect the accountability of the outgoing members of the Lembaga and as soon as practicable after the appointed day, the Lembaga shall prepare and submit to the Minister a report including the financial statements required under the repealed Act, but the report shall be limited to the period from 1 January of the relevant year to the day before the appointed day.

Continuance of officers and servants

121. The persons who on the appointed day are employed as officers and servants of the Lembaga under the repealed Act shall continue to be officers and servants of the Agency under this Act as if those persons had been appointed under section 22 of this Act on the same terms and conditions for a term expiring on the day on which their appointments under the repealed Act would expire.

Savings for certificates and registers

122. (1) Notwithstanding the repeal and dissolution under section 115 or any provision of this Act to the contrary, every person who, before the appointed day, held a valid certificate issued to him under the repealed Act shall be deemed to be accredited under this Act until the expiry date of the certificate and subject to the terms and conditions attached thereto.

(2) Every certificate by virtue of which a person is deemed under subsection (1) to be accredited under this Act shall be deemed to have been issued under this Act; and the Agency may alter the terms and conditions attached to the certificate for the purpose of bringing them into conformity with the policy of the Agency regarding the imposition of conditions on accreditation under this Act.

(3) If a higher education provider deemed to be accredited under subsection (1) desires to be accredited under this Act after the expiration of the period for which he is deemed to be accredited under this Act, he may apply to the Agency for a certificate of accreditation in accordance with the regulations made under this Act, notwithstanding anything to the contrary, and his application shall be made and treated as a fresh application and not as an application for renewal of certificate of accreditation.

(4) All registers kept and maintained under the repealed Act shall be deemed to be registers kept and maintained under this Act and shall be deemed to form part thereof.

Continuance of pending applications, etc.

123. (1) All applications, approvals or decisions, on appeal or otherwise, pending before the Lembaga under the repealed Act shall on the appointed day be dealt with by the Agency under this Act.

(2) All applications, approvals or decisions, on appeal or otherwise, pending before the Minister under the repealed Act shall on the appointed day be dealt with by the Minister under this Act.

(3) All instruments, certificates or documents lodged with the Lembaga under the repealed Act before the appointed day shall on the appointed day be lodged with the Agency.

Continuance of civil and criminal proceedings

124. (1) Neither the repeal under section 115 or anything contained in this Act shall affect any person's liability to be prosecuted or punished for offences committed under the repealed Act before the appointed day, or any proceedings brought before that day in respect of such offences.

(2) Any proceedings, whether civil or criminal, or cause of action pending or existing before the appointed day by or against the Lembaga or any person acting on behalf of the Lembaga may be continued or instituted by or against the Agency as it might have been by or against the Lembaga or such person if this Act had not been enacted.

(3) Any appeal brought or any leave to appeal applied for on or after the appointed day against a decision given before that day in any legal proceedings to which the Lembaga was a party may be brought by or against the Agency.

Reference in law or document to the Lembaga

125. A reference in any law or document in force before the appointed day to the Lembaga shall be construed as a reference to the Agency.

Continuance of use of name

126. (1) Notwithstanding sections 115 and 125, the Agency may continue to use the name "Lembaga Akreditasi Negara" for the purpose of maintaining goodwill or for any purpose the Agency deems fit.

(2) No other person may use the name "Lembaga Akreditasi Negara" except with the prior written approval of the Agency.

(3) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Prevention of anomalies

127. (1) The Minister may, after consultation with the Agency, whenever it appears to him necessary or expedient to do so, whether for the purpose of removing difficulties or preventing anomalies in consequence of the enactment of this Act, by order published in the *Gazette* make such modifications to any provisions in any existing laws as he thinks fit.

(2) The Minister shall not exercise the powers conferred by subsection (1) after the expiration of two years from the appointed day.

SCHEDULE

[Subsection 11(3)]

Meetings

1. (1) The Council meets at least once in every three months at such time and place as may be appointed by the Chairman.

(2) At least fourteen days notice in writing shall be given to the members of the Council.

(3) The Chairman shall preside at a meeting of the Council.

(4) The quorum of the Council shall be eight.

(5) Every member present shall be entitled to one vote.

(6) If on a question to be determined by the Council there is an equality of votes, the Chairman shall have a casting vote.

The Council may invite others to meetings

2. (1) The Council may invite any person to attend a meeting or deliberation of the Council for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting or deliberation.

(2) A person invited under subparagraph (1) may be paid such fees as the Council may determine.

Disclosure of interest

3. A member having, directly or indirectly, by himself or his partner, any interest in any company or undertaking with which the Agency proposes to make any contract or having any interest in any such contract or in any matter under discussion by the Council shall disclose to the Council the fact of his interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Council and, unless specifically authorized thereto by the Chairman, such member shall take no part in any deliberation or decision of the Council relating to the contract or matter.

Minutes

4. (1) The Council shall cause minutes of all its meetings to be maintained and kept in a proper form.

(2) Minutes made of meetings of the Council shall, if duly signed, be admissible in evidence in all legal proceedings without further proof.

(3) Every meeting of the Council in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Validity of acts and proceedings

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

- (a) a vacancy in the membership of, or a defect in the constitution of, the Council;
- (b) the contravention by any member of the provisions of paragraph 3; or
- (c) an omission, a defect or an irregularity not affecting the merit of the case.

Procedure

6. Subject to this Act, the Council shall determine its own procedure.

Members to devote time to business of the Council

7. Every member shall devote such time to the business of the Council as may be necessary to discharge his duties effectively.

Appointment to be published

8. The appointment of every member of the Council shall be published in the *Gazette*.

