

No. S 13

EDUCATION ORDER, 2003

**EDUCATION (INSTRUMENT OF GOVERNMENT)
REGULATIONS, 2004**

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**SCHEDULE — CONSTITUTION OF BOARD OF GOVERNORS OF EDUCATIONAL
INSTITUTIONS**

EDUCATION ORDER, 2003

**EDUCATION (INSTRUMENT OF GOVERNMENT)
REGULATIONS, 2004**

In exercise of the power conferred by section 128 of the Education Order, 2003, the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

Citation.

1. These Regulations may be cited as the Education (Instrument of Government) Regulations, 2004.

Interpretation.

2. In these Regulations, unless the context otherwise requires —

"Chairman" means the Chairman of the board of governors of an educational institution and includes an intended Chairman, governor or person or the one being responsible for the management of an educational institution.

Application.

3. Nothing in these Regulations shall apply to an educational institution exempted by section 3 from the provision of section 66(1), and "educational institution" in these Regulations shall accordingly not include an institution so exempted.

Main provisions of instrument of government.

4. (1) The instrument of government shall, unless the Registrar General otherwise directs —

(a) provide for the constitution of a board of governors at stated periods;

(b) define the powers and duties of governors;

(c) specify the times and places at which meetings of the board of governors shall be held and provide for voting and procedure at meetings, the keeping of minutes and records thereof and any quorum which may be required;

(d) define the powers and duties of the head teacher or principal;

(e) provide for the holding and administration of the property of the educational institution, the collection, banking and administration of its revenue and the proper keeping and audit of its accounts; and

(f) provide for such matters in relation to the management of the educational institution and administration of the property and revenue of the educational institution as the Registrar General may specify.

(2) The provisions of the instrument shall include the provisions required by the Schedule or provisions substantially to the same effect.

Normal manner of making instruments.

5. (1) Where an instrument is required for an educational institution the Chairman shall submit a draft instrument to the Registrar General.

(2) The draft instrument shall be in a form approved by the Minister, and shall be prepared in consultation with the Registrar General, who shall give any necessary advice as to the provisions required to be included in it or necessary to secure its approval.

(3) The Registrar General shall satisfy himself that any draft instrument submitted to him is in proper form, and that the requirements of section 67 will be complied with if effect is given to the draft.

(4) If the Registrar General is so satisfied, he shall return the draft instrument to the Chairman with a certificate endorsed on it to the effect that the requirements of these Regulations have been complied with.

(5) Upon the draft instrument being so returned to the Chairman or from any later date specified therein, it shall have effect as the instrument of the educational institution and any previous instrument shall thereby be cancelled.

Normal manner of amending instruments.

6. (1) An instrument may be amended by means of a new instrument canceling the old instrument and reproducing it with the required amendments or by means of a supplementary instrument.

(2) Regulations 4 and 5 shall apply to any such new or supplementary instrument, but in the case of a supplementary instrument they shall apply with the modification that under regulation 5(5) the old instrument and the supplementary instrument shall be read as one and together have effect as the instrument of the educational institution.

Making of amendment of instruments in cases of default.

7. (1) Where an educational institution has no instrument or the instrument of an educational institution needs amending to comply with the requirements of section 66 of the Order or with those of some other written law, and the Chairman does not within the period specified in sub-regulation (3) submit a draft to the Registrar General in accordance with regulation 5 or 6, as the case may be, then the Registrar General may serve notice on the Chairman that a draft of the instrument or of the amendments, as the case may be, should be submitted to the Registrar General.

(2) If upon expiry of 14 days from the service of such a notice the Chairman does not submit the required draft in accordance with regulation 5 or 6, it shall be presumed that the Chairman does not wish to comply with the requirement of the notice served under sub-regulation (1), and the Minister may exercise his power to dismiss the Chairman and give direction that a new Chairman be appointed.

(3) The period referred to in sub-regulation (1) is —

(a) in the case of instrument for an educational institution not having one, the period of 6 months from the coming into force of these Regulations or the period of 3 months from the making under section 75(2) of an application for the institution to be registered, whichever period last expires, or such longer period as the Minister may permit; and

(b) in the case of an amendment to the instrument of an educational institution, the period of one month from the date when the amendment becomes necessary in order that the instrument may comply with the requirements of section 66 or with those of some other written law.

SCHEDULE

**EDUCATION (INSTRUMENT OF GOVERNMENT)
REGULATIONS, 2004
(regulation 4)**

CONSTITUTION OF BOARD OF GOVERNORS OF EDUCATIONAL INSTITUTIONS

1. (1) The instrument shall provide for a member of the Board to be Chairman of it and shall either designate the Chairman or state how he is to be appointed or elected.

(2) The instrument shall provide that the Board appoints one of its members to be Secretary of the Board.

2. (1) The instrument shall provide for the members of the Board to include —

(a) the members (if any) required by regulations under the Order to be nominated by the Minister;

(b) one or more representatives —

(i) of former pupils if or as soon as there are a substantial number of full age;

(ii) of parents of pupils;

(c) subject to any omission made with the approval of the Registrar General, one or more representatives —

(i) of any trustees of the educational institution;

(ii) of any supporters of the educational institution;

(iii) of any member of the body in whom is vested the title of the land on which the educational institution stands; and

(d) the head teacher or principal as an *ex-officio* member.

(2) The instrument shall (unless the composition of the Board is such as to make express provision unnecessary) provide that none of the following shall be a member of the Board —

(a) any member of the approved staff of the educational institution;

(b) except with the approved of the Registrar General is special circumstances, any other teacher;

(c) any officer of the Ministry;

(d) any person carrying on or having a substantial interest in any business in the course of which food, materials or equipment are supplied to the educational institution;

(e) any person who conducts, teaches or preaches any other religious teachings and practices other than that of the Islamic religion.

(3) The instrument shall include provisions as to the term of office of members of the Board.

3. (1) The instrument shall provide —

(a) for ordinary meetings of the Board to be held once at least in every term; and

(b) for additional meetings to be held at any time if required either by the Chairman or by notice in writing delivered to the secretary by any 3 members of the Board.

(2) The instrument shall provide for meetings of the Board to be convened by the secretary by giving to each member of the Board not less than 14 days' written notice of the meeting setting out the agenda for the meeting, but may include provision as to the manner in which such notice is to be given.

(3) The instrument shall provide that at a meeting of the Board no decision shall be taken on any matter not included in the agenda, unless the member presiding allows it to be taken on grounds of urgency, and that a decision so taken on grounds of urgency shall not be binding unless confirmed at the next meeting of the Board.

4. (1) The instrument shall provide that at a meeting of the Board no business other than the adjournment of the meeting shall be transacted in the absence of a quorum specified in the instrument, and shall —

(a) fix the quorum at a number not less than half the total number of members of the Board; and

(b) require that one at least of the members nominated by the Minister (unless the Board does not include any such member) shall be of the quorum.

(2) The instrument shall provide that at a meeting of the Board every decision shall be taken by the votes of the members present at the meeting and except in the case of a decision to amend the instrument by a majority of those present and voting (the member presiding having a second or casting vote in the case of an equality of votes).

(3) The instrument shall provide for minutes of the proceedings of the Board and of any committee or sub-committee thereof to be kept in a minute-book.

(4) The instrument shall provide that a copy of the minutes of the proceedings of the Board be submitted to the Registrar General not later than one month from the date of the meeting.

5. The instrument shall provide that a decision to amend it shall not be taken unless —

(a) it is taken at a meeting specially convened for the purpose by not less than 3 months' notice specifying the proposed amendment; and

(b) it is supported by the votes of not less than two-thirds of the total number of members of the Board.

6. The instrument shall provide that —

(a) any member of the Board elected or appointed under the instrument shall cease to be a member if he is absent from three consecutive meetings of the Board and does not satisfy the Board that he had reasonable excuse; and

(b) that the proceedings of the Board shall not be invalidated by any vacancy on the Board or by any defect in the election, appointment or qualification of a member.

7. The instrument shall provide that notices convening meeting of the Board, and the minutes of the proceedings of the Board and of any committee or sub-committee thereof, shall be in such language as the Board may determine, but that if the language is not the Malay language any member of the Board shall, on request, be entitled to receive a translation in an official language.

8. The instrument shall include provision declaring that the educational institution is to be managed in accordance with the Order, and the regulations made and directions given thereunder.

Made this 13th. day of Zulkaedah, 1424 Hijriah corresponding to the 6th. day of January, 2004.

PEHIN ORANG KAYA LAILA WIJAYA DATO SERI SETIA
HAJI AWANG ABDUL AZIZ BIN BEGAWAN PEHIN
UDANA KHATIB DATO SERI PADUKA HAJI AWANG UMAR
Minister of Education,
Brunei Darussalam.