



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

ACTS SUPPLEMENT

Published by Authority

NO. 25]

TUESDAY, SEPTEMBER 8

[2009

First published in the *Government Gazette*, Electronic Edition, on at .

The following Act was passed by Parliament on 14th September 2009 and assented to by the President on 25th September 2009:—

PRIVATE EDUCATION ACT 2009

(No. 21 of 2009)

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation

PART II
COUNCIL FOR PRIVATE EDUCATION

Division 1 — Establishment, incorporation and constitution of Council

Section

3. Establishment and incorporation of Council for Private Education
4. Common seal
5. Constitution of Council

Division 2 — Functions, duties and powers of Council

6. Functions and duties of Council
7. Powers of Council
8. Directions by Minister
9. Appointment of committees and delegation

Division 3 — Provisions relating to staff of Council

10. Appointment of Chief Executive and other employees, etc.
11. Protection from personal liability
12. Public servants

Division 4 — Financial provisions

13. Financial year
14. Annual estimates
15. Moneys recovered or collected by Council
16. Grants
17. Power to borrow
18. Issue of shares, etc.
19. Bank account
20. Application of moneys
21. Investment power
22. Financial provisions

Division 5 — Transfer of property, assets, liabilities and employees

23. Transfer to Council of property, assets and liabilities
24. Transfer of employees
25. Service rights, etc., of transferred employees to be preserved
26. No benefits in respect of abolition or reorganisation of office
27. Existing contracts
28. Continuation and completion of disciplinary proceedings and other legal proceedings
29. Misconduct or neglect of duty by employee before transfer

Section

30. No breach or default, etc., because of transfer

Division 6 — General

31. Preservation of secrecy
32. Annual report
33. Symbol, design or representation of Council

PART III

REGULATION OF PRIVATE EDUCATION INSTITUTIONS

Division 1 — Registration of private education institutions

34. Requirement for registration
35. Application for grant or renewal of registration
36. Grant or renewal of registration
37. Grounds for refusal to grant or renew registration
38. Suspension or cancellation of registration
39. Approval of change of name
40. Power to direct change of name

Division 2 — Management of registered private education institutions

41. Duties of managers
42. Suspension or removal of managers

Division 3 — Provisions relating to courses by registered private education institutions

43. Permission to offer or provide courses

Division 4 — Provisions relating to teachers of registered private education institutions

44. Notification of teachers of registered private education institutions
45. Power to prohibit or restrict deployment of teachers

Division 5 — Provisions relating to advertising

46. Prohibition of certain advertisements
47. Remedial measures in relation to advertisements

Division 6 — Administrative penalties

48. General measures Council may impose on errant private education institutions

PART IV

PROVISION AND CONTROL OF OTHER SERVICES

Section

- 49. Establishment or maintenance of accreditation or certification schemes by Council
- 50. Restrictions on certain other services

PART V

APPEALS

- 51. Constitution of Appeals Board
- 52. Duty, powers and procedures of Appeals Board
- 53. Appeals to Appeals Board
- 54. Disclosure of conflicts of interest by members of Appeals Board
- 55. Rules relating to appeals

PART VI

INSPECTION, ENFORCEMENT AND OFFENCES

- 56. Appointment of inspectors
- 57. Inspection of registered private education institutions
- 58. Enforcement powers of inspectors
- 59. General power to direct remedial measures
- 60. Power to direct course money refunds, etc.
- 61. General offences and penalties

PART VII

MISCELLANEOUS

- 62. Power of Council to issue requisition for particulars or information
- 63. Registers and publication of information
- 64. Power of Council in relation to dispute resolution schemes
- 65. Jurisdiction of court
- 66. Offences by bodies corporate, etc.
- 67. Composition of offences
- 68. General exemption
- 69. Service of documents
- 70. Amendment of First Schedule
- 71. Regulations
- 72. Non-application to certain education institutions

Section

- 73. Consequential amendment to Education Act
 - 74. Saving and transitional provisions
 - First Schedule — Definition of Private Education
 - Second Schedule — Constitution and Proceedings of Council
 - Third Schedule — Financial Provisions
-

REPUBLIC OF SINGAPORE

No. 21 of 2009.

I assent.



S R NATHAN

*President.**25th September 2009.*

An Act to establish and incorporate the Council for Private Education, to provide for its functions, duties and powers, to provide for the regulation and accreditation of private education institutions so as to ensure the provision of quality education thereat and for matters connected therewith, and to make a consequential amendment to the Education Act (Chapter 87 of the 1985 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I
PRELIMINARY

Short title and commencement

1. This Act may be cited as the Private Education Act 2009 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

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

“advertisement” includes any notice, circular, pamphlet, brochure, prospectus, programme or other document, and any announcement, notification or intimation, to the public or any section thereof or to any person or persons, made —

(a) orally or in writing;

(b) by means of any poster, placard, notice or other document affixed, posted or displayed on any wall, billboard or hoarding or on any other object or thing;

(c) by means of sound broadcast, television, the Internet or other media; or

(d) in any other form or manner whatsoever;

“Appeals Board” means the Appeals Board constituted under section 51;

“appointed day” means the date of commencement of Part II;

“award”, in relation to a private education institution, includes the conferment of any degree, diploma or certificate by the private education institution, whether on its own behalf or otherwise;

“body corporate” includes a limited liability partnership;

“Chairman” means the Chairman of the Council and includes any temporary Chairman of the Council;

“Chief Executive” means the Chief Executive of the Council appointed under section 10 and includes any person acting in that capacity;

“committee member” means a member of any committee appointed by the Council under section 9(1);

“company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“Council” means the Council for Private Education established under section 3;

“course”, in relation to a private education institution, means a course of study or training programme offered or provided by the private education institution;

“course money” means money that a private education institution receives, directly or indirectly, from —

(a) a student, or a person (whether within or outside Singapore) who intends to become or who has taken any steps towards becoming a student (referred to in this Act as an intending student); or

(b) another person who pays the money on behalf of the student or intending student,

for a course that the private education institution is providing or offering to provide to the student or intending student;

“director” has the same meaning as in section 4(1) of the Companies Act;

“education” includes instruction, training or teaching;

“education institution” means any person that offers to provide, or provides, education, whether by itself or in association or collaboration with or by affiliation with any other person;

“examination service”, in relation to any private education institution, means any test, examination or other method of assessing the level of proficiency, aptitude, skill, knowledge or understanding of a person attending or enrolled in any course provided by the private education institution;

“inspector” means an inspector appointed by the Council under section 56(1);

“limited liability partnership” has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“manager” —

(a) in relation to a private education institution that is a body corporate, means any director, partner or member of its board or committee of management which is responsible for the management of the affairs of the body corporate, or other similar officer of the body corporate, and includes any person in accordance with whose directions, instructions or wishes those directors, partners or other members, as the case may be, are accustomed or under an obligation, whether formal or informal, to act;

(b) in relation to a private education institution that is an unincorporated association (other than a partnership), means any member of the governing body of the unincorporated association which is responsible for the management of the affairs of the unincorporated association, or any person holding a position analogous to that of member of such a governing body;

(c) in relation to a private education institution that is a partnership, means any partner of the partnership; or

(d) in relation to a private education institution that is a sole-proprietorship, means the sole-proprietor;

“member” means a member of the Council and includes any temporary member of the Council;

“partner” includes any person purporting to act as a partner;

“partnership” includes a limited partnership within the meaning of the Limited Partnerships Act 2008 (Act 37 of 2008);

“premises”, in relation to a private education institution (whether registered or unregistered) or a proposed private education

institution, means any building, enclosure, ground, open-air space or other place used or to be used by the private education institution or proposed private education institution in connection with the provision of private education;

“prescribed dispute resolution scheme” means a dispute resolution scheme that is prescribed under section 64;

“private education” has the meaning given to it in the First Schedule;

“private education institution” means —

(a) any person that offers to provide or provides private education, whether or not the person offers to provide or provides the private education —

(i) for profit;

(ii) together with other education; or

(iii) by itself or in association or collaboration with or by affiliation with any other person; and

(b) such school registered under the Education Act (Cap. 87) which receives a grant-in-aid or subvention extended by the Government to aided schools as is specified by the Minister in a notification published in the *Gazette*,

but does not include any private education institution that the Minister declares, by notification in the *Gazette*, to be excluded from this definition, after having regard to the association, collaboration with or affiliation of the private education institution with any school registered under the Education Act;

“registered private education institution” means any private education institution that is registered under Part III;

“registered society” means a society registered or deemed to be registered under the Societies Act (Cap. 311);

“renovation works” means any structural or non-structural additions and alterations carried out to any premises, but does not include repairs and maintenance works;

“Scheme” means a voluntary accreditation or certification scheme established or maintained under section 49(1);

“student”, in relation to an education institution, means a person who receives, or is enrolled in the education institution to receive, education offered or provided by the education institution;

“teacher” means a person who teaches students of an education institution, or who prepares or issues lessons or corrects written answers;

“unregistered private education institution” means any private education institution that is not, or that ceases to be, a registered private education institution, but does not include an education institution which is exempted under section 68 from registration under Part III.

PART II

COUNCIL FOR PRIVATE EDUCATION

Division 1 — Establishment, incorporation and constitution of Council

Establishment and incorporation of Council for Private Education

3. There is hereby established a body to be known as the Council for Private Education which shall be a body corporate with perpetual succession and shall, by that name, be capable of —

- (a) suing and being sued;
- (b) acquiring, owning, holding and developing or disposing of property, both movable and immovable; and
- (c) doing and suffering such other acts or things as bodies corporate may lawfully do and suffer.

Common seal

4.—(1) The Council shall have a common seal and such seal may, from time to time, be broken, changed, altered or made anew as the Council thinks fit.

(2) All deeds and other documents requiring the seal of the Council shall be sealed with the common seal of the Council.

(3) Every instrument to which the common seal is affixed shall be signed by any 2 members generally or specially authorised by the Council for the purpose, or by one member and the Chief Executive.

(4) The Council may, by resolution or otherwise in writing, appoint any officer of the Council or any other agent either generally or in any particular case to execute or sign on behalf of the Council any agreement or other instrument not under seal in relation to any matter coming within the powers of the Council.

(5) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Council affixed to any document and shall presume that it was duly affixed.

Constitution of Council

5.—(1) The Council shall consist of the following members:

- (a) a Chairman; and
- (b) such other members, not being less than 5 or more than 17, as the Minister may from time to time determine.

(2) The Second Schedule shall have effect with respect to the Council, its members and its proceedings.

*Division 2 — Functions, duties and powers of Council***Functions and duties of Council**

6.—(1) Subject to the provisions of this Act, the functions and duties of the Council shall be —

- (a) to register and regulate private education institutions and persons who offer or provide any service relating, whether directly or indirectly, to private education;

-
-
- (b) to encourage, promote and facilitate the development of the private education sector in Singapore;
 - (c) to establish, implement or support quality accreditation or certification schemes and other measures to enhance the standards of the private education sector, or the education sector generally, in Singapore as the Council deems appropriate;
 - (d) to publish and disseminate information on matters relating to the Council's functions and duties;
 - (e) to advise the Government or other public authority on national needs and policies in respect of private education matters generally, and to implement national policies relating to private education or to persons regulated under this Act; and
 - (f) to perform such other functions and discharge such other duties as may be conferred on the Council by or under this Act or any other written law.

(2) In addition to the functions and duties imposed under subsection (1), the Council may undertake such other functions and duties (not incompatible with those specified in that subsection) as the Minister may, by order published in the *Gazette*, assign to the Council and in so doing —

- (a) the Council shall be deemed to be fulfilling the purposes of this Act; and
- (b) the provisions of this Act shall apply to the Council in respect of such functions and duties.

(3) Nothing in this section shall be construed as imposing on the Council, directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.

Powers of Council

7.—(1) Subject to the provisions of this Act, the Council shall have power to do anything for the purpose of performing its functions and discharging its duties under this Act or any other written law, or which

is incidental or conducive to the performance and discharge of those functions and duties and, in particular, may —

- (a) design and administer systems for the registration and regulation of private education institutions and persons who offer or provide any service relating, whether directly or indirectly, to private education;
- (b) develop codes of practice relating to content or technical standards for private education services, and monitor compliance with such codes;
- (c) engage in research, development studies or technical co-operation projects relating to or connected with the functions and duties of the Council;
- (d) specify, by notification in the *Gazette*, all the accreditation, certification or inspection marks of the Council for use in relation to any function or duty of the Council, and control the use of such marks;
- (e) enter into such contracts as may be necessary or expedient for the purpose of discharging the functions and duties of the Council;
- (f) acquire or dispose of, in accordance with the provisions of this Act, any property, whether movable or immovable, which the Council thinks necessary or expedient for the purpose of carrying out its functions or duties;
- (g) with the approval of the Minister, form or participate in the formation of any company, partnership or joint venture as a shareholder or partner or in any other capacity and to share profits;
- (h) become a member or an affiliate of any international body, the functions or duties of which are similar to those of the Council;
- (i) whether by itself or in association with any other person, provide to any person in Singapore or elsewhere consultancy, technical, managerial or other services or products in any area in which the Council has skill or experience;

-
-
- (j) charge fees or commissions for services rendered by the Council or for the use of any facilities of the Council;
 - (k) receive grants or contributions from any source, or raise funds by all lawful means and apply such funds for any of the functions and duties of the Council;
 - (l) grant or guarantee loans to officers or employees of the Council for any purpose specifically approved by the Council;
 - (m) provide recreational facilities and promote recreational activities for, and activities conducive to, the welfare of officers and employees of the Council and members of their families;
 - (n) provide training, whether by itself or with the co-operation of other persons as the Council thinks fit, for the officers or employees of the Council or others concerned with private education services and to award scholarships or otherwise pay for such training;
 - (o) lease, let, develop or otherwise utilise any property movable or immovable, vested in or acquired by the Council on such terms and conditions as the Council thinks fit; and
 - (p) do anything incidental to any of its functions, duties or powers.

(2) This section shall not be construed as limiting any power of the Council conferred by or under any other written law.

(3) The Council shall furnish the Minister information with respect to its property and activities in such manner and at such times as the Minister may require.

Directions by Minister

8. The Minister may give to the Council such directions, not inconsistent with the provisions of this Act, as to the performance of its functions, the discharge of its duties and the exercise of its powers under this Act or any other written law as the Minister may consider necessary, and the Council shall give effect to all such directions.

Appointment of committees and delegation

9.—(1) The Council may appoint from among its own members or from other persons such number of committees as it thinks fit for purposes which, in the opinion of the Council, would be more expediently carried out or managed by means of such committees.

(2) The Council may, from time to time, alter or discharge any committee appointed under subsection (1), and define or vary the terms of reference of the committee.

(3) Subject to the provisions of this Act and to the control of the Council, each committee appointed under subsection (1) may regulate its procedure in such manner as the committee thinks fit.

(4) The Council may, subject to such conditions or restrictions as it thinks fit, delegate —

- (a) to any of its members, including the Chairman and Deputy Chairman;
- (b) to its Chief Executive, or any of its officers or employees;
- (c) to any committee appointed under subsection (1); or
- (d) to any other person as it thinks fit,

any of its functions, duties or powers under this Act or any other written law, except the powers to make subsidiary legislation and the power of delegation conferred by this subsection.

(5) Any function, duty or power delegated under subsection (4) to any committee or person may be performed or exercised by the committee or person in the name and on behalf of the Council.

(6) No delegation under this section shall prevent the performance, discharge or exercise of any function, duty or power by the Council.

Division 3 — Provisions relating to staff of Council

Appointment of Chief Executive and other employees, etc.

10.—(1) The Council shall, with the approval of the Minister, appoint a Chief Executive on such terms and conditions as the Council may determine.

-
-
- (2) The Chief Executive shall —
- (a) be known by such designation as the Council may determine;
 - (b) be responsible to the Council for the proper administration and management of the functions, duties and affairs of the Council in accordance with the policy laid down by the Council; and
 - (c) not be removed from office without the consent of the Minister.
- (3) If the Chief Executive is temporarily absent from Singapore or temporarily incapacitated by reason of illness or for any other reason temporarily unable to discharge his duties, another person may be appointed by the Council to act in the place of the Chief Executive during any such period of absence from duty.
- (4) The Council may, from time to time, appoint or employ on such terms and conditions as the Council may determine such officers, employees, consultants and agents as it thinks fit for the effective performance of its functions and discharge of its duties under this Act or any other written law.

Protection from personal liability

11.—(1) No suit or other legal proceedings shall lie personally against any member, officer, employee or committee member of the Council or other person acting under the direction of the Council for anything which is in good faith done or intended to be done in the execution or purported execution of this Act.

(2) Where the Council provides a service to the public whereby information is supplied to the public pursuant to any written law, neither any of its members, officers, employees nor committee members involved in the supply of such information shall be liable for any loss or damage suffered by any member of the public by reason of any error or omission of whatever nature appearing therein or however caused if made in good faith and in the ordinary course of the discharge of the duties of such member, officer, employee or committee member.

Public servants

12. All members, officers and employees of the Council and all inspectors shall be deemed to be public servants for the purposes of the Penal Code (Cap. 224).

*Division 4 — Financial provisions***Financial year**

13. The financial year of the Council shall begin on 1st April of each year and end on 31st March of the succeeding year, except that the first financial year of the Council shall begin on the appointed day and end on 31st March of the succeeding year.

Annual estimates

14.—(1) The Council shall, in every financial year, prepare or cause to be prepared and shall adopt annual estimates of income and expenditure of the Council for the ensuing financial year.

(2) Supplementary estimates may be adopted by the Council at any of its meetings.

(3) A copy of all annual estimates and supplementary estimates shall, upon their adoption by the Council, be sent immediately to the Minister.

(4) The Minister may approve or disallow any item or portion of any item shown in the estimates, and shall return the estimates as amended by him to the Council, and the Council shall be bound thereby.

(5) Notwithstanding any provision of this section, the Council may transfer all or any part of moneys assigned to one item of expenditure to any item under the same head of expenditure in any estimates approved by the Minister.

Moneys recovered or collected by Council

15. All moneys recovered, or charges, composition sums or financial penalties collected, under this Act shall be paid into and form part of the moneys of the Council.

Grants

16. For the purpose of enabling the Council to perform its functions and discharge its duties under this Act or any other written law, the Minister may, from time to time, make grants to the Council of such sums of money, as the Minister may determine, out of moneys to be provided by Parliament.

Power to borrow

17.—(1) For the performance of its functions or discharge of its duties under this Act or any other written law, the Council may, from time to time, raise loans from the Government or, with the approval of the Minister, raise loans within or outside Singapore from such source as the Minister may direct by —

- (a) mortgage, overdraft or other means, with or without security;
- (b) charge, whether legal or equitable, on any property vested in the Council or on any other revenue receivable by the Council under this Act or any other written law; or
- (c) the creation and issue of debentures, bonds or any other instrument as the Minister may approve.

(2) For the purposes of this section, the power to raise loans shall include the power to make any financial agreement whereby credit facilities are granted to the Council for the purchase of goods, materials or things.

Issue of shares, etc.

18. As a consequence of the vesting of any property, rights or liabilities of the Government in the Council under this Act, or of any capital injection or other investment by the Government in the Council in accordance with any written law, the Council shall issue such shares or other securities to the Minister for Finance as that Minister may, from time to time, direct.

Bank account

19.—(1) The Council shall open and maintain one or more accounts with such bank or banks as the Council thinks fit.

(2) Every such account shall be operated by such person as may, from time to time, be authorised in that behalf by the Council.

Application of moneys

20. The moneys of the Council shall be applied only in payment or discharge of the expenses, obligations and liabilities of the Council and in making any payment that the Council is authorised or required to make.

Investment power

21. The Council may invest its moneys in accordance with the standard investment power of statutory bodies as defined in section 33A of the Interpretation Act (Cap. 1).

Financial provisions

22. The financial provisions set out in the Third Schedule shall have effect with respect to the Council.

Division 5 — Transfer of property, assets, liabilities and employees

Transfer to Council of property, assets and liabilities

23.—(1) As from the appointed day —

- (a) such movable and immovable property vested in the Government as may be determined by the Minister for Finance and used or managed by the Private Education Division of the Ministry of Education (referred to in this Division as the transferred Division); and
- (b) all assets, interests, rights, privileges, liabilities and obligations of the Government relating to the transferred Division,

shall be transferred to and shall vest in the Council without further assurance, act or deed.

(2) If any question arises as to whether any particular property, asset, interest, right, privilege, liability or obligation has been transferred to or vested in the Council under subsection (1), a certificate under the hand of the Minister for Finance shall be conclusive evidence that the

property, asset, interest, right, privilege, liability or obligation was or was not so transferred or vested.

(3) Any immovable property to be transferred to and vested in the Council under subsection (1) shall be held by the Council upon such tenure and subject to such terms and conditions as the President may determine.

(4) Every agreement relating to any of the transferred properties to which the Government was a party immediately before the appointed day, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that day as if —

- (a) the Council had been a party to such an agreement; and
- (b) for any reference to the Government there was substituted in respect of anything to be done on or after the appointed day a reference to the Council.

Transfer of employees

24.—(1) As from the appointed day, such persons or categories of persons as the Minister may determine who, immediately before that day, were employed by the Government in the transferred Division shall be transferred to the service of the Council on terms no less favourable than those enjoyed by them immediately prior to their transfer.

(2) If any question arises as to whether any person or any category of persons has been transferred to the service of the Council under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the person or category of persons was or was not so transferred.

(3) Until such time as terms and conditions of service are drawn up by the Council, the scheme and terms and conditions of service in the Government shall continue to apply to every person transferred to the service of the Council under subsection (1) as if he were still in the service of the Government.

Service rights, etc., of transferred employees to be preserved

25.—(1) The terms and conditions to be drawn up by the Council shall take into account the terms and conditions of service (including salaries and accrued rights to leave) enjoyed by the persons transferred to the service of the Council under section 24 while in the employment of the Government.

(2) Any term or condition relating to the length of service with the Council shall recognise the length of service of the persons so transferred while in the employment of the Government to be service with the Council.

(3) Nothing in the terms and conditions of service to be drawn up by the Council shall adversely affect the terms and conditions that would have been applicable to persons transferred to the service of the Council as regards any pension, gratuity or allowance payable under the Pensions Act (Cap. 225).

(4) Where a person has been transferred to the service of the Council under section 24, the Government shall be liable to pay to the Council such portion of any pension, gratuity or allowance payable to the person on his retirement as the same shall bear to the proportion which the aggregate amount of his pensionable emoluments during his service with the Government bears to the aggregate amount of his pensionable emoluments during his service under both the Government and the Council.

(5) Where any person in the service of the Council, whose case does not fall within the scope of any pension or other schemes established under this section, retires or dies in the service of the Council or is discharged from such service, the Council may grant to him or to such other person wholly or partly dependent on him, as the Council thinks fit, such allowance or gratuity as the Council may determine.

No benefits in respect of abolition or reorganisation of office

26. Notwithstanding the provisions of the Pensions Act, no person who is transferred to the service of the Council under section 24 shall be entitled to claim any benefit under that Act on the ground that he has been retired from the public service on account of abolition or

reorganisation of office in consequence of the establishment and incorporation of the Council.

Existing contracts

27. All deeds, contracts, schemes, bonds, agreements, instruments and arrangements subsisting immediately before the appointed day to which the Government is a party and relating to the transferred Division or to any person transferred to the service of the Council under section 24 shall continue in force on and after that day and shall be enforceable by or against the Council as if the Council had been named therein or had been a party thereto instead of the Government.

Continuation and completion of disciplinary proceedings and other legal proceedings

28.—(1) Where, on the appointed day, any disciplinary proceedings were pending against any employee of the Government transferred to the service of the Council, the proceedings shall be carried on and completed by the Council.

(2) Where, on the appointed day, any matter was in the course of being heard or investigated or had been heard or investigated by a committee acting under due authority but no order, ruling or direction had been made thereon, the committee shall complete the hearing or investigation and shall make such order, ruling or direction as it could have made under the authority vested in it before that day.

(3) Any order, ruling or direction made by a committee under this section shall be treated as an order, a ruling or a direction of the Council and have the same force or effect as if it had been made by the Council pursuant to the authority vested in the Council under this Act.

(4) Any proceedings or cause of action pending or existing immediately before the appointed day by or against the Government, or any person acting on its behalf, in relation to —

(a) the transferred Division;

(b) any portion of the property, assets, interests, rights, privileges, liabilities and obligations transferred to the Council under section 23; or

- (c) any employee of the Government transferred to the service of the Council under section 24,

may be continued, completed and enforced by or against the Council.

Misconduct or neglect of duty by employee before transfer

29. The Council may reprimand, reduce in rank, retire, dismiss or punish in some other manner a person who had, whilst he was in the employment of the Government, been guilty of any misconduct or neglect of duty which would have rendered him liable to be reprimanded, reduced in rank, retired, dismissed or punished in some other manner if he had continued to be in the employment of the Government, and if this Act had not been enacted.

No breach or default, etc., because of transfer

30.—(1) The operation of this Division shall not be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong;
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities; or
- (c) as giving rise to any remedy by a party to a legal instrument, or as causing or permitting the termination of any legal instrument, because of a change in the beneficial or legal ownership of any asset or liability.

(2) The operation of section 23 shall not be regarded as an event of default under any contract or other legal instrument.

(3) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or undertaking to which the Government is a party or may be bound prohibiting or having the effect of prohibiting the transfer of any property, asset, interest, right, privilege, liability or obligation transferred to the Council under section 23 shall be deemed by this Act to have been waived.

(4) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or

undertaking to which the Government is a party or may be bound conferring on the other party or parties thereto any right of first refusal or pre-emption rights in respect of any property, asset, interest, right, privilege, liability or obligation to be transferred by reason of or arising from, or to the effect that a default shall occur or be deemed to occur as a result of, the transfer or intended transfer of the property, asset, interest, right, privilege, liability or obligation under section 23 shall be deemed by this Act to have been waived.

(5) No attornment to the Council by a lessee from the Government shall be required.

(6) No claim for any loss shall be brought against the Government in relation to any act or thing done for the purposes of this Division.

Division 6 — General

Preservation of secrecy

31.—(1) Except for the purpose of the performance of his functions or the discharge of his duties or when lawfully required to do so by any court or under the provisions of any written law, no person who is or has been —

(a) a member, an officer, an employee, a consultant or an agent of the Council; or

(b) a committee member or a member of the Appeals Board, shall disclose any information relating to the affairs of the Council or any other person which has been obtained by him in the performance of his functions or the discharge of his duties.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Annual report

32.—(1) The Council shall, as soon as practicable after the end of each financial year, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Council

during the preceding financial year and containing such information relating to the proceedings and policy of the Council as the Minister may, from time to time, direct.

(2) The Minister shall, as soon as practicable, cause a copy of every such report to be presented to Parliament.

Symbol, design or representation of Council

33.—(1) The Council shall have the exclusive right to the use of such symbol, design or representation as the Council may select or devise and thereafter display or exhibit such symbol, design or representation in connection with its activities or affairs.

(2) Any person who, without the prior permission of the Council, uses a symbol, design or representation identical with that of the Council, or which so resembles the Council's symbol, design or representation as to deceive or cause confusion or to be likely to deceive or to cause confusion, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

PART III

REGULATION OF PRIVATE EDUCATION INSTITUTIONS

Division 1 — Registration of private education institutions

Requirement for registration

34.—(1) Subject to the provisions of this Act, no person in Singapore may —

- (a) offer to provide or provide private education, whether in Singapore or elsewhere; or
- (b) award any degree, diploma or certificate (including any honorary degree or other distinctions) in respect of private education, whether offered or provided in Singapore or elsewhere,

unless the person is a registered private education institution.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(3) Any person who knowingly assists in the provision of private education by an unregistered private education institution shall be guilty of an offence.

(4) The Council may take such measures as it thinks necessary to secure the closure of any unregistered private education institution, including but not limited to —

(a) the use of such force or assistance as may be necessary to remove therefrom any person who is in the premises in the possession or control of the unregistered private education institution; and

(b) the sealing of all or any of the entrances to or exits from such premises.

(5) The expenses reasonably incurred by the Council in the exercise of its powers under subsection (4) and such other reasonable expenses as may be incidental thereto shall be recoverable by the Council as a civil debt from the manager or managers (as the case may be) of the unregistered private education institution; and every manager of such an unregistered private education institution shall be jointly and severally liable to the Council for those expenses.

(6) Without prejudice to subsection (4) or (5) or any other power vested in the Council under this Act, the Council may, by written direction addressed to the managers of an unregistered private education institution, direct that the unregistered private education institution refund each student thereof, within such time as may be specified in the direction, the whole of the course money the unregistered private education institution received in respect of the student.

(7) Subsection (6) shall apply notwithstanding anything contained in the agreement or contract between the unregistered private education institution and the students concerned.

(8) Where any written direction issued by the Council under subsection (6) is not complied with, the unregistered private

education institution and every manager thereof to whom the direction is addressed shall each be guilty of an offence.

(9) Subject to subsection (7), it shall be a defence for any person charged with an offence under subsection (8) to prove that he had a reasonable excuse for failing to comply with the written direction of the Council under subsection (6).

(10) Subject to the provisions of this Act, no person shall be entitled to recover in any court any charge, course money or remuneration for any private education provided in Singapore unless the person providing the private education is registered under this Act to provide the private education and the person did so in accordance with the permission of the Council under section 43 required for the course.

Application for grant or renewal of registration

35.—(1) Every application for the grant or renewal of the registration of a private education institution —

- (a) shall be made by a manager of the private education institution (referred to in this section as the applicant) to the Council in such form and manner, and within such time, as may be prescribed;
- (b) shall be accompanied by the prescribed fee; and
- (c) may be accompanied by an application to the Council for the waiver of any of the requirements imposed under this Act for the registration of private education institutions or the renewal thereof.

(2) The Council may require the applicant making an application under subsection (1) to furnish it with such information or documents as the Council considers necessary in relation to the application.

(3) Where the applicant fails to furnish the Council with any information or document required under subsection (2) in relation to his application within the time specified by the Council —

- (a) the application shall be deemed to have been withdrawn; and
- (b) where the application is accompanied by an application for the waiver of any of the requirements imposed under this Act

for the registration of private education institutions or the renewal thereof, the application for waiver shall also be deemed to have been withdrawn.

Grant or renewal of registration

36.—(1) The Council may, upon receiving an application made under section 35(1) for the grant or renewal of the registration of a private education institution, and after such inquiry as it may think necessary —

- (a) if the application is accompanied by an application for the waiver of any of the requirements imposed under this Act for the registration or renewal of registration of private education institutions —
 - (i) grant or renew (as the case may be) the registration of the private education institution subject to such terms and conditions as it thinks fit, after waiving such of the requirements imposed under this Act for the registration or renewal of registration of private education institutions that is the subject of the application for waiver; or
 - (ii) refuse to waive such of the requirements imposed under this Act for the registration or renewal of registration of private education institutions that is the subject of the application for waiver and refuse to grant or renew (as the case may be) the registration of the private education institution because of section 37; or
- (b) in any other case —
 - (i) grant or renew (as the case may be) the registration of the private education institution subject to such terms and conditions as it thinks fit; or
 - (ii) refuse to grant or renew (as the case may be) the registration of the private education institution because of section 37.

(2) Every registration of a private education institution, and every renewal thereof, shall be for such period as may be specified by the Council.

(3) Without prejudice to the generality of subsection (1)(a)(i) and (b)(i), the terms and conditions subject to which the Council registers a private education institution may provide that except with the prior written approval of the Council —

- (a) the private education institution shall not enter into a contractual agreement or other arrangement (whether or not in partnership) with one or more other parties to undertake any activity that is not related to private education, so as to obtain individual benefits for the parties, whether in the form of a share of the output of the arrangement or joint or collective profits for all the parties; or
- (b) the private education institution shall only provide private education and other activities that are related to the provision of private education.

(4) The Council may at any time add to, vary or revoke any term or condition of the registration of a private education institution without compensation.

(5) For the avoidance of doubt, nothing in subsection (3) shall authorise the imposition of any term or condition restricting or prohibiting any particular member of a registered society from entering into any contractual agreement or other arrangement referred to in subsection (3)(a) or from carrying on any activity that is not related to the provision of private education.

Grounds for refusal to grant or renew registration

37.—(1) The Council may refuse to grant or renew the registration of a private education institution if —

- (a) the private education institution is not a company or a registered society;
- (b) the premises of the private education institution —
 - (i) are or are likely to be unsuitable for providing private education;

-
-
- (ii) are unsanitary or unsuitable for providing private education, or are otherwise dangerous or unsafe;
 - (iii) are to be used, wholly or in part, for any purpose other than providing private education or education; or
 - (iv) do not conform to the regulations made under section 71;
- (c) all or more than half of the total number of teachers of the private education institution, or all or more than half of the total number of the proposed teachers thereof —
- (i) do not possess the minimum qualifications or experience, or fulfil such other criteria, as may be prescribed under section 44(1)(a); or
 - (ii) are otherwise not fit and proper persons to teach in the private education institution;
- (d) in the application for the grant or renewal of the registration (as the case may be) of the private education institution, a statement has been made or information has been furnished which is false or misleading in a material particular or by reason of the omission of a material particular;
- (e) the private education institution or any manager thereof —
- (i) is contravening or has contravened this Act;
 - (ii) has been convicted of any offence under this Act within a period of 5 years preceding the date of the application for the grant or renewal of the registration (as the case may be) of the private education institution; or
 - (iii) has been convicted of any other offence involving fraud or dishonesty or the conviction for which involved a finding that the private education institution or a manager thereof (as the case may be) has acted fraudulently or dishonestly, whether in Singapore or elsewhere, within a period of 5 years preceding the date of the application for the grant or

renewal of the registration (as the case may be) of the private education institution;

- (f) any manager or proposed manager of the private education institution is otherwise not a fit and proper person to carry on or manage the private education institution;
- (g) the Council is of the view that the registration or renewal of registration (as the case may be) of the private education institution is not in the interests of the public, or the students, intending students or prospective students of the private education institution; or
- (h) the Council is satisfied that the name of the private education institution, or the name of any premises or school of the private education institution (or any department or faculty thereof), or the name of any education offered to be provided or provided by the private education institution —
 - (i) is likely to mislead members of the public as to the true character or purpose of the private education institution, premises, school or department or faculty thereof or education, as the case may be;
 - (ii) is identical to or so nearly resembles the name of some other private education institution or other education institution, whether in Singapore or elsewhere, as is likely to deceive or confuse members of the public or students of either education institution;
 - (iii) is undesirable or offensive; or
 - (iv) is a name of a kind that the Minister has directed the Council, by notification in the *Gazette*, not to accept for registration or is proscribed.

(2) The Council shall, before refusing to grant or renew the registration of any private education institution under subsection (1), give the private education institution and the managers thereof notice in writing of its intention to do so.

(3) Upon receipt of the notice of the Council under subsection (2), the private education institution concerned or any manager thereof

may, within 14 days after the date of the notice, show cause to the Council as to why the registration of the private education institution should be granted or renewed.

(4) Where, after the private education institution or any manager thereof has shown cause under subsection (3) or the time to do so has expired, the Council decides not to grant or renew the registration of the private education institution —

- (a) the Council shall notify the private education institution and the managers thereof of its decision in writing; and
- (b) in the case where the registration of the private education institution is not renewed, the registration shall lapse accordingly.

Suspension or cancellation of registration

38.—(1) The Council may, without compensation, suspend (for a period not exceeding 6 months) or cancel the registration of any private education institution, or reduce the period of registration of the private education institution, if —

- (a) the private education institution ceases to be a company or a registered society;
- (b) the premises of the private education institution —
 - (i) are unsuitable for providing private education;
 - (ii) are unsanitary or unsuitable for providing private education, or are otherwise dangerous or unsafe;
 - (iii) are used, wholly or in part, for any purpose other than providing private education or education; or
 - (iv) do not conform to the regulations made under section 71;
- (c) all or more than half of the total number of teachers of the private education institution —
 - (i) do not possess the minimum qualifications or experience, or fulfil such other criteria, as may be prescribed under section 44(1)(a); or

- (ii) are otherwise not fit and proper persons to teach in the private education institution;
- (d) the Council becomes aware of a circumstance that would have permitted the Council to refuse to grant or renew the registration of the private education institution because of section 37, had the Council been aware of the circumstances immediately before granting or renewing the registration, as the case may be;
- (e) there is reasonable cause to believe that the grant or renewal of registration has been obtained by means of any false statement or any statement that is false in a material particular;
- (f) the private education institution or any manager thereof —
 - (i) is contravening or has contravened this Act;
 - (ii) has, at any time during the period of registration of the private education institution, been convicted of any offence under this Act; or
 - (iii) has, at any time during the period of registration of the private education institution, been convicted of any other offence involving fraud or dishonesty or the conviction for which involved a finding that the private education institution or a manager thereof (as the case may be) has acted fraudulently or dishonestly, whether in Singapore or elsewhere;
- (g) any manager of the private education institution is not a fit and proper person to carry on or manage the private education institution;
- (h) the Council is of the view that the continued registration of the private education institution is not in the interests of the public, or the students, intending students or prospective students of the private education institution;
- (i) the private education institution fails to comply with a direction of the Council issued under section 40;

-
-
- (j) the Council is satisfied that the private education institution has ceased to provide private education;
 - (k) the private education institution is wound up or otherwise dissolved;
 - (l) any term or condition of registration of the private education institution has been breached; or
 - (m) it appears to the Council that the private education institution is being administered in a manner that is —
 - (i) contrary to the interests of the public; or
 - (ii) detrimental or likely to be detrimental to its students, intending students or prospective students.

(2) The Council shall, before suspending or cancelling the registration of any private education institution or reducing the period of registration of the private education institution under subsection (1), give the private education institution notice in writing of its intention to do so.

(3) Upon receipt of the notice of the Council under subsection (2), the private education institution concerned or any manager thereof may, within a period of 14 days after the date of the notice, show cause to the Council as to why the registration of the private education institution should not be suspended or cancelled, or the period of its registration should not be reduced (as the case may be).

(4) The Council shall, after the private education institution or any manager thereof has shown cause under subsection (3) or the time to do so has expired, notify the private education institution of its decision in writing.

(5) Subject to section 53, any decision by the Council under subsection (1) to suspend or cancel the registration of a private education institution, or to reduce the period of such registration, shall not take effect until the expiration of 14 days after the Council has served the notice of the decision on the private education institution concerned.

Approval of change of name

39.—(1) Every registered private education institution shall obtain the prior approval of the Council before changing its name, or the name of any premises or school (or any department or faculty thereof) of, or any education provided by, the private education institution to a new name.

(2) For the purposes of subsection (1), a manager of the registered private education institution which intends to effect a change of name under subsection (1) shall submit to the Council an application for approval of the new name in such form and manner as may be prescribed, and that application shall be accompanied by the prescribed fee.

(3) The Council may refuse to grant its approval under subsection (1) if it is satisfied that the new name of the private education institution, or the premises, school (or any faculty or department thereof) or education provided by the private education institution, as the case may be, is a name which is referred to in section 37(1)(*h*).

Power to direct change of name

40.—(1) Notwithstanding anything in this Act, the Council may direct a registered private education institution to change its name, or the name of any premises or school (or any department or faculty thereof) of or education provided by the private education institution, to such new name as the Council may approve under section 39 where the Council is satisfied that the private education institution has been registered (whether through inadvertence or otherwise and whether before, on or after the date of commencement of this section) by a name, or the name of the premises or school (or a department or faculty thereof) or education bears a name —

(a) which is referred to in section 37(1)(*h*); or

(b) the use of which has been restrained by an injunction granted under the Trade Marks Act (Cap. 332).

(2) The registered private education institution to whom a direction under subsection (1) is given shall comply with the direction within a

period of 6 weeks after the date of the direction, or such longer period as the Council may allow in any particular case, unless the direction is earlier annulled by the Minister.

(3) Any registered private education institution which contravenes subsection (2) shall be guilty of an offence.

(4) For the avoidance of doubt, the Council shall accept as correct any decision of the High Court to grant an injunction referred to in subsection (1)(b).

Division 2 — Management of registered private education institutions

Duties of managers

41.—(1) The duties of a manager of a registered private education institution shall be to carry on or manage the registered private education institution and, in particular —

- (a) to ensure the keeping of proper records, including records containing information on —
 - (i) the administration of the courses offered or provided by the private education institution;
 - (ii) the teachers deployed by the private education institution;
 - (iii) the attendance of the students of the private education institution; and
 - (iv) such particulars as may be prescribed about the private education institution's administration and governance arrangements, financial viability, educational programmes and student welfare processes, resources and other matters;
- (b) to ensure that, in the event the provision of private education by the private education institution is about to cease, the Council and each student and intending student of the private education institution are informed, in writing and in the time delimited as follows, of the cessation and of the necessary arrangements made by the private education institution for the student or intending student to be offered a place in

another registered private education institution to complete the same or similar course at the private education institution's expense or otherwise:

- (i) where the provision of private education by the private education institution must cease because the Council refused to renew the registration of the private education institution under section 37 or the registration of the private education institution is suspended or cancelled, or the period of its registration is reduced, under section 38 —at least 14 days before the cessation or such other period as the Council may allow in any particular case; or
 - (ii) where the provision of private education by the private education institution must cease for any other reason — at least 30 days before the cessation;
- (c) to obtain the permission of the Council, in such form and manner as the Council may require, before any renovation works are carried out to the premises of the private education institution or any part thereof;
- (d) to notify the Council, in writing —
- (i) if there is any change in the ownership, control or management of the private education institution, of that change within 14 days after the date of the change;
 - (ii) if any manager of the private education institution has been convicted of any offence punishable with imprisonment, of that conviction within 14 days after the date of conviction; or
 - (iii) if any legal proceedings have been instituted against the private education institution, of the legal proceedings within 14 days after the date the private education institution is served with the originating process in such proceedings;
- (e) to furnish such information or documents relating to the private education institution as may be required, from time to

time, by the Council within such time and in such manner as the Council may specify; and

- (f) to discharge such other duties as may be prescribed or as the Council may, from time to time, by notice in writing impose in any particular case.

(2) For the purposes of subsection (1), every manager of a registered private education institution shall —

(a) maintain —

(i) a telephone number;

(ii) a residential address; and

(iii) an electronic mail address or a facsimile number,

at which he may be contacted by the Council in relation to any matter concerning the registered private education institution;

(b) upon the registration of the private education institution or his becoming a manager of the registered private education institution, notify the Council of the contact information he is required to maintain under paragraph (a); and

(c) notify the Council of any change in the contact information he is required to maintain under paragraph (a) within a period of 14 days after the date of the change.

(3) Any manager who, without reasonable excuse, fails to comply with any of the duties of a manager prescribed under subsection (1) or (2) shall be guilty of an offence.

Suspension or removal of managers

42.—(1) Without prejudice to any other power vested in the Council under this Act, the Council may, at any time, direct a registered private education institution —

- (a) to suspend or remove any person appointed as a manager of the registered private education institution if the Council is satisfied that the manager —

- (i) is not a fit and proper person to carry on or manage the registered private education institution; or
 - (ii) is unable to discharge the duties prescribed under section 41 or imposed on managers under this Act; or
- (b) to appoint such additional person as the Council may approve to discharge the duties of the manager referred to in paragraph (a) for such period as the Council considers necessary.
- (2) Any registered private education institution which contravenes any direction of the Council issued under subsection (1) shall be guilty of an offence.

Division 3 — Provisions relating to courses by registered private education institutions

Permission to offer or provide courses

43.—(1) Subject to subsections (2) and (3), no registered private education institution may offer or provide a course, whether in Singapore or elsewhere and whether by itself or in association or collaboration with or by affiliation with any other person, except with the permission in writing of the Council and in accordance with the terms and conditions of such permission.

(2) Subsection (1) shall not apply to such courses as may be prescribed.

(3) No registered private education institution may offer or provide, whether in Singapore or elsewhere, a course leading to the award of any associate, undergraduate or graduate degree or any other degree that is conferred in its own name without the permission in writing of the Minister.

(4) An application for the permission of the Council under subsection (1) shall —

- (a) be made on behalf of the registered education institution by a manager of the registered private education institution (referred to in this section as the applicant) to the Council

in such form and manner, and within such time, as may be prescribed; and

(b) be accompanied by the prescribed fee.

(5) The Council may, upon an application made under subsection (4) and after such inquiry as it may think necessary, grant its permission subject to such terms and conditions as it thinks fit or refuse to grant its permission.

(6) The Council may, in determining whether to grant its permission under subsection (1), have regard to such considerations as it thinks fit.

(7) The Council may require the applicant making an application under subsection (4) to furnish it with such information or documents as the Council considers necessary in relation to the application.

(8) Where the applicant fails to furnish the Council with any information or document required under subsection (7) in relation to his application within the time specified by the Council, the application shall be deemed to have been withdrawn.

(9) Without prejudice to the generality of subsection (5) and notwithstanding section 49, the terms and conditions subject to which the Council grants its permission to a registered private education institution may include a term or condition requiring the registered private education institution to be or to remain (as the case may be) a member of a Scheme.

(10) The Council may at any time, without compensation —

(a) add to, vary or revoke any term or condition of its permission granted under subsection (5); or

(b) suspend or revoke its permission granted under subsection (5).

(11) Any registered private education institution which contravenes subsection (1) or (3) shall be guilty of an offence.

(12) Any person who knowingly or recklessly —

(a) issues or publishes any advertisement of any course to be offered or provided by a registered private education

institution, being a course which the Council has not granted its permission under subsection (1); or

- (b) solicits or receives any fee from any student in respect of such a course,

shall be guilty of an offence.

Division 4 — Provisions relating to teachers of registered private education institutions

Notification of teachers of registered private education institutions

44.—(1) No registered private education institution shall deploy a person to teach any course to all or any of the students of the registered private education institution unless —

- (a) the person possesses such minimum qualifications and experience, and fulfils such other criteria, as may be prescribed;
- (b) a manager of the registered private education institution has notified the Council, in such form and manner and within such time as may be prescribed, of the prescribed particulars of that person; and
- (c) the notification referred to in paragraph (b) is accompanied by the prescribed fee.

(2) The Council may, at any time —

- (a) impose such requirements or restrictions relating to any teacher of a registered private education institution as it thinks fit to impose, including but not limited to requirements or restrictions relating to the subjects or classes that the teacher may teach; and
- (b) add to, vary or revoke any requirement or restriction imposed under paragraph (a).

(3) Any registered private education institution which contravenes any requirement or restriction imposed under subsection (2) shall be guilty of an offence.

Power to prohibit or restrict deployment of teachers

45.—(1) The Council may, at any time, direct a registered private education institution to cease to deploy any person to teach any course to all or any of the students of the registered private education institution if the Council is satisfied that —

- (a) any information in respect of the person furnished to the Council under this Act is false or misleading in a material particular or by reason of the omission of a material particular;
- (b) the person does not possess the minimum qualifications or experience, or fulfil such other criteria, as may be prescribed under section 44(1)(a) or is otherwise not competent to teach the course;
- (c) the person has misconducted himself in his capacity as a teacher of the registered private education institution;
- (d) the person is contravening or has contravened this Act; or
- (e) the person is not a fit and proper person to teach in the registered private education institution.

(2) Any registered private education institution which contravenes any direction of the Council issued under subsection (1) shall be guilty of an offence.

Division 5 — Provisions relating to advertising

Prohibition of certain advertisements

46.—(1) No person shall knowingly or recklessly issue or publish, or cause to be issued or published, any advertisement relating to a private education institution which is false or misleading in a material particular.

(2) For the purposes of subsection (1) —

- (a) "advertisement" includes an advertisement that is made available —
 - (i) in a newspaper, magazine, journal or other periodical published or circulated in Singapore or elsewhere;

- (ii) in a sound or television broadcast transmitted for reception in Singapore or elsewhere; or
 - (iii) by any other means of broadcasting or communication for circulation or reception in Singapore or elsewhere; and
- (b) an advertisement relating to a private education institution shall be presumed, unless the contrary is proved, to be false or misleading in a material particular if the advertisement —
- (i) falsely describes the private education institution;
 - (ii) contains any false or misleading information concerning the private education institution or any course offered or provided by the private education institution; or
 - (iii) does not contain such information, or is not in accordance with such requirements, as may be prescribed.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Remedial measures in relation to advertisements

47.—(1) Without prejudice to the generality of section 59, where any person has issued or published, or caused to be issued or published, any advertisement in contravention of section 43(12) or 46, the Council may direct the person to do all or any of the following at the person's expense:

- (a) take all practicable steps to withdraw the advertisement;
- (b) modify the advertisement in such manner as may be specified or approved by the Council;
- (c) cease the issue or publication of any other advertisement which is wholly or substantially the same as the first-mentioned advertisement;

(d) issue or publish, or cause to be issued or published, a corrective advertisement in such manner and containing such information as may be specified or approved by the Council.

(2) The person to whom the Council has issued a direction under subsection (1) shall bear all costs and expenses arising from complying with the direction.

(3) Where the person to whom the Council has issued a direction under subsection (1) fails to comply with the direction, the Council may take such steps as it thinks reasonable and necessary to give effect to the direction and recover all costs and expenses reasonably incurred by it in so doing from that person as a civil debt due to the Council.

(4) Any person who contravenes any direction of the Council issued under subsection (1) shall be guilty of an offence.

Division 6 — Administrative penalties

General measures Council may impose on errant private education institutions

48.—(1) Without prejudice to any other power vested in the Council under this Act, where a private education institution —

- (a) has breached any term or condition of its registration; or
- (b) has failed to comply with section 39(1) or 44(1), or such regulations as may be prescribed for the purpose of this section the breach of which is not an offence,

the Council may, in its discretion —

- (i) impose a financial penalty of such amount, not exceeding \$5,000, as the Council thinks fit;
- (ii) censure the private education institution; or
- (iii) order that the registration of the private education institution be subject to such terms or conditions as may be imposed by the Council, whether in addition to or in substitution of the existing terms and conditions of its registration.

(2) Any financial penalty payable by any private education institution under subsection (1)(i) shall be recoverable as a civil debt due to the Council from the private education institution.

(3) The Council shall, before making any decision under subsection (1) in relation to any private education institution, give the private education institution notice in writing of its intention to do so.

(4) Upon receipt of the notice of the Council under subsection (3), the private education institution concerned or any manager thereof may, within a period of 14 days after the date of the notice, show cause to the Council as to why the Council should not impose a financial penalty, censure or make an order under subsection (1)(iii), as the case may be.

(5) The Council shall, after the private education institution or any manager thereof has shown cause under subsection (4) or the time to do so has expired, notify the private education institution of its decision in writing.

(6) Subject to section 53, any decision by the Council under subsection (1) shall not take effect until the expiration of 14 days after the Council has served the notice of the decision on the private education institution concerned.

PART IV

PROVISION AND CONTROL OF OTHER SERVICES

Establishment or maintenance of accreditation or certification schemes by Council

49.—(1) The Council may establish or maintain one or more voluntary accreditation or certification schemes for —

- (a) registered private education institutions; and
- (b) any class of other education institutions as the Council may deem appropriate.

(2) Any education institution which is eligible to be a member of a Scheme may apply to the Council to be a member of the Scheme.

(3) The Council may, if it is satisfied that an education institution meets such eligibility criteria for a Scheme as the Council may determine, accept the application of the education institution to become a member of the Scheme, subject to the education institution providing a written undertaking, in such form and manner as the Council may determine, that it will abide by the terms and conditions of the Scheme as determined by the Council.

(4) The Council may, from time to time, vary the terms and conditions of any Scheme by issuing a notice in writing to the members of the Scheme or any relevant class thereof.

(5) The terms and conditions of a Scheme, as determined by the Council, may include all or any of the following:

- (a) that members of the Scheme shall appoint a management representative to oversee the effective implementation and maintenance of the requirements under the Scheme;
- (b) that members of the Scheme shall provide all the necessary information and documents, including any declaration of conformity or accuracy of information, that the Council may require from time to time;
- (c) that members of the Scheme shall facilitate and provide reasonable assistance to the assessors appointed by the Council, including but not limited to making available information to the assessors and ensuring the safety of assessors during site visits to the premises of the members;
- (d) that members of the Scheme shall pay such fees as may be imposed in respect of their application to be members of the Scheme or their continued association with the Scheme;
- (e) that members of the Scheme shall comply with such codes of conduct or guidelines relating to quality or standards as may be stipulated by the Council from time to time;
- (f) that members of the Scheme shall enter into such student fee protection scheme as the Council may designate for the purposes of the Scheme and abide by the terms and conditions of such student fee protection scheme;

(g) that members of the Scheme shall ensure information relating to them, and such other information as may be stipulated by the Council, are available in a publicly accessible manner;

(h) that members of the Scheme shall allow the Council to publicise the list of members of the Scheme or a list of those that have been withdrawn, or have been suspended or removed, from the Scheme.

(6) The Council may appoint any person to administer any Scheme, or any aspect or any part of a Scheme, subject to such terms and restrictions as may be specified by the Council.

(7) Any information furnished by or on behalf of an education institution or any manager thereof for the purpose of a Scheme —

(a) may be used for or in relation to investigating or prosecuting any person for an offence under any written law; or

(b) may be used or published in the form of research findings, comparison studies, banding of comparable education institutions, or in any other form or manner or for such purposes as the Council may determine.

Restrictions on certain other services

50.—(1) Subject to subsection (3), no person shall establish, maintain, offer or provide any accreditation or certification scheme relating, whether directly or indirectly, to private education institutions or private education without the approval of the Council.

(2) Subject to subsection (3), no person in Singapore shall offer or provide any examination service to any private education institution in Singapore or elsewhere without the approval of the Council.

(3) Subsection (1) or (2) shall not apply to —

(a) the Government, any statutory authority constituted by or under any written law for a public purpose, or any entity owned or controlled by the Government or such statutory authority; or

(b) such other persons as may be prescribed.

-
-
- (4) Any approval of the Council under subsection (1) or (2) —
- (a) may be granted subject to such terms and conditions as the Council may specify; and
 - (b) may be revoked at any time by the Council by notice in writing.
- (5) Any person who contravenes subsection (1) or (2) shall be guilty of an offence.

PART V

APPEALS

Constitution of Appeals Board

51.—(1) There shall be an Appeals Board consisting of a chairman and 4 other members as the Minister may appoint.

(2) The Minister shall appoint a secretary to the Appeals Board.

(3) Every member of the Appeals Board shall, unless the Minister otherwise directs, hold office for a period of 3 years and be eligible for re-appointment.

(4) The Minister may, at any time, revoke the appointment of any member of the Appeals Board.

(5) A member of the Appeals Board may resign his office by notice in writing to the Minister.

(6) Members of the Appeals Board may receive such remuneration and such travelling and subsistence allowances as the Minister may determine.

Duty, powers and procedures of Appeals Board

52.—(1) It shall be the duty of the Appeals Board to hear and decide all appeals against the appealable decisions of the Council within the meaning of section 53(1).

(2) In the discharge of its duty under this Act, the Appeals Board shall have the following powers:

- (a) to take evidence on oath;

- (b) to summon any person to attend any hearing of the Appeals Board to give evidence or produce any document or other article in his possession, except that no person shall be bound to answer any question or produce any document in respect of any matter which would have been protected from disclosure on the ground of privilege if the proceedings had been held in any court;
 - (c) to order an inspection of the premises of any private education institution; and
 - (d) to enter and view the premises of any private education institution.
- (3) The quorum of the Appeals Board shall be 3.
- (4) The chairman of the Appeals Board shall, when present, preside at every meeting of the Appeals Board, and in his absence such member of the Board as may be chosen by the members present shall preside.
- (5) The proceedings of the Appeals Board shall not be open to the public.
- (6) No act or proceedings of the Appeals Board shall be questioned on account of any vacancy on it.
- (7) All members of the Appeals Board shall be deemed to be public servants for the purposes of the Penal Code (Cap. 224).
- (8) Subject to the provisions of this Act, the Appeals Board may regulate its own procedure in such manner as it thinks fit.

Appeals to Appeals Board

53.—(1) Any person who is aggrieved by —

- (a) any decision of the Council —
 - (i) refusing to grant or renew the registration of a private education institution under section 36;
 - (ii) imposing any term or condition upon the registration of a private education institution under section 36;

-
-
- (iii) suspending or cancelling the registration of a private education institution under section 38;
 - (iv) refusing to approve any change of the name of a private education institution, or the name of any premises or school (or any department or faculty thereof) of or education provided by the private education institution, under section 39;
 - (v) directing the change in the name of a private education institution, or the name of any premises or school (or any department or faculty thereof) of or education provided by the private education institution, under section 40;
 - (vi) directing the suspension or removal of any person appointed as a manager of a registered private education institution under section 42(1)(a) or the appointment of any additional person to discharge the duties of a manager of a private education institution under section 42(1)(b);
 - (vii) refusing any permission under section 43(1) or (3) or imposing any term or condition when granting such permission;
 - (viii) imposing any financial penalty, censure or other order under section 48(1); or
 - (ix) refusing any approval under section 50 or imposing any term or condition when approving under that section;
- (b) any direction of the Council under section 34(6), 42, 45, 47, 59 or 60;
 - (c) any requisition for particulars or information under section 62; or
 - (d) any decision of the Council under section 64(3),
- (each of which decision, direction or requisition shall be referred to in this Act as an appealable decision) may, within such time as may be

prescribed under section 55 in respect of the type of appealable decision, lodge an appeal against the decision to the Appeals Board.

(2) Every appeal under subsection (1) shall be lodged in such form and manner as may be prescribed under section 55.

(3) The Appeals Board may —

(a) confirm, set aside or modify the appealable decision to which the appeal relates; or

(b) give such directions in such manner as the Appeals Board thinks fit, including a direction to the Council to review its appealable decision to which the appeal relates,

and the decision of the Appeals Board shall be final.

(4) The decision of the Appeals Board shall be communicated to the appellant in writing by the secretary to the Appeals Board.

(5) The lodging of an appeal under subsection (1) against an appealable decision shall not suspend the effect of the appealable decision to which the appeal relates, except where the appeal relates to —

(a) any written direction of the Council issued under section 34(6) or 60 requiring the private education institution or the managers thereof to refund the whole or any part of any course money to any student or intending student of the private education institution; or

(b) any other appealable decision of the Council that is prescribed under section 55 as a suspended appealable decision.

Disclosure of conflicts of interest by members of Appeals Board

54.—(1) A member of the Appeals Board shall declare to the Minister, or any person authorised by the Minister, the nature and extent of all conflicts of interest or potential conflicts of interest, if any, with his duties or interests as a member of the Appeals Board arising from —

(a) his holding of any office;

-
-
- (b) his interest in any contract;
 - (c) his possession or ownership of any property;
 - (d) any direct or indirect relationship with a private education institution or any other person regulated under this Act; or
 - (e) his connection or association with any trade or consumer body.

(2) Where the Minister, or any person authorised by the Minister, is satisfied that a member of the Appeals Board is unable to carry out his duties properly and effectively because of any conflict of interest or potential conflict of interest referred to in subsection (1), the Minister may replace that member or direct that member to abstain from taking part in any proceedings relating to any matter affected by his conflict of interest or potential conflict of interest.

Rules relating to appeals

55. The Minister may make rules for or with respect to —

- (a) the time within which an appeal to the Appeals Board may be lodged;
- (b) the form and manner in which an appeal to the Appeals Board shall be lodged;
- (c) the fees to be paid in respect of any appeal lodged with the Appeals Board;
- (d) the records to be kept by the Appeals Board; and
- (e) all matters and things which are required or permitted to be prescribed or which are necessary or expedient to give effect to any provision of this Part.

PART VI

INSPECTION, ENFORCEMENT AND OFFENCES

Appointment of inspectors

56.—(1) The Council may appoint any of its officers or employees to be an inspector for the purposes of this Act.

(2) The Council shall furnish every inspector with an identification card that identifies him as an inspector.

(3) Every inspector shall, when exercising any power under this Act, on demand produce his identification card to the person affected by the exercise of that power.

Inspection of registered private education institutions

57.—(1) An inspector may, from time to time, enter and inspect the premises under the possession or control of any registered private education institution for the purpose of ascertaining whether this Act has been or is being complied with.

(2) In carrying out an inspection under subsection (1), an inspector may —

- (a) examine any book, document, material or article as he may consider necessary and remove or make copies of it for further examination;
- (b) require any person, whether a manager, teacher or student of the registered private education institution or otherwise, to be present before an inspector or any officer of the Council and —
 - (i) to produce for inspection any book, document, material or article which is in the possession or under the custody of that person, which the inspector or an officer of the Council may remove or make copies of for further examination; or
 - (ii) to furnish any information which is within the power of the person to furnish relating to the control or management of the registered private education institution, to the teaching carried on in the registered private education institution, to the student activities of the registered private education institution or to such other matter as the inspector may specify; or
- (c) do anything that is necessary or expedient for the carrying out of the inspection.

Enforcement powers of inspectors

58.—(1) In addition to the powers conferred on him by this Act, an inspector may —

- (a) at reasonable hours, enter any premises or part thereof (whether or not in the possession or control of a registered private education institution) when he has reasonable cause to believe that evidence of the commission of an offence under this Act can be found therein, and search for and seize and remove any book, document, material or article or make copies thereof as he may consider necessary;
- (b) require any person whom he reasonably believes to have committed the offence to furnish evidence of his identity;
- (c) require, by order in writing, the attendance before him of any person within the limits of Singapore who, from any information given or otherwise obtained by the inspector, appears to be acquainted with the facts or circumstances of the case;
- (d) examine orally any person reasonably believed to be acquainted with the facts or circumstances of the case or with such other matter as the inspector may specify, and reduce into writing the answer given or statement made by that person;
- (e) require any person to furnish any information or produce any book, document or copy thereof in the possession of that person, and inspect, copy, make extracts from or seize and remove such book or document; and
- (f) take such photographs or video recording, as the inspector thinks necessary, of the premises and persons reasonably believed to be acquainted with the facts or circumstances of the case or with such other matter as the inspector may specify.

(2) The person referred to in subsection (1)(d) shall be bound to state truly the facts or circumstances with which he is acquainted.

(3) A statement made by the person referred to in subsection (1)(d) shall be read over to him and shall, after correction, if necessary, be signed by him.

(4) All statements, answers, information and documents procured in the course of investigation shall be admissible in evidence in any proceedings under this Act against the person making or producing the same.

General power to direct remedial measures

59.—(1) Without prejudice to any other power vested in the Council under this Act, if it appears to the Council that —

- (a) any provision of this Act has not been complied with by or in relation to any registered private education institution; or
- (b) any registered private education institution is not being efficiently or properly administered,

the Council may, by notice in writing addressed to the managers of the registered private education institution, direct them to take such measures and within such time as may be specified in the notice in order that the provision of this Act may be complied with or the registered private education institution may be efficiently or properly administered (as the case may be).

(2) The registered private education institution in respect of which the Council has issued a direction under subsection (1) shall bear all costs and expenses arising from complying with the direction.

(3) Where the managers of the registered private education to whom the Council has addressed a direction under subsection (1) fail to comply with the direction, the Council may take such steps as it thinks reasonable and necessary to give effect to the direction and recover all costs and expenses reasonably incurred by it in so doing from the registered private education institution as a civil debt due to the Council.

(4) Where any direction issued by the Council under subsection (1) addressed to the managers of a registered private education institution has not been complied with, every manager of the registered private education institution shall each be guilty of an offence.

(5) It shall be a defence for any person charged with an offence under subsection (4) to prove that he had a reasonable excuse for failing to comply with the direction of the Council that is the subject of the offence.

Power to direct course money refunds, etc.

60.—(1) This section applies to a student or intending student of a private education institution in relation to a course offered or provided by the private education institution if —

- (a) the course does not start on the agreed starting day;
- (b) the course ceases to be provided at any time after it starts but before it is completed; or
- (c) the course is not provided in full to the student or intending student because of the Council refusing to renew the registration of the private education institution under section 37 or the Council suspending, cancelling or reducing the period of registration of the private education institution under section 38,

and the student or intending student has not withdrawn from the private education institution before the default day.

(2) Without prejudice to any other power vested in the Council under this Act, the Council may by written direction addressed to the managers of a registered private education institution for a course or, in the case where registration is cancelled, a former registered private education institution for a course, direct that the registered private education institution or former registered private education institution, as the case may be, do either or all of the following:

- (a) refund each student or intending student, within such time as may be specified in the direction, the whole or such part as the Council deems equitable of the course money the registered private education institution or former registered private education institution, as the case may be, received in respect of the student or intending student before the default day;

(b) make arrangements for each student or intending student of the registered private education institution or former registered private education institution, as the case may be, to be offered a place in another registered private education institution to complete the same or a similar course, at the private education institution's expense or otherwise, and notify the student or intending student accordingly —

(i) where the provision of the course by the private education institution must cease because the Council refused to renew the registration of the private education institution under section 37 or the registration of the private education institution is suspended or cancelled, or the period of its registration is reduced, under section 38 — at least 14 days before it ceases to provide the course or such other period as the Council may allow in any particular case; or

(ii) where the provision of private education by the private education institution must cease for any other reason — at least 30 days before it ceases to provide the course.

(3) Subsection (2) shall apply notwithstanding anything contained in the agreement or contract between the registered private education institution or former registered private education institution and the students or intending students concerned, and subject to subsection (4), the student or intending student concerned shall be entitled to recover the amount specified in the direction to refund under subsection (2) from the registered private education institution or former registered private education institution, as the case may be, as a civil debt in a court of competent jurisdiction.

(4) The registered private education institution or former registered private education institution, as the case may be, shall be relieved of its liability to make a refund if the student or intending student accepts the offer under subsection (2)(b) to complete the same or a similar course at the private education institution's expense.

(5) Where any written direction issued by the Council under subsection (2) is not complied with, the private education institution and every manager of the private education institution to whom the direction is addressed shall each be guilty of an offence.

(6) In addition to subsection (4), it shall be a defence for any person charged with an offence under subsection (5) to prove that he had a reasonable excuse for failing to comply with the written direction of the Council that is the subject of the offence.

(7) Nothing in this section shall affect the operation of the Charities Act (Cap. 37), the Companies Act (Cap. 50), the Societies Act (Cap. 311) or any other written law relating to the winding up or dissolution of a private education institution.

(8) In this section —

“agreed starting day”, in relation to a course offered or provided by a private education institution, means the day on which the course was scheduled to start;

“default day” means —

- (a) the agreed starting day, if subsection (1)(a) applies; or
- (b) the day on which the course ceases to be provided if subsection (1)(b) or (c) applies.

General offences and penalties

61.—(1) Any person who —

- (a) in relation to any application under this Act or any notification under section 44(1) —
 - (i) makes any false statement which he knows to be false or does not believe to be true or which he makes recklessly; or
 - (ii) intentionally suppresses any material fact;
- (b) neglects or refuses to produce any book, document, material or article or to furnish any information, neglects or refuses to attend before an inspector as required, furnishes any book, document, material or information which is false in a

material particular and which he knows to be false or does not believe to be true, or, by the intentional suppression of any material fact, furnishes information which is misleading, under section 57 or 58;

- (c) obstructs or impedes the Council, any officer of the Council or any inspector lawfully carrying out any function or duty in the exercise of any power conferred by or under this Act; or
- (d) being summoned to attend at a hearing of the Appeals Board to give evidence or produce any document or other article, without reasonable excuse refuses or neglects to do so or refuses to answer any questions put to him by or with the concurrence of the Appeals Board, or otherwise hinders, obstructs or deceives the Appeals Board in the exercise of its powers under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(2) Any person guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

PART VII

MISCELLANEOUS

Power of Council to issue requisition for particulars or information

62.—(1) The Council may, from time to time, issue a requisition in writing to any person to furnish such particulars or supply such information relating to any matter to which this Act applies as may be specified in the requisition.

-
-
- (2) A requisition issued by the Council under subsection (1) may —
- (a) specify the form in which and the time within which the particulars or information are to be furnished;
 - (b) require the particulars or information to be furnished periodically at or within such time or times and in such form or forms as are specified in the requisition; and
 - (c) specify the place or manner at or in which the particulars or information are to be delivered.
- (3) Every person who is issued a requisition by the Council under subsection (1) shall furnish the particulars or supply the information specified in the requisition to the best of his knowledge and belief.
- (4) Any person who, without reasonable excuse, fails to comply with any requisition issued by the Council under subsection (1) shall be guilty of an offence.
- (5) Any person who, in compliance or purported compliance with any requisition issued by the Council under subsection (1), furnishes the Council with any information or document which he knows is false or misleading shall be guilty of an offence.

Registers and publication of information

63.—(1) The Council may establish, maintain and cause to be published in such manner as it may determine, one or more registers in respect of —

- (a) registered private education institutions or any class thereof, and such other persons as may be prescribed;
 - (b) courses offered or provided, or to be offered or provided, by any persons or class of persons referred to in paragraph (a);
or
 - (c) such other information relating to private education generally or to any Scheme as the Council may determine.
- (2) Regulations may be made under section 71 to prescribe the manner in which the registers are established or maintained under subsection (1), including the details or particulars required to be entered in the registers.

(3) Any person may, upon payment of such fee as may be prescribed, inspect and take an extract from any register established under subsection (1).

(4) Any extract taken under subsection (3), if certified by the Council to be a true copy, shall be admissible as evidence in any legal proceedings.

Power of Council in relation to dispute resolution schemes

64.—(1) Regulations may be made under section 71 to prescribe one or more dispute resolution schemes for the resolution of disputes arising from or relating to the provision of services by registered private education institutions to students.

(2) Without prejudice to the generality of subsection (1), regulations may be made under section 71 —

- (a) to require registered private education institutions or any class thereof to participate in such prescribed dispute resolution schemes and to comply with such terms and conditions of the scheme as may be prescribed;
- (b) to prescribe a list of approved dispute resolution centres under each prescribed dispute resolution scheme; and
- (c) generally to give effect to this section.

(3) Where the Council is satisfied that any registered private education institution has contravened any of the regulations referred to in subsection (2), the Council may do all or any of the following:

- (a) impose a financial penalty of such amount, not exceeding \$5,000, as the Council thinks fit;
- (b) censure the private education institution, if it thinks it necessary in the public interest or for the protection of the public or any section of the public;
- (c) order that the registration of the private education institution be subject to such terms or conditions as may be imposed by the Council, whether in addition to or in substitution of the existing terms and conditions of its registration.

(4) The Council shall, before making any decision under subsection (3) in relation to any private education institution, give the private education institution notice in writing of its intention to do so.

(5) Upon receipt of the notice of the Council under subsection (4), the private education institution concerned or any manager thereof may, within a period of 14 days after the date of the notice, show cause to the Council as to why the Council should not impose a financial penalty, censure or make an order under subsection (3)(c), as the case may be.

(6) The Council shall, after the private education institution or any manager thereof has shown cause under subsection (5) or the time to do so has expired, notify the private education institution of its decision in writing.

(7) Subject to section 53, any decision by the Council under subsection (3) shall not take effect until the expiration of 14 days after the Council has served the notice of the decision on the private education institution concerned.

(8) The Council may issue, and in its discretion publish by notification in the *Gazette* or in such other manner as it considers appropriate, such guidelines as it considers appropriate for providing guidance in relation to the operation of a prescribed dispute resolution scheme.

Jurisdiction of court

65. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

Offences by bodies corporate, etc.

66.—(1) Where an offence under this Act committed by a body corporate is proved —

- (a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

(a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section, "officer" —

(a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association,

or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity.

(6) The Minister may make rules to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

Composition of offences

67.—(1) The Chief Executive or any officer authorised by him may, in his discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

(a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$5,000,

whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

General exemption

68. The Minister may, by order published in the *Gazette*, exempt any person or any class of persons, courses or advertisements from any provision of this Act, subject to such terms or conditions as may be prescribed.

Service of documents

69.—(1) Any notice, order, direction or other document required or authorised by this Act to be served on any person may be served on the person —

(a) in the case of an individual —

(i) by delivering it to the individual personally;

- (ii) by leaving it with an adult person apparently resident at, or by sending it by pre-paid registered post to, the usual or last known address of the place of residence of the individual;
 - (iii) by leaving it with an adult person apparently employed at, or by sending it by pre-paid registered post to, the usual or last known address of the place of business of the individual;
 - (iv) by affixing a copy of the notice in a conspicuous place at the usual or last known address of residence or business of the individual; or
 - (v) by sending it by facsimile transmission to the facsimile number operated at the usual or last known address of the place of residence or business of the individual, or the last facsimile number given to the Council by the individual as the facsimile number for the service of documents on the individual;
- (b) in the case of a partnership other than a limited liability partnership —
- (i) by delivering it to any one of the partners or the secretary or other like officer of the partnership;
 - (ii) by leaving it at, or by sending it by pre-paid registered post to, the principal or last known place of business of the partnership in Singapore; or
 - (iii) by sending it by facsimile transmission to the facsimile number operated at the principal or last known place of business of the partnership in Singapore; and
- (c) in the case of any limited liability partnership or any other body corporate —
- (i) by delivering it to the secretary or other like officer of the body corporate or, in the case of a limited liability partnership, the manager thereof;
 - (ii) by leaving it at, or by sending it by pre-paid registered post to, the registered office or principal office of the

limited liability partnership or body corporate in Singapore; or

- (iii) by sending it by facsimile transmission to the facsimile number operated at the registered office or principal office of the limited liability partnership or body corporate in Singapore.

(2) Where any notice, order, direction or other document required or authorised by this Act to be served is sent by a facsimile transmission to the facsimile number operated at the last known place of residence or business or registered office or principal office in accordance with subsection (1), it shall be deemed to have been duly served on the person to whom it is addressed on the day of transmission, subject to receipt on the sending facsimile machine of a notification (by electronic or other means) of a successful transmission to the place of residence or business or registered office or principal office (as the case may be).

(3) Where any notice, order, direction or other document required or authorised by this Act to be served is sent by pre-paid registered post, it shall be deemed to have been duly served on the person to whom it is addressed 2 days after the day the notice or document was posted, whether or not it is returned undelivered.

(4) Any notice, order, direction or other document required or authorised by this Act to be served on the owner or occupier of any premises —

- (a) may be served by delivering it or a true copy thereof to some adult person on the premises or, if there is no such person on the premises to whom it can with reasonable diligence be delivered, by affixing the notice, order, direction or document to some conspicuous part of the premises; and
- (b) shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises without further name or description.

(5) Without prejudice to the generality of this section, any notice, order, direction or other document required or authorised by this Act

to be served on a manager or the managers of a private education institution —

- (a) may be served by delivering it or a true copy thereof to some adult person on the premises of the private education institution or, if there is no such person on the premises to whom it can with reasonable diligence be delivered, by affixing the notice, order, direction or document to some conspicuous part of the premises; and
- (b) shall be deemed to be properly addressed if addressed by the description of the manager or managers of the registered private education institution without further name or description.

(6) This section shall not apply to notices and documents to be served in proceedings in court.

Amendment of First Schedule

70.—(1) The Minister may at any time, by order published in the *Gazette*, amend the First Schedule by adding any education as private education.

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

(3) All orders made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Regulations

71.—(1) The Council may, with the approval of the Minister, make regulations as may be necessary or expedient to give effect to the provisions and purposes of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may be made under that subsection for or in respect of all or any of the following matters:

- (a) the forms to be used and the information to be furnished in, or the documents to be furnished with, any application and the forms to be used for any other purpose under this Act;

-
-
- (b) the fees and charges payable under this Act, including the interest or penalty for the late payment of any fee or charge, and the waiver, refund or remission, whether wholly or in part, of such fees and charges;
 - (c) the requirements and restrictions on the names of private education institutions or the names of any premises or school (or any department or faculty thereof) of or education provided by private education institutions, and the use or display of such names;
 - (d) the premises of private education institutions, including but not limited to —
 - (i) the requirements for office or administrative areas;
 - (ii) the number, type and size of classrooms;
 - (iii) the facilities and equipment to be provided;
 - (iv) the signage in or around the premises;
 - (v) the use of the premises; and
 - (vi) the restrictions on the sharing of premises with other persons;
 - (e) the form and manner of the keeping of registers or records under this Act, the inspection thereof, the taking of extracts therefrom, the supply of copies thereof, and the returns to be made to the Council including financial records;
 - (f) the publication of information by private education institutions, in such form and manner as may be prescribed, relating to the premises, teachers and courses of the private education institutions, including but not limited to course fees, course schedules, examination schedules, course particulars and programme modules;
 - (g) the administration of courses offered or provided by registered private education institutions, including but not limited to the requirements relating to the names of courses, course programme duration, enrolment of students, the form and content of the agreements or contracts to be entered into with students, and the establishment of boards, committees

or other similar bodies to oversee academic, examination or administrative structures and processes;

- (h) the deployment of teachers by registered private education institutions;
 - (i) the use of advertisements by or on behalf of a private education institution, or any solicitation or canvassing for business by or on behalf of a private education institution;
 - (j) the use of any accreditation, certification or inspection mark of the Council;
 - (k) the regulation of persons who provide any service relating, whether directly or indirectly, to the provision of private education, including the application, with such modifications as may be prescribed, of the provisions of this Act to such persons;
 - (l) the offences which may be compounded under section 67;
 - (m) to prescribe all matters and things which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to this Act.
- (3) Regulations made under subsection (1) —
- (a) may relate to all or any class or description of private education institutions;
 - (b) may make different provisions for different classes or descriptions of private education institutions;
 - (c) may provide that a contravention of any specified provision thereof shall be an offence; and
 - (d) other than regulations prescribed for the purpose of section 48, may provide for penalties not exceeding a fine of \$10,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of \$1,000 for that offence for every day or part thereof during which the offence continues after conviction.

Non-application to certain education institutions

72. This Act shall not apply to the following persons, all of whom shall not be regarded as private education institutions, or managers or teachers of private education institutions, as the case may be:

- (a) the Government or any entity owned or controlled by the Government and the teachers of a Government school;
- (b) the Institute of Technical Education, Singapore established under the Institute of Technical Education Act (Cap. 141A) or any company owned (wholly or partly) by or any undertaking of the Institute of Technical Education, Singapore and their respective teachers;
- (c) the following Polytechnics or undertakings and their respective teachers:
 - (i) the Nanyang Polytechnic established under the Nanyang Polytechnic Act (Cap. 191A);
 - (ii) the Ngee Ann Polytechnic established under the Ngee Ann Polytechnic Act (Cap. 207);
 - (iii) the Republic Polytechnic established under the Republic Polytechnic Act (Cap. 270);
 - (iv) the Singapore Polytechnic established under the Singapore Polytechnic Act (Cap. 303);
 - (v) the Temasek Polytechnic established under the Temasek Polytechnic Act (Cap. 323A); and
 - (vi) any company that is owned (wholly or partly) by any such Polytechnic referred to in sub-paragraphs (i) to (v);
- (d) any other body that is established or constituted by or under a public Act and that has a public function, or any entity owned (wholly or partly) or controlled by such a body, offering to provide or providing any education, and its teachers;
- (e) the organisation, committee of management, managers and teachers of any school registered under the Education Act (Cap. 87) and which receives a grant-in-aid or subvention

extended by the Government to aided schools within the meaning of that Act unless the organisation is specified in a notification made under the definition of “private education institution” in section 2;

- (f) the organisation, committee of management, managers and teachers at any special education school for students with physical or intellectual disabilities which is registered under the Education Act and which receives a subvention extended by the Government;
- (g) the organisation, committee of management, managers and teachers of any education institution providing education in accordance with religious beliefs and principles and no other education, including any school exempted under section 3 of the Education Act (Cap. 87) and any Muslim religious school referred to in section 87(1) of the Administration of Muslim Law Act (Cap. 3);
- (h) the governing board constituted for any school under the School Boards (Incorporation) Act (Cap. 284A), its governors and the teachers of such a school;
- (i) the Nanyang Technological University, the National University of Singapore, the Singapore Management University and any other person whose function of providing university education is determined by written law, any entity owned (wholly or partly) or controlled by any such University or person, and the teachers of the respective Universities and entities; and
- (j) any place of safety or juvenile rehabilitation centre approved, appointed or established under the Children and Young Persons Act (Cap. 38) or any approved institution approved under section 12 of the Probation of Offenders Act (Cap. 252), respectively, and the respective managers thereof.

[3/2011]

Consequential amendment to Education Act

73. Section 4 of the Education Act (Cap. 87) is repealed and the following sections substituted therefor:

“Schools to which this Act does not apply

- 4.** This Act shall not apply —
- (a) to or in relation to the Institute of Technical Education, Singapore established under the Institute of Technical Education Act (Cap. 141A); and
 - (b) to any private education institution within the meaning of the Private Education Act 2009.

Restriction on use of “school”, etc.

4A.—(1) Subject to subsection (2), no person or organisation shall, except with the written consent of the Director-General —

- (a) use the words “academy”, “college”, “school”, “university” or any other term which the Minister may specify by notification in the *Gazette*, or any of its derivatives, in any language or any other word or words indicating that the person or organisation provides education, in the name, description or title under which that person or organisation is providing education; or
 - (b) make or continue to make any representation to that effect in any bill-head, letter-paper, notice, advertisement or in any other manner.
- (2) Subsection (1) shall not apply to —
- (a) a school that is registered or exempted from registration under this Act;
 - (b) the Government;
 - (c) any body established or constituted by or under a public Act and that has a public function, or any wholly-owned entity of such a body;

- (d) an education institution established by any other written law or the functions of which are provided by any other written law; and
- (e) such other person or organisation, or any class thereof, as may be prescribed.

(3) Any person or organisation that contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.”.

Saving and transitional provisions

74.—(1) Notwithstanding the provisions of this Act, any person who, immediately before the date of commencement of Part III, is registered under the Education Act (Cap. 87) and is in Singapore —

- (a) offering to provide or providing private education, whether in Singapore or elsewhere; or
- (b) awarding any degree, diploma or certificate (including any honorary degree or other distinction) in respect of private education, whether offered or provided in Singapore or elsewhere,

(referred to in this section as an existing regulated private education institution) shall be deemed to be registered as a private education institution for a period of 18 months from that date, subject to the same conditions of its registration as a school under the Education Act (if applicable) to the extent that those conditions are not inconsistent with the provisions of this Act.

(2) Notwithstanding the provisions of this Act, every course lawfully offered or provided by an existing regulated private education institution under the Education Act immediately before the date of commencement of section 43, whether in Singapore or elsewhere and whether by itself or in association or collaboration with or by affiliation with any other person, shall be deemed to be permitted by the Council under section 43 for the same period delimited by subsection (1).

(3) Notwithstanding the provisions of this Act, an existing regulated private education institution which, immediately before the date of commencement of section 44, is deploying any teacher authorised under the Education Act to teach any course to all or any of the students of the existing regulated private education institution shall be deemed to have complied with section 44 for the same period delimited by subsection (1).

(4) Where anything has been commenced by or on behalf of the Director-General of Education under the Education Act before the date of commencement of Part III, IV, V or VI, as the case may be, the Minister or the Appeals Board under the Education Act in relation to an existing regulated private education institution, such thing may be carried on and completed by or under the authority of the Council, the Minister or the Appeals Board (as the case may be) under the corresponding provisions in those Parts.

(5) Notwithstanding the provisions of this Act, any person (other than an existing regulated private education institution) who, immediately before the date of commencement of Part III, is —

- (a) offering to provide or providing private education, whether in Singapore or elsewhere; or
- (b) awarding any degree, diploma or certificate (including any honorary degree or other distinction) in respect of private education, whether offered or provided in Singapore or elsewhere,

shall be entitled to continue doing so for a period of 2 months from that date, and if before the expiry of that period the person applies for registration under that Part, that person shall be entitled to continue carrying on doing so until —

- (i) the date on which the person is registered as a private education institution under Part III; or
- (ii) the application for registration under that Part is refused or withdrawn.

(6) Any application by a private education institution for registration under the Education Act (Cap. 87) before the date of commencement

of Part III which application was not dealt with before that commencement shall lapse.

(7) For a period of 2 years after the commencement of this section, the Minister may, by rules, prescribe such provisions of a savings or transitional nature consequent on the enactment of any provision of this Act as he may consider necessary or expedient.

FIRST SCHEDULE

Sections 2 and 70(1)

DEFINITION OF PRIVATE EDUCATION

1. In this Schedule, unless the context otherwise requires —
 - “contract of service” has the same meaning as in section 2 of the Employment Act (Cap. 91);
 - “employee” means a person who has entered into or works under a contract of service with an employer;
 - “employer” has the same meaning as in section 2 of the Employment Act (Cap. 91);
 - “full-time”, in relation to the provision of education, means the provision of education of a duration of at least one month and that is conducted for 5 days of a week for at least 3 hours each day;
 - “post-secondary education” means education normally for a child who is 16 years of age or above;
 - “primary or secondary education” means education normally for a child who is above the age of 6 years and below the age of 18 years.
2. “Private education” means any of the following types of education, whether provided wholly or in part electronically, through correspondence or in any other manner:
 - (a) education leading to the award of a diploma or degree;
 - (b) full-time post-secondary education leading to the award of a certificate;
 - (c) full-time primary or secondary education wholly or substantially in accordance with a foreign or international curriculum;
 - (d) full-time special education for students with physical or intellectual disabilities;
 - (e) full-time education for the purpose of preparing students for any examination that —

FIRST SCHEDULE — *continued*

- (i) leads to a qualification awarded by any person other than the person which provides such full-time education; or
 - (ii) entitles the students to be admitted to an education institution.
3. “Private education” does not include —
- (a) any apprenticeship whereby an employer undertakes to employ a person and to train the person, or have the person trained, systematically for a trade or vocation; or
 - (b) any education provided by any employer exclusively for his employees.

SECOND SCHEDULE

Section 5(2)

CONSTITUTION AND PROCEEDINGS OF COUNCIL

Appointment of Chairman and members

1.—(1) The Chairman and other members of the Council shall be appointed by the Minister.

(2) The Minister may appoint the Chief Executive as a member.

Appointment of Deputy Chairman

2.—(1) The Minister may, in his discretion, appoint any member to be the Deputy Chairman of the Council.

(2) The Deputy Chairman so appointed may, subject to such directions as may be given by the Chairman, exercise all or any of the powers exercisable by the Chairman under this Act.

(3) If for any reason the Chairman is unable to act or the office of the Chairman is vacant, the Deputy Chairman may exercise all or any of the powers conferred, or discharge all or any of the duties imposed, on the Chairman under this Act.

Tenure of office of members

3. A member shall hold office on such conditions and for such term, not exceeding 3 years, as the Minister may determine, and shall be eligible for re-appointment.

Temporary Chairman, Deputy Chairman or member

4. The Minister may appoint any person to be a temporary Chairman, Deputy Chairman or other member during the temporary incapacity from illness or

SECOND SCHEDULE — *continued*

otherwise, or during the temporary absence from Singapore, of the Chairman, Deputy Chairman or member (as the case may be).

Revocation of appointment

5. The Minister may, at any time, revoke the appointment of the Chairman, Deputy Chairman or other member if he considers such revocation necessary in the interest of the effective and economical performance of the functions of the Council under this Act or in the public interest.

Resignation

6. A member may resign from his office at any time by giving not less than one month's notice to the Minister.

Chairman may delegate function

7. The Chairman may, in writing and subject to such conditions or restrictions as he thinks fit, authorise any member to exercise any power or perform any function conferred on the Chairman by or under this Act.

Vacation of office

8. The office of a member shall become vacant —
- (a) on his death;
 - (b) if he fails to attend 3 consecutive meetings of the Council without sufficient cause (the sufficiency thereof to be decided by the Council);
 - (c) if he becomes in any manner disqualified from membership of the Council;
 - (d) if he resigns from his office; or
 - (e) if his appointment is revoked.

Filling of vacancies

9. If a vacancy occurs in the membership of the Council, the Minister may, subject to paragraph 10, appoint any person to fill the vacancy, and the person so appointed shall hold office for the remainder of the term for which the vacating member was appointed.

Disqualification from membership

10. No person shall be appointed or shall continue to hold office as a member if he —

SECOND SCHEDULE — *continued*

- (a) is an undischarged bankrupt or has made any arrangement with his creditors;
- (b) has been sentenced to imprisonment for a term exceeding 6 months and has not received a free pardon;
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of a member.

Disclosure of interest by members

11.—(1) A member who is in any way, directly or indirectly, interested in a transaction or project of the Council shall disclose the nature of his interest at the first meeting of the Council at which he is present after the relevant facts have come to his knowledge.

(2) A disclosure under sub-paragraph (1) shall be recorded in the minutes of the meeting of the Council and, after the disclosure, that member shall not take part in any deliberation or decision of the Council with respect to that transaction or project.

(3) For the purpose of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that, under sub-paragraph (2), he cannot vote or has withdrawn from the meeting.

(4) For the purposes of this paragraph, a member whose spouse, parent, step-parent, son, adopted son, step-son, daughter, adopted daughter or step-daughter has an interest in the transaction or project referred to in sub-paragraph (1) shall be deemed to be interested in such transaction or project.

Salaries, fees and allowances payable to members

12. There shall be paid to the members out of the moneys of the Council such salaries, fees and allowances as the Minister may from time to time determine.

Quorum

13.—(1) At every meeting of the Council, one-third of the membership or 3 members, whichever is the higher, shall constitute a quorum.

(2) The Chairman, or in his absence the Deputy Chairman, shall preside at meetings of the Council, and if both the Chairman and Deputy Chairman are absent from any meeting or part thereof, such member as the members present may elect shall preside at that meeting or part thereof.

(3) A decision at a meeting of the Council shall be adopted by a simple majority of the members present and voting except that, in the case of an equality of votes,

SECOND SCHEDULE — *continued*

the Chairman or any other member presiding shall have a casting vote in addition to his original vote.

Procedure at meetings

14.—(1) The Chairman or any officer authorised by him shall, subject to such standing orders as may be made by the Council under sub-paragraph (2), summon all meetings of the Council for the despatch of business.

(2) Subject to the provisions of this Act, the Council may make standing orders to regulate its own procedure generally and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of such minutes, and the opening, keeping, closing and auditing of accounts.

Validity of act or proceeding

15. No act or proceeding of the Council shall be questioned on the ground —

- (a) of any vacancy in, or defect in the constitution of, the Council;
- (b) of any defect in the appointment of any person acting as the Chairman or as any other member;
- (c) of any omission, defect or irregularity in the procedure of the Council not affecting the merits of the case; or
- (d) that any member has contravened paragraph 11.

THIRD SCHEDULE

Section 22

FINANCIAL PROVISIONS

Accounts of Council

1. The Council shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that —

- (a) all payments out of its moneys are correctly made and properly authorised; and
- (b) adequate control is maintained over the assets of, or in the custody of, the Council and over the expenditure incurred by the Council.

THIRD SCHEDULE — *continued*

Auditor

2. The accounts of the Council shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Minister in consultation with the Auditor-General.

Appointment of auditor

3. A person shall not be qualified for appointment as an auditor under paragraph 2 unless he is a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2).

Remuneration of auditor

4. The remuneration of the auditor shall be paid out of the moneys of the Council.

Annual financial statements

5. The Council shall, as soon as practicable after the close of the financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.

Duties of auditor

6. The auditor shall in his report state —
- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Council;
 - (b) whether proper accounting and other records have been kept, including records of all assets of the Council whether purchased, donated or otherwise;
 - (c) whether the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Council during the financial year were in accordance with the provisions of this Act; and
 - (d) such other matters arising from the audit as he considers necessary.

Auditor's report

7.—(1) The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Council.

(2) The auditor shall submit such periodical and special reports to the Minister and to the Council as may appear to him to be necessary or as the Minister or the Council may require.

THIRD SCHEDULE — *continued*

Powers of auditor

8.—(1) The auditor or any person authorised by him is entitled at any reasonable time to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Council.

(2) The auditor or any person authorised by him may make copies of, or take extracts from, any such accounting and other records.

(3) The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor or any duly authorised person considers necessary for the purposes of his functions under this Act.

Penalty for obstructing auditor

9. Any person who fails, without any reasonable cause, to comply with any requirement of the auditor or authorised person under paragraph 8 or who otherwise hinders, obstructs or delays the auditor or authorised person in the performance of his functions under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

Presentation of audited financial statements and auditor's report

10. The Council shall, as soon as its accounts and financial statements have been audited in accordance with the provisions of this Act, send to the Minister a copy of the audited financial statements, signed by the Chairman, together with a copy of the auditor's report.

Copy of auditor's report for Auditor-General

11. Where the Auditor-General is not appointed as the auditor, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Council.

Presentation to Parliament

12. The Minister shall, as soon as practicable, cause a copy of the audited financial statements and of the auditor's report to be presented to Parliament.
