

No. S 19

**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

INSTITUTE OF BRUNEI TECHNICAL EDUCATION ORDER, 2014

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**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

INSTITUTE OF BRUNEI TECHNICAL EDUCATION ORDER, 2014

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

PART I

PRELIMINARY

Citation and long title.

1. (1) This Order may be cited as the Institute of Brunei Technical Education Order, 2014.

(2) The long title of this Order is “An Order to establish the Institute of Brunei Technical Education and for other purposes relating thereto or connected therewith”.

Interpretation.

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

“Board” means the Board of Governors established in Part III;

“Chairman” means the Chairman of the Board of Governors appointed under section 7(3);

“Chief Executive Officer” means the Chief Executive Officer appointed under section 16 and includes any acting Chief Executive Officer appointed as such under section 16(3);

“commerce or industry” includes any trade, manufacturing or service industry, business or other related activity;

“Deputy Chairman” means the Deputy Chairman of the Board of Governors appointed under section 7(3);

“Institute” means the Institute of Brunei Technical Education established by section 3;

“member” means a member of the Board of Governors;

“Minister” means the Minister of Education;

“regulations” means any regulations made under section 38;

“technical skills” means the skills acquired through technical education and training or other means for employment in commerce or industry.

PART II

INSTITUTE OF BRUNEI TECHNICAL EDUCATION

Establishment of Institute of Brunei Technical Education.

3. There is hereby established an institute to be known as the Institute of Brunei Technical Education, which shall be a body corporate with perpetual succession and a common seal and shall, by that name, be capable of —

(a) suing and being sued;

(b) acquiring, owning, holding or disposing of property, both movable and immovable; and

(c) doing all such other acts as bodies corporate may lawfully do.

Common seal.

4. (1) The Institute shall have a common seal and such seal may be broken, changed, altered and made anew as the Institute thinks fit.

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

(3) Every instrument to which the common seal is affixed shall be signed by a member and shall be countersigned by the Chief Executive Officer or by some other person duly authorised by the Board for that purpose, and such signing shall be sufficient evidence that the seal was duly and properly affixed and that the seal is the lawful seal of the Institute.

Functions.

5. The functions of the Institute shall include —

(a) the provision, promotion and regulation of technical training and education courses for training persons employed in or intending to be employed in the public service and commerce or industry;

(b) the upgrading of the technical skills of the workforce through continuing education and training;

(c) the regulation and promotion of industry-based training and education in technical skills;

(d) the regulation of certification and standard of technical skills;

(e) the promotion and provision of consultancy services for training and education in technical skills; and

(f) the promotion of research in training and education in technical skills.

Powers.

6. The Institute may, for the purpose of discharging its functions —

(a) provide for and regulate the holding of examinations, grant of awards, certificates and other qualifications for attainment of technical skills, competency and achievements;

(b) establish facilities for the provision of training and education in technical skills;

(c) collaborate with and assist any person in the provision and promotion of training and education in technical skills and apprenticeship programs and schemes;

(d) render professional advice and expertise and other consultancy services to any person involved in the provision and promotion of training and education in technical skills;

(e) carry on any trade or business whether with other persons or by itself for the purpose of providing training to persons employed or intending to be employed in commerce or industry;

(f) form or participate in the formation of companies having such objects as may be approved by the Minister;

(g) acquire, hire, procure, construct, erect, develop, manufacture, operate, maintain and repair any property whether movable or immovable required by the Institute for the purposes of this Order;

(h) with the approval of the Minister, dispose of, surrender or sell any immovable property;

(i) levy and collect such fees, rates or charges for training and other services, use of facilities and conduct of activities as the Institute may consider expedient;

- (j)* solicit and receive donations and contributions from any source or raise funds by all lawful means;
- (k)* give donations and contributions to any person or organisation;
- (l)* regulate and provide for the welfare and discipline of employees and students of the Institute;
- (m)* inspect, approve and register training institutes conducting or intending to conduct training courses in technical skills;
- (n)* provide financial support and assistance for any research work relating to training and education in technical skills;
- (o)* promote or undertake publicity in any form; and
- (p)* do all such other things as are incidental to, or necessary for, the attainment of its functions.

PART III

BOARD OF GOVERNORS

Board of Governors.

7. (1) There shall be a Board of Governors of the Institute which shall be the executive body of the Institute and may exercise all the powers conferred on the Institute under this Order.

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

- (a)* a Chairman;
- (b)* a Deputy Chairman;
- (c)* the Chief Executive Officer;
- (d)* such number of other members, not being less than nine or more than eighteen, representing the public and private services.

(3) The members of the Board, except the Chief Executive Officer, shall be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan for a period of 3 years and shall be eligible for reappointment.

(4) The Deputy Chairman may, subject to such direction as may be given by the Chairman, exercise all or any of the powers exercisable by the Chairman under this Order.

(5) The Minister may appoint a person to be a temporary member during the absence from Brunei Darussalam, or incapacity owing to illness or otherwise, of a member.

(6) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, at any time revoke the appointment of a member without assigning any reason.

(7) A member may resign from his appointment at any time by giving written notice to the Minister.

Allowances payable to members.

8. There shall be paid to the members out of the funds of the Institute such allowances as the Minister may determine.

Vacation of office.

9. The office of a member shall be vacated if the member —

(a) becomes mentally disordered and incapable of managing himself or his affairs;

(b) is adjudicated a bankrupt;

(c) is convicted of an offence involving dishonesty or fraud;

(d) fails to attend, without leave of the Board, three consecutive meetings of the Board; or

(e) resigns from his office.

Filling of vacancies.

10. (1) If a vacancy occurs in the membership of the Board, the Minister may appoint any person to fill the vacancy and the person so appointed shall hold office for the unexpired period of the term of office of the member in whose place he is appointed.

(2) Where the member in whose place a person is appointed under subsection (1) was a representative of a person or class of persons, the member so appointed shall be a representative of the same person or class of persons.

Meetings of Board.

11. (1) The Chairman shall summon meetings as often as may be required.

(2) At every meeting of the Board, one-third of the number of members shall constitute a *quorum*.

(3) Decisions at meetings of the Board shall be adopted by a simple majority of the votes of the members present and voting, except that in the case of an equality of votes the Chairman or in his absence the Deputy Chairman shall have a casting vote.

(4) The Chairman or in his absence the Deputy Chairman shall preside at meetings of the Board.

(5) The Board shall not be precluded from holding a meeting or acting in any matter merely by reason of any vacancy in its membership.

(6) Subject to the provisions of this Order, the Board may regulate its own procedure.

Disclosure of interest by members.

12. (1) A member who is, directly or indirectly, interested in a contract made, or proposed to be made, by the Board or any other matter which is before any meeting of the Board, shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Board and, after the disclosure, that member —

(a) shall not take part in any deliberation or discussion of, and shall not vote on any question with respect to, that contract or other matter; and

(b) shall be disregarded for the purpose of constituting a *quorum* of the Board for such deliberation or discussion or vote, as the case may be.

(3) No act or proceedings of the Board shall be questioned on the ground that a member has contravened this section.

Validity of acts of members.

13. The acts of a member shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualifications.

Directions by Minister.

14. (1) The Minister may, after consultation with the Board, give such general directions not inconsistent with the provisions of this Order as to the policy to be followed by the Institute in the performance of its functions under this Order as

appear to the Minister to be necessary and the Institute shall, as soon as practicable, give effect to any such direction.

(2) The Board shall give the Minister such information with regard to the exercise of its powers and functions in such manner and at such times as the Minister may reasonably require.

Appointment of committees and delegation of powers.

15. (1) The Board may, in its discretion, appoint such number of committees consisting of members, or other persons, or members and other persons, for purposes which, in the opinion of the Board, would be better regulated and managed by means of such committees.

(2) The Board may, subject to such conditions or restrictions as it thinks fit, delegate to any such committee, the Chairman, the Deputy Chairman or the Chief Executive Officer, all or any of the powers, functions and duties by this Order vested in the Institute, and a power, function or duty so delegated may be exercised or performed by such committee, the Chairman, the Deputy Chairman or the Chief Executive Officer, as the case may be, in the name and on behalf of the Institute.

(3) The Board may, subject to such conditions or restrictions as it thinks fit, delegate to any employee of the Institute all or any of the powers, functions and duties by this Order vested in the Institute, and a power, function or duty so delegated may be exercised or performed by the employee in the name and on behalf of the Institute.

(4) The Institute may continue to exercise a power conferred upon it, or perform a function or duty under this Order, notwithstanding the delegation of the power, function or duty under this section.

PART IV

STAFF

Appointment of Chief Executive Officer.

16. (1) The Minister shall, with the approval of His Majesty the Sultan and Yang Di-Pertuan, appoint a Chief Executive Officer on such terms and conditions as the Minister may determine.

(2) The Chief Executive Officer shall --

(a) be responsible to the Board for the proper administration and management of the Institute in accordance with the policy laid down by the Board;

(b) be known by such designation as the Board thinks fit; and

(c) not to be removed from office without the consent of the Minister.

(3) If the Chief Executive Officer is temporarily absent from Brunei Darussalam or temporarily incapacitated by reason of illness or for other reasons temporarily unable to perform his duties, any person may be appointed by the Board to act in the place of the Chief Executive Officer during any period of such absence from duty.

Employment of staff.

17. The Institute may, subject to such directions as may be given by the Minister, appoint such number of employees on such terms and conditions as the Institute may determine.

Protection from personal liability.

18. No suit or other legal proceedings shall lie against any member or any employee of the Institute or other person acting under the direction of the Institute for anything which is in good faith done or intended to be done in the execution or purported execution of this Order.

Public servants.

19. All members and employees of the Institute shall be deemed to be public servants within the meaning of the Penal Code (Chapter 22).

PART V

FINANCIAL PROVISIONS

Financial year.

20. The financial year of the Institute shall begin on 1st April of each year and end on 31st March of the succeeding year.

Grants-in-aid.

21. (1) The Minister of Finance shall cause to be paid to the Institute such moneys as may be approved by the Government from time to time as grants-in-aid to the Institute.

(2) All moneys paid to the Institute under subsection (1) shall be applied or expended by the Institute for all or any of the purposes of the Institute.

Power of investment.

22. Subject to any general or special directions as the Minister may issue, the Institute may —

- (a) invest its moneys in such manner as it thinks fit; and
- (b) engage in any financial activity or participate in any financial arrangement for the purpose of managing or hedging against any financial risk that arises or is likely to arise from such investment.

Accounts and financial statements.

23. (1) The Institute shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Institute and over the expenditure incurred by it.

(2) The Board shall, as soon as practicable after the close of each financial year, cause financial statements in respect of that year to be prepared and submitted to the auditor of the Institute.

Audit.

24. (1) The accounts and financial statements of the Institute shall be audited annually by —

- (a) the Auditor General; or
- (b) any person who has been authorised to perform the duties required by the Companies Act (Chapter 39) to be performed by an auditor, who shall be appointed annually by the Board:

Provided that where the accounts of the Institute have been audited by a person appointed under sub-paragraph (b), they may be verified by the Auditor General before they are presented to the Minister of Finance pursuant to section 26(1).

(2) The auditor shall in his report state —

- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Institute;
- (b) whether proper accounting and other records have been kept, including records of all assets of the Institute whether purchased, donated or otherwise;

{c} whether receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Institute during the financial year were in accordance with the provisions of this Order; and

{d} such other matter arising from the audit as he considers necessary.

Powers of auditor.

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

(2) The auditor or a person authorised by him may make copies of, or make 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 which that person possesses or has access to as the auditor or any duly authorised person considers necessary for the purposes of the functions of the auditor under this Order.

(4) Any person who refuses or fails without any reasonable cause to allow the auditor access to any accounting and other records of the institution in his custody or power or to give any information possessed by him as and when required or who otherwise hinders, obstructs or delays the auditor in the performance of his duties or the exercise of his powers under this Order is guilty of an offence and 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 financial statements and audit reports.

26. (1) As soon as the accounts of the Institute and the financial statements have been audited in accordance with this Order, a copy of the audited accounts and financial statements signed by the Chairman, together with a copy of the report made by the auditor, shall be presented to the Minister of Finance.

(2) Where the Auditor General is not appointed to be 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 as they are submitted to the Board.

(3) The Minister shall cause a copy of the audited financial statements and of the auditor's report to be presented to His Majesty the Sultan and Yang Di-Pertuan.

Annual report

27. The Institute shall, as soon as practicable after the end of each financial year, submit to the Minister an annual report on the activities of the Institute during the preceding financial year, and the Minister shall cause a copy of every such annual report to be presented to His Majesty the Sultan and Yang Di-Pertuan.

PART VI

GENERAL

Symbol of Institute.

28. (1) The Institute shall have the exclusive right to the use of such symbol, design or representation as it may select or devise in connection with its activities or affairs.

(2) Any person or body corporate who uses a symbol, design or representation identical with that of the Institute or which so resembles the symbol, design or representation thereof as to deceive or cause confusion or to be likely to deceive or cause confusion is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

Schools.

29. The Institute shall be divided into such number and names of schools as may be determined by the Board.

Convocation.

30. A convocation for the conferment of awards, certificates and other qualifications shall be held annually, or as often as the Chief Executive Officer may direct, on such date as may be approved by the Board.

Compulsory insurance.

31. The Institute may require any person who attends any course or avails himself of any facility provided or approved by the Institute, to be insured against personal injuries and loss of life.

Offence by body corporate.

32. Where an offence against this Order or any regulations made thereunder is committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any act or default on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the

body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

Acquisition of land for purposes of Institute.

33. (1) Where any immovable property, not being State land, is needed for the purposes of the Institute, His Majesty the Sultan and Yang Di-Pertuan may direct the acquisition of such property, and in such a case such property may be acquired in accordance with the provisions of any written law relating to the acquisition of land for a public purpose and any declaration required under any such written law that such property is so needed may be made notwithstanding that compensation is to be paid out of the funds of the Institute, and such declaration shall have effect as if it were a declaration that such land is needed for a public purpose made in accordance with such written law.

(2) Expenses and compensation in respect of any immovable property acquired under subsection (1) shall be paid by the Institute or from funds to be provided by the Government to the Institute for such purpose.

(3) All State land granted or immovable property acquired under this section shall vest in the Institute, and an entry to that effect in the appropriate register shall be made by the relevant registering authority.

Gifts to Institute exempt from income tax.

34. The Institute shall be deemed to be a charitable institution for the purposes of section 10(1)(f) of the Income Tax Act (Chapter 35).

Application of Chapter 203 to student bodies.

35. (1) Notwithstanding anything to the contrary in the Societies Act (Chapter 203), the provisions of that Act shall have effect in relation to the Institute student's association and its constituent bodies.

(2) The Minister of Home Affairs may, by order published in the *Gazette*, exempt the Institute students' association and any of its constituent bodies from all or any of the provisions of the Societies Act (Chapter 203) subject to such conditions as may be specified in this Order.

Transfer of property and staff to Institute.

36. The provisions of the Schedule shall have effect for the purpose of the transfer to the Institute of property and employees of the Government and for other transitional purposes specified in that Schedule.

Exemption of stamp duty.

37. His Majesty the Sultan and Yang Di-Pertuan may by order exempt from the provisions of section 3 of the Stamp Act (Chapter 34) any instrument executed by the Board on behalf of the Institute.

Regulations.

38. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make any regulations as are necessary for carrying into effect the provisions of this Order.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for all or any of the following matters —

(a) the collection of fees, rates or charges and the award of scholarships and other financial assistance to persons attending training and education in technical skills;

(b) the regulation and registration of training Institutes;

(c) the regulation of examinations or tests to be conducted by any person for certification of technical skills;

(d) the registration of apprentices and the conduct and supervision and regulation of apprenticeship programs and schemes; and

(e) the appointment, promotion, conduct, disciplinary control, dismissal and termination of service of employees of the Institute.

SCHEDULE
(section 36)

TRANSFER OF PROPERTY, STAFF ETC. TO INSTITUTE

Interpretation.

1. In this Schedule, “appointed date” means such date to be appointed by the Minister by notification published in the *Gazette*.

Transfer to Institute of property, assets and liabilities.

2. (1) As from the date of commencement of this Order, all lands, buildings and other properties, movable or immovable, rights, interests, privileges, obligations and liabilities vested in, belonging to or incurred by the Government as may be determined by the Minister, with the approval of His Majesty the

Sultan and Yang Di-Pertuan, shall be transferred to and vest in the Institute without further assurance.

{2} If any question arises as to which property, movable or immovable, has been transferred to and vested in the Institute under sub-paragraph (1), a certificate under the hand of the Minister shall be conclusive evidence of the vesting of that property in the Institute.

Existing contracts.

3. All deeds, bonds, agreements, instruments and working arrangements subsisting immediately before the appointed date affecting the lands, buildings and other properties, movable or immovable, transferred under paragraph 2 or any employee of the Government transferred to the service of the Institute under paragraph 5 shall be of full force and effect against or in favour of the Institute and enforceable as fully and effectually as if, instead of the Government, the Institute had been named therein or had been a party thereto.

Pending proceedings.

4. Any proceedings or cause of action pending or existing immediately before the date of commencement of this Order by or against the Government in respect of the lands, buildings and other properties, movable or immovable, transferred under paragraph 2 and the rights, interest, obligations and liabilities in connection therewith or appertaining thereto may be continued and enforced by or against the Institute as it might have been by or against the Government as if this Order had not been made.

Transfer of staff.

5. (1) On the appointed date —

(a) all persons who, immediately before that day, were members of the teaching staff of the Government shall become members of the teaching staff of the Institute; and

(b) all such other persons who, immediately before that day, were employed in any capacity by the Government shall become employees of the Institute,

on terms no less favourable than those enjoyed by them immediately prior to their transfer to the service of the Institute.

(2) Until such time as schemes and terms and conditions of service are drawn up by Institute, every persons referred to in sub-paragraph (1), shall hold office or continue to hold office upon the same terms and conditions as governed by his appointment immediately before the appointed date; and the person's

service as a member of the teaching staff or employee of the Government shall be regarded as service as a member of the teaching staff or employee of the Institute.

(3) Where any person who is transferred to the service of the Institute under sub-paragraph (1) is a contributor under the Tabung Amanah Pekerja Act (Chapter 167), he shall for the purposes of that Act, continue to make contributions under that Act as if he had not been transferred to the service of the Institute; and for the purposes of that Act, his service with the Institute shall be deemed to be service with the Government and the Institute shall have the right to make deductions from the salary of that person to be paid as contributions under that Act.

(4) Notwithstanding the provisions of the Pensions Act (Chapter 38), any person who —

(a) prior to the appointed date was a public servant;

(b) under the terms and conditions of his transfer to the Institute from the Government is entitled to certain benefits under the Pensions Act (Chapter 38); and

(c) is transferred to the service of the Institute under sub-paragraph (1),

shall be entitled to those benefits.

Continuation and completion of disciplinary proceedings.

6. (1) Where on the appointed date, any disciplinary proceedings against any person transferred to the service of the Institute under paragraph 5 were pending before the relevant Government authority, the proceedings against the person shall be taken up and continued under and in conformity with the provisions of this Order so far as consistently may be; but where on that date any matter was in the course of being heard or investigated by such authority or had been heard or investigated by that authority, but no order or decision had been made thereon, that authority shall continue to exist, notwithstanding this Order, for the purpose of completing the hearing or investigation and the making of an order or decision, as the case may be.

(2) For the purposes of completing a hearing or investigation before it, or making an order or rendering a decision on a matter heard or investigated before the appointed date, the relevant Government authority shall complete the hearing or investigation in accordance with the power vested in that authority immediately before that date and make such order, ruling or direction as the authority could have made under the authority vested in it immediately before that date.

{3} Any order, ruling or direction made or given by the relevant Government authority pursuant to this paragraph shall be entered as an order, ruling or direction of the Institute and shall have the same force or effect as if it had been made or given by the Institute pursuant to the authority vested in the Institute under this Order.

Students.

7. Every person who becomes a student under such Government educational institutions as the Minister may determine before the commencement date of this Order, shall be transferred to the Institute on terms no less favourable than those enjoyed by them immediately prior to their transfer.

Maintenance of schools.

8. Any school established and maintained by the Government immediately before the commencement date shall continue and be maintained by the Institute as if this Order had been in force when it was so established.

Students' bodies.

9. The students' bodies as constituted and in existence immediately before the date of commencement of this Order shall on such date be deemed to be duly constituted under the Societies Act (Chapter 203) and all persons who immediately before that date were members of the students' bodies shall on such date be deemed to have become members of the Institute student's bodies.

Transitional provisions.

10. (1) Any thing done or any appointment made for, by or on behalf of the Government authority prior to the date of commencement of this Order shall, on and after that date, be deemed to have been made for, by or on behalf of the Institute.

(2) Until such time as titles of certificates are drawn up by Institute, the titles of certificates of every student transferred to the Institute from the Government shall continue to be valid.

Made this 26th. day of Jamadilakhir, 1435 Hijriah corresponding to the 26th. day of April, 2014 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM