



LAWS OF MALAYSIA

REPRINT

Act 652

NATIONAL SKILLS DEVELOPMENT ACT 2006

Incorporating all amendments up to 1 July 2006

PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, MALAYSIA
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968
IN COLLABORATION WITH
PERCETAKAN NASIONAL MALAYSIA BHD
2006

**NATIONAL SKILLS DEVELOPMENT
ACT 2006**

Date of Royal Assent 15 June 2006

Date of publication in the *Gazette* 29 June 2006

LAWS OF MALAYSIA

Act 652

NATIONAL SKILLS DEVELOPMENT ACT 2006

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation

PART II

NATIONAL SKILLS DEVELOPMENT COUNCIL

3. Establishment of the Council
4. Functions of the Council
5. Membership of the Council
6. Deputy Chairman
7. Secretary
8. Committees
9. Appointment, reappointment, revocation and resignation
10. Members to devote time to Council
11. Vacation of office
12. Meetings
13. Council may invite others to meetings
14. Remuneration or allowance
15. Minutes
16. Procedure

PART III**APPOINTMENT OF OFFICERS**

Section

17. Appointment of officers
18. Delegation of powers
19. Powers of the Minister to give direction

PART IV**THE NATIONAL OCCUPATIONAL SKILLS STANDARDS**

20. Establishment of Standards
21. Review and variation of Standards
22. Use of National Occupational Skills Standards

PART V**ACCREDITATION**

23. Criteria for accreditation
24. Application for accreditation
25. Power to grant or refuse application
26. Certificate of accreditation
27. Application for renewal of accreditation
28. Powers to impose conditions
29. Suspension or revocation of certificate of accreditation
30. Notice of suspension or revocation of the certificate of accreditation

PART VI**APPEALS**

31. Appeal
32. Power of Minister on appeals
33. Decision of Minister on appeals

PART VII

CERTIFICATE AND RECOGNITION

Section

- 34. Award of Certificate
- 35. Requirements to be met before Certificate can be awarded
- 36. Recognition of other skills qualifications

PART VIII

INSPECTION OF SKILLS TRAINING PROVIDER

- 37. Inspector
- 38. Inspection to be made from time to time
- 39. Power to inspect skills training provider

PART IX

ENFORCEMENT AND INVESTIGATION

- 40. Enforcement officer
- 41. Power of enforcement officer
- 42. Powers of examination
- 43. Production of documents, *etc.*
- 44. Seizure of documents, *etc.*
- 45. Application for a search warrant
- 46. Power of Magistrate to issue a search warrant
- 47. Power to enter premises without warrant or notice
- 48. Search and seizure without warrant
- 49. Power to seal
- 50. Production of authority card
- 51. No entitlement as to costs on proceedings, damages or other relief, *etc.*

PART X

OFFENCES AND PENALTIES

- 52. Enrolment of trainees without certificate of accreditation
- 53. Prohibition on advertisement, *etc.*

Section

- 54. Control of advertisement
- 55. Offences and penalties relating to certification
- 56. Penalty for contravening conditions
- 57. Offences and penalties relating to applications made under the Act
- 58. Offences and penalties relating to certificate of accreditation
- 59. Offences relating to inspection, enforcement and investigation
- 60. General penalty
- 61. Penalty in the case of a continuing offence
- 62. Offences by body corporate, *etc.*
- 63. Responsibility of skills training provider for offences committed by members of board of directors, officers, employees or agents
- 64. Compounding of offences
- 65. Institution of prosecution
- 66. Presumption

PART XI

GENERAL

- 67. Recognition of the Certificate
- 68. Public servants
- 69. Protection against suit and legal proceedings
- 70. Register
- 71. Obligations of secrecy
- 72. Power to make regulations
- 73. Minister's power to exempt

PART XII

TRANSITIONAL AND SAVING PROVISIONS

- 74. Accreditation of skills training programme after the coming into operation of this Act

LAWS OF MALAYSIA

Act 652

NATIONAL SKILLS DEVELOPMENT ACT 2006

An Act to promote, through skills training, the development and improvement of a person's abilities, which are needed for vocation; and to provide for other matters connected therewith.

[1 September 2006, P.U. (B) 233/2006]

ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the National Skills Development Act 2006.

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

Interpretation

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

“advertisement” means any publication, circular, notice or any oral or written communication, whether broadcast by electronic

medium or any other media, or any display on any signboard or other erection, structure or contrivance, or any form of electronic communications to the public for the purpose of promoting a skills training provider or training programme;

“industry” means any economic activity, and includes agricultural, manufacturing and services activities;

“Inspector” means any public officer appointed under section 37 to perform any duty relating to inspection and verification;

“skill” means an acquired and practised ability to competently carry out a task or job;

“Director General” means any public officer appointed to be the Director General of Skills Development under section 17;

“curriculum” means the content of an organized programme of study undertaken by a skills training provider indicating the activities undertaken, the time allotted to each activity, and its sequence;

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

“Council” means the National Skills Development Council established under section 3;

“Minister” means the Minister charged with the responsibility for human resources;

“enforcement officer” means any public officer appointed under section 40 to perform any duty relating to enforcement and investigation;

“trainee” means a person receiving skills training provided by a skills training provider;

“instructor” means a person who is responsible for skills training and for guiding, supervising and evaluating a trainee’s ability to assimilate the theoretical and practical aspects of the training;

“accreditation” means a procedure by which the Director General evaluates and approves a skills training programme;

“skills training provider” means a body corporate, organization or other body of persons which conducts a skills training programme the primary purpose of which is to meet the requirement of the relevant Standards;

“public services” means public services under Article 132(1) of the Federal Constitution;

“premises” means any building or other places used for training, accommodation and other facilities for trainees and staff of the skills training provider or accredited centre, but does not include any land occupied therewith;

“accredited programme” means a training programme which has been approved by the Director General;

“training programme” means a group of training and assessment activities, and learning outcomes for a particular occupation;

“accredited centre” means a skills training provider which has been authorized by the Director General to conduct an accredited programme leading to the award of a Certificate;

“Certificate” means the skills qualification awarded to a person by the Director General under section 34;

“certificate of accreditation” means a certificate granted to a skills training provider to conduct an accredited programme;

“Malaysian Skills Certification System” means the policies, Standards mechanism and procedures involved in the award of a Certificate by the Director General;

“Standards” means the National Occupational Skills Standards established under Part IV of this Act;

“appointed date” means the date appointed by the Minister under subsection 1(2).

PART II

NATIONAL SKILLS DEVELOPMENT COUNCIL

Establishment of the Council

3. A body by the name of the National Skills Development Council is established.

Functions of the Council

4. The functions of the Council are—

- (a) to approve the Standards;
- (b) to advise the Minister on matters pertaining to this Act;
- (c) to advise the Minister on any matter referred to it by the Minister; and
- (d) to perform such other functions as may be set out in this Act.

Membership of the Council

5. (1) The Council shall consist of the following members who shall be appointed by the Minister:

- (a) a Chairman;
- (b) the Director General;
- (c) nine other members of whom—
 - (i) one is a member representing the Economic Planning Unit in the Prime Minister’s Department;

- (ii) one is a member representing the Public Services Department;
 - (iii) one is a member representing the Ministry responsible for education;
 - (iv) one is a member representing the Ministry responsible for higher education;
 - (v) one is a member representing the Ministry responsible for human resources;
 - (vi) one is a member representing the Ministry responsible for youth and sports;
 - (vii) one is a member representing the Ministry responsible for entrepreneur development;
 - (viii) one is a member representing the Ministry responsible for agriculture; and
 - (ix) one is a member representing the Ministry responsible for public works; and
- (d) ten other members of whom—
- (i) six are members representing the private sector;
 - (ii) one is a member representing private skills training providers;
 - (iii) one is a member representing women's organizations; and
 - (iv) two are members who possess, in the opinion of the Minister, special knowledge or experience in skills training.

(2) The Minister shall, in making an appointment under paragraph (1)(d), take into consideration the interest of groups and organizations concerned with skills training and shall select persons who in his opinion are likely to contribute effectively to the functions of the Council.

(3) The Minister may appoint a person to be an alternate member in respect of each of the members of the Council appointed under paragraphs (1)(c) and (1)(d) to attend meetings of the Council in place of the member when the member is for any reason unable to attend.

(4) When attending meetings of the Council in place of a member, an alternate member shall for all purposes be deemed to be a member of the Council.

Deputy Chairman

6. (1) The Minister shall appoint a Deputy Chairman from amongst the members of the Council.

(2) The Deputy Chairman shall, during the absence of the Chairman at any meeting, preside over the meeting.

Secretary

7. The Director General shall appoint a public officer from the department responsible for skills development to be the secretary to the Council.

Committees

8. (1) The Council may establish such committees as it thinks necessary or expedient to assist it in the performance of its functions under this Act.

(2) Members of a committee established under subsection (1) may be appointed from amongst members of the Council.

(3) The Chairman of a committee established under subsection (1), shall be appointed by the Council from among its members.

(4) The committee established under subsection (1) may invite any person to attend any meeting of a committee for the purpose of advising it on any matter under discussion.

(5) The members of a committee and any person invited under subsection (4) may be paid such allowance as the Council may determine with the approval of the Minister.

Appointment, reappointment, revocation and resignation

9. (1) Subject to such conditions as may be specified in his instrument of appointment, the Chairman appointed under paragraph

5(1)(a) and every member of the Council appointed under paragraph 5(1)(d) shall hold office for a period not exceeding three years.

(2) The Minister may reappoint any member for a period of three years.

(3) The appointment of any member of the Council may at any time be revoked by the Minister without assigning any reason for the revocation.

(4) A member of the Council may at any time resign his office by giving a written notice addressed to the Minister.

Members to devote time to Council

10. Every member of the Council shall devote such time to the business of the Council as is necessary to discharge his duties effectively.

Vacation of office

11. The office of a member of the Council shall be vacated—

- (a) if he dies;
- (b) if there has been proved against him, or he has been convicted on, a charge in respect of—
 - (i) an offence involving fraud, dishonesty or moral turpitude;
 - (ii) an offence under any law relating to corruption; or
 - (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;
- (c) if his conduct, whether in connection with his duties as a member of the Council or otherwise, has been such as to bring discredit to the Council;
- (d) if he becomes a bankrupt;
- (e) if he is of unsound mind or is otherwise incapable of discharging his duties;

- (f) if he resigns from his office; or
- (g) if he absents himself from three consecutive meetings of the Council without leave of the Chairman, or in the case of the Chairman and Deputy Chairman, without leave of the Minister.

Meetings

12. (1) The Council shall meet with such frequency that there is no lapse of more than three months between meetings.

(2) In the absence of Chairman and Deputy Chairman, the members present at the meeting shall elect a member amongst the members present to preside the meeting.

(3) The quorum of the Council shall be twelve persons.

(4) If on any question to be determined by the Council there is an equality of votes, the Chairman, Deputy Chairman or member presiding over the meeting, shall have a casting vote in addition to his deliberative vote.

Council may invite others to meetings

13. The Council may invite any person to attend any meeting of the Council for the purpose of assisting or advising it on any matter under discussion, but any person so attending shall have no right to vote at that meeting.

Remuneration or allowance

14. Members of the Council and any other person who is invited to attend a meeting of the Council may be paid such remuneration or allowance as the Minister may, after consultation with the Minister of Finance, determine.

Minutes

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

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

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

Procedure

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

PART III

APPOINTMENT OF OFFICERS

Appointment of officers

17. (1) The Yang di-Pertuan Agong, on the advice of the Minister, shall appoint a public officer to be the Director General of Skills Development for the purpose of exercising the powers, performing the functions and discharging the duties assigned to the Director General under this Act.

(2) Without prejudice to the generality of the provision of subsection (1) on his powers, functions and duties, the Director General shall be responsible for—

- (a) the accreditation of skills training programmes; and
- (b) the governing and controlling of the Malaysian Skills Certification System.

(3) The Director General shall have an official seal for the authentication of documents required for the purposes of exercising his powers, performing his functions and discharging his duties under this Act.

(4) The Yang di-Pertuan Agong, on the advice of the Minister, may appoint a public officer to be the Deputy Director General of Skills Development, as may be necessary for the purposes of this Act.

(5) The Minister may appoint a public officer to be the Director, Deputy Director, Principal Assistant Director, Senior Assistant Director and Assistant Director and other officers as may be necessary for the purposes of this Act.

(6) If for any reason the Director General is unable to exercise the powers, perform the functions or discharge the duties of his office, the powers shall be had and may be exercised, the functions shall be performed and the duties shall be discharged by the Deputy Director General.

Delegation of powers

18. (1) The Director General may, in writing, delegate any of his functions or powers under this Act, except his power of delegation, subject to such conditions, limitations or restrictions as he thinks fit, to any public officer and the public officer to whom those functions are delegated may perform those functions in the same manner and with the same effect as if those functions had been conferred on him under this Act.

(2) Delegation made under this section shall not preclude the Director General himself from performing or exercising the functions or powers so delegated.

Powers of the Minister to give direction

19. The Minister may, from time to time, give to the Director General directions, which are consistent with the provisions of this Act, and the Director General shall, as soon as possible, give effect to all such directions.

PART IV

THE NATIONAL OCCUPATIONAL SKILLS STANDARDS

Establishment of Standards

20. (1) The Director General shall be responsible for developing Standards for the purposes of the National Occupational Skills Standards.

(2) The Director General may, at his discretion, authorize any person, organization or other body of persons to develop National Occupational Skills Standards on his behalf.

(3) All Standards developed under subsections (1) and (2), shall be the property of the Government.

(4) All Standards developed under subsections (1) and (2), shall be submitted to the Council for its approval.

(5) Upon the approval of the Council under subsection (4), the Standards shall form part of the National Occupational Skills Standards.

Review and variation of Standards

21. (1) The Director General may from time to time review the National Occupational Skills Standards according to the needs of the relevant occupation and may vary any of such Standards.

(2) Any variation of any part of the National Occupational Skills Standards shall be submitted to the Council for its approval.

Use of National Occupational Skills Standards

22. (1) The National Occupational Skills Standards shall be used to develop national curriculum for skills training programmes.

(2) For the purposes of conducting skills training, all accredited programmes shall conform to the National Occupational Skills Standards.

(3) The National Occupational Skills Standards shall be used as a measure of proficiency leading to the award of a Certificate.

(4) The National Occupational Skills Standards may be utilized in any other way as the Director General deems fit.

PART V**ACCREDITATION****Criteria for accreditation**

23. Any skills training provider shall apply to the Director General for its skills training programme to be approved as an accredited programme and shall satisfy the following criteria:

- (a) it has a training curriculum that is capable of providing skills training and assessment to meet the requirements of the relevant National Occupational Skills Standards;
- (b) it has, or has access to premises, training facilities or technologies for the purpose of providing skills training and undertaking assessment to meet the requirements of the relevant Standards;
- (c) it has under its employment, or has access to, qualified and skilled instructors capable of providing skills training and assessment to meet the requirements of the relevant National Occupational Skills Standards; and
- (d) it is able to meet the quality assurance policies and procedures stipulated by the Director General.

Application for accreditation

24. (1) An application by any skills training provider for the accreditation of its training programme shall be made to the Director General in such form and manner as may be prescribed by the Minister in the regulations.

(2) Every application shall be accompanied with such documents, information and fee as may be prescribed by the Minister.

(3) At any time after receiving an application for accreditation and before it is determined, the Director General may by written notice require the skills training provider to provide additional documents and information within a specified period.

(4) Where the additional documents and information required under subsection (3) are not provided by the skills training provider

within the specified period or any of such extended period as may be allowed by the Director General, the application shall be deemed to be withdrawn and not be further proceeded with, but a fresh application may be made by the skills training provider.

(5) The Director General or any officer of the department responsible for skills development shall at any reasonable time inspect the skills training provider's premises to verify the authenticity of the application.

Power to grant or refuse application

25. After having considered an application under subsection 24(1), the Director General may—

- (a) grant the application and issue a certificate of accreditation to the skills training provider for a period of three years;
or
- (b) refuse the application, stating the grounds for refusal.

Certificate of accreditation

26. (1) The certificate of accreditation shall specify the premises in which the accredited programme shall be conducted.

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

(3) Upon ceasing to provide skills training for its accredited programme, the skills training provider shall surrender the certificate of accreditation to the Director General within three months from the date of such cessation.

Application for renewal of accreditation

27. (1) An application for renewal of accreditation shall be made to the Director General at least three months, but not more than six months, before the date of expiry of its accreditation and such application shall be accompanied with such documents, information and fee as may be prescribed by the Minister.

(2) After having considered an application for renewal of accreditation, the Director General may—

- (a) grant the application and issue a certificate of accreditation to the skills training provider for a further period of three years; or
- (b) refuse the application, stating the grounds for refusal.

Powers to impose conditions

28. The Director General may, at the time of or after granting a certificate of accreditation under section 25 or 27, impose such conditions as it may deem requisite or expedient and may vary, amend or revoke any conditions or impose new or additional conditions from time to time.

Suspension or revocation of certificate of accreditation

29. (1) The Director General may, at any time, suspend or revoke the certificate of accreditation granted to a skills training provider under paragraph 25(a) or 27(2)(a)—

- (a) if the skills training provider has failed to maintain the Standard and quality required of it;
- (b) if the skills training provider has breached any condition attached to the certificate of accreditation; or
- (c) on any other reasonable grounds.

(2) A written notice of the intention to suspend or revoke the certificate of accreditation shall be served on the skills training provider and the notice shall specify the grounds for such suspension or revocation.

Notice of suspension or revocation of the certificate of accreditation

30. The Director General shall cause the fact to be published in a local daily newspaper or electronic media, for the information of the general public of the suspension or revocation of the certificate of accreditation of any skills training provider.

PART VI

APPEALS

Appeal

31. Any person who is aggrieved by—

- (a) the refusal of the Director General under paragraph 25(b) to grant a certificate of accreditation;
- (b) the refusal of the Director General under paragraph 27(2)(b) to grant the renewal of accreditation; or
- (c) the suspension or revocation of a certificate of accreditation under section 29,

may appeal in writing to the Minister within thirty days from the date on which the notice of refusal, suspension or revocation is served on the skills training provider.

Power of Minister on appeals

32. (1) The Minister on an appeal being made to him under section 31 may confirm, revoke or vary the decision of the Director General.

(2) The Minister shall communicate in writing to the Director General and the person making the appeal of his decision in subsection (1).

Decision of Minister on appeals

33. The decision of the Minister on an appeal shall be final.

PART VII

CERTIFICATE AND RECOGNITION

Award of Certificate

34. The Director General may award, to any person upon conforming to the Standards the following skills qualifications:

- (a) Malaysian Skills Certificate;

- (b) Malaysian Skills Diploma;
- (c) Malaysian Skills Advanced Diploma; or
- (d) Statements of Achievement.

Requirements to be met before Certificate can be awarded

35. No person shall be awarded a Certificate unless he satisfies the requirements set by the Malaysian Skills Certification System.

Recognition of other skills qualifications

36. (1) The Council may give recognition to any skills qualifications issued by any body or organization within and outside Malaysia as equivalent to the Certificate awarded under section 34.

(2) For the purpose of recognition under subsection (1), the Council may establish an evaluation and recognition committee to advise and to make recommendations to the Council on matters relating to such recognition.

PART VIII

INSPECTION OF SKILLS TRAINING PROVIDERS

Inspector

37. For the purposes of this Act, the Director General may appoint any officer of the department responsible for skills development as Inspector to perform the duties of inspection and verification under this Act.

Inspection to be made from time to time

38. An Inspector shall, from time to time, inspect a skills training provider under this Act for the purpose of ascertaining that this Act and the regulations made under this Act have been and are being complied with.

Power to inspect skills training provider

39. For the purpose of inspection or verification under this Act, an Inspector may—

- (a) enter at any time any premises or any part of the premises which belongs to or is being used, whether permanently or otherwise, by a skills training provider for the purpose of providing skills training for an accredited programme;
- (b) inspect such book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, as he may consider necessary;
- (c) make copies or take extracts from any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, inspected under paragraph (b); and
- (d) require any person, being a member of the board of directors, a chief executive, employee, or a trainee of such skills training provider, to produce for his inspection any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, which is in the possession or custody of the person or under his control or within his power to furnish in relation to—
 - (i) the management of the skills training provider; or
 - (ii) the skills training carried out by the skills training provider.

PART IX**ENFORCEMENT AND INVESTIGATION****Enforcement officer**

40. For the purposes of this Act, the Director General may appoint any officer of the department responsible for skills development or any other public officer authorized in writing by the Director General as an enforcement officer to perform such duties relating to enforcement and investigation under this Act as may be specified in the authorization.

Power of enforcement officer

41. An enforcement officer shall have all the powers necessary to—

- (a) investigate into any offence under this Act;
- (b) conduct any inquiry under this Act; or
- (c) enforce any provision of this Act.

Powers of examination

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

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

Production of documents, etc.

43. In the course of an investigation or examination under this Part the enforcement officer may—

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

Seizure of documents, etc.

44. Where an enforcement officer carrying out an investigation under this Act has reason to believe that an offence has been committed against this Act, he may seize any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, produced under

section 43 and such book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, shall be admissible in evidence in any proceedings in court under this Act against the person or against any other person.

Application for a search warrant

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

Power of Magistrate to issue a search warrant

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

- (a) to enter the premises, if need be by force; and
- (b) to search for and seize, and to remove any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium—
 - (i) in respect of which an offence has been committed;
 - (ii) in respect of which an offence is suspected to have been committed; or
 - (iii) that is reasonably believed to furnish evidence of the commission of the offence;
- (c) break open any outer or inner door of the premises or any fence, enclosure, gate or other obstruction to the premises, in order to effect entry thereinto;
- (d) remove by force any obstruction to the entry, search, seizure or removal as he is empowered to effect; or
- (e) detain every person found in the premises until it has been searched.

Power to enter premises without warrant or notice

47. An enforcement officer shall, for the purposes of ascertaining whether the provisions of this Act or any regulations made under this Act or the terms and conditions of any registration or accreditation under this Act are being complied with, have power without warrant or notice at all reasonable times to enter into the premises of any skills training provider where skills training is being carried out and to make such inquiry or inspection as may be necessary for such purposes.

Search and seizure without warrant

48. If an enforcement officer has reasonable cause to believe that, by reason of delay in obtaining a search warrant under section 46—

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

he may exercise in, and in respect of, the premises all the powers referred to in section 46 in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

Power to seal

49. (1) Where the enforcement officer has reasonable cause to believe that any accredited programme is being conducted in any premises—

- (a) without being specified in the certificate of accreditation under subsection 26(1); or
- (b) in contravention of any of the conditions imposed by the Minister or the Director General,

the enforcement officer may forthwith take such steps as he may deem necessary to or by any means seal such premises.

(2) The skills training provider using the premises which has been sealed shall—

- (a) within twenty-one days of such seal produce to the Director General the certificate of accreditation; and
- (b) bear any costs incurred arising out of such action.

(3) The seal shall be removed if—

- (a) such skills training provider complies with the requirement of subsection (2); or
- (b) an order of the court is obtained for such skills training provider to cease using the house, building, premises or place,

whichever is the earlier.

(4) The enforcement officer acting under this section shall not be liable for any costs arising out of such action or damage to the premises sealed under this section unless such damage was wilfully done.

(5) Any action taken under this section in respect of premises shall not prohibit the prosecution for any skills training provider using such premises in contravention of this Act.

Production of authority card

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

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

No entitlement as to costs on proceedings, damages or other relief, etc.

51. No person shall, in any proceedings before any court in respect of anything seized or detained in the exercise or the purported exercise of any power conferred under this Part, be entitled to the

costs of such proceedings or any damages or other relief, other than an order for the return of such things seized or detained, or the payment of its value unless such seizure or detention was made without reasonable or probable cause.

PART X

OFFENCES AND PENALTIES

Enrolment of trainees without certificate of accreditation

52. Any person who enrolls trainees for a training programme claimed to be an accredited programme without a valid certificate of accreditation issued under section 26 commits an offence under this Act and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Prohibition on advertisement, *etc.*

53. (1) No person shall hold himself out to be or promote a skills training provider as an accredited centre, whether by advertisement, prospectus, brochure or otherwise, unless the skills training provider has a skills training programme accredited under this Act.

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

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

Control of advertisement

54. (1) If the Director General is of the opinion that any statement made in any advertisement in relation to a skills training provider is false, deceptive, offensive or misleading, the Director General

may by notice in writing direct such skills training provider to do all or any of the following:

- (a) cease the continued publication or display of such advertisement;
- (b) modify the advertisement in such manner as may be specified by the Director General;
- (c) cease the publication or display of any advertisement which is wholly or substantially a repetition of such advertisement;
- (d) take all practical steps to withdraw the advertisement from every publication or display of it; or
- (e) publish a statement in like manner as the advertisement issued earlier to retract or modify such advertisement.

(2) The Director General may vary, add to, alter, revoke or otherwise amend any direction issued under subsection (1), by a notice in writing to the skills training provider concerned.

(3) Any advertisement in relation to the skills training provider shall bear the approval number of the skills training provider and accredited programme.

(4) Any person or skills training provider who contravenes the directions of the Director General under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Offences and penalties relating to certification

55. (1) Any person who, or any institution or skills training provider which issues or awards any person, or is in possession of, any false certificate contrary to the provisions of this Act commits an offence and shall, on conviction, be liable to a fine not less than twenty thousand ringgit but not exceeding two hundred thousand ringgit or to imprisonment for a term not less than one year but not exceeding three years or to both.

(2) Any skills training provider other than accredited centres which issues or awards any certification claimed to be complying with the Standards commits an offence under this Act and shall,

on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Penalty for contravening conditions

56. A skills training provider who contravenes any condition imposed under section 28 commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Offences and penalties relating to applications made under the Act

57. Any person who, on making an application for the accreditation of a skills training programme under this Act, makes any statement which he knows to be false, or does not believe to be true, or intentionally suppresses any material fact, or furnishes any information which is misleading in any material particular commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Offences and penalties relating to certificate of accreditation

58. Where—

- (a) a skills training provider fails to cause a copy of the certificate of accreditation to be exhibited in accordance with subsection 26(2); or
- (b) a skills training provider who has ceased to provide skills training in an accredited programme fails to surrender the certificate of accreditation to the Director General in accordance with subsection 26(3),

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

Offences relating to inspection, enforcement and investigation**59. Any person—**

- (a) who fails to produce such book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, required by the Inspector under section 39; or
- (b) who obstructs or refuses to allow the Inspector under section 39 to—
 - (i) enter any area including the building or structure thereon which belongs to or is used, whether permanently or otherwise, or whether or not registered for use, by a skills training provider;
 - (ii) examine such book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, as he may consider necessary;
 - (iii) remove and detain any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium which, in his opinion, may furnish evidence of the commission of an offence under this Act; and
 - (iv) require any person, being a member of the board of directors, a chief executive, an employee or a trainee of such skills training provider, to produce for his inspection any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, which is in possession or custody of the person or under his control or within his power to furnish relating to management of the skills training provider or relating to the skills training carried on by the skills training provider;
- (c) who is summoned under section 42 and without reasonable excuse fails to attend at the time and place mentioned in the summons, or who, having attended, refuses to answer any question that may lawfully be put to him;

- (d) who fails to produce such book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, required by the enforcement officer under section 43;
- (e) who enters the sealed premises without any reasonable excuse or written consent of the enforcement officer;
- (f) who removes any book, minute book, register, document, financial statement, material or other article in the physical form or in the electronic medium, from the sealed premises without written consent of the enforcement officer; or
- (g) who obstructs or hinders an enforcement officer while exercising any of his powers under section 41, 42, 43 or 47,

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

General penalty

60. Any person who commits an offence under this Act or any regulations made under this Act where no penalty is expressly provided and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

Penalty in the case of a continuing offence

61. Any person who commits an offence under this Act shall, in the case of a continuing offence, be liable, in addition to any other penalty to which he is liable under this Act in respect of such offence, to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Offences by body corporate, *etc.*

62. Where an offence under this Act has been committed by a body corporate, partnership or society—

- (a) in the case of a body corporate, any person who was a director, manager, secretary or other similar officer of

the body corporate at the time of the commission of the offence;

- (b) in the case of a partnership, every partner in the partnership at the time of the commission of the offence; or
- (c) in the case of a society, every office-bearer of the society at the time of the commission of the offence,

may be charged severally or jointly in the same proceedings as the body corporate, partnership or society and shall be deemed to have committed the offence unless he proves that the offence was committed without his knowledge or connivance or that he took all reasonable precautions or that he had exercised due diligence to prevent the commission of the offence.

Responsibility of skills training provider for offences committed by members of board of directors, officers, employees or agents

63. (1) Where an offence against any provision of this Act has been committed by a person who at the time of the commission of the offence was —

- (a) a member of the board of directors;
- (b) an officer;
- (c) an employee; or
- (d) an agent,

of the skills training provider, the skills training provider shall be deemed to have also committed that offence.

(2) In a prosecution against a skills training provider under subsection (1) by virtue of an offence committed by —

- (a) a member of the board of directors;
- (b) an officer;
- (c) an employee; or
- (d) an agent,

of the skills training provider, it shall be a defence for any skills training provider prosecuted under subsection (1) if the skills training provider proves—

(aa) that the offence was committed without the knowledge or connivance of the skills training provider; or

(ab) that the skills training provider—

(i) took all reasonable precautions; and

(ii) exercised all due diligence,

to prevent the commission of the offence as the skills training provider ought to have taken and exercised, having regard to the nature of the functions of the member of the board of directors, officer, employee or agent in that capacity and to all the circumstances.

Compounding of offences

64. (1) The Director General may, with the consent in writing of the Public Prosecutor, compound any offence committed by any person under section 55, 58, 59 or 60 of this Act or any regulations made under this Act which is prescribed to be a compoundable offence by regulations made under this Act by making a written offer to the person who committed the offence to compound the offence upon payment to the Director General of an amount of money not exceeding fifty per cent of the amount of maximum fine for that offence within the time specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted and if the amount specified in the offer is not paid within the time specified in the offer or within such extended period as the Director General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(3) If an offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made and any thing seized in connection with the offence may be released or forfeited to the department responsible for skills development as may be determined by the Director General, subject to such terms and conditions as he thinks fit.

(4) All sums of money received by the department responsible for skills development under this section shall be paid into and form part of the Federal Consolidated Fund.

Institution of prosecution

65. Prosecution in respect of an offence under this Act shall not be instituted without the written consent of the Public Prosecutor.

Presumption

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

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

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

PART XI

GENERAL

Recognition of the Certificate

67. The Certificate awarded under section 34 of this Act shall be considered for the purpose of job entry qualification into the public services, statutory bodies and local authorities in accordance with the manner and procedures as determined by the Public Services Department.

Public servants

68. Every person appointed, or lawfully exercising the powers of a person appointed under this Act, shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

Protection against suit and legal proceedings

69. No action shall lie or prosecution shall be brought, instituted or maintained against the Director General or against any officer of the Government or any person acting under the direction of the Minister or the Director General in any court for any thing done or omitted to be done under this Act—

- (a) in good faith;
- (b) in the reasonable belief that it was necessary for the purpose intended to be served; or
- (c) for carrying into effect the provisions of this Act.

Register

70. (1) The Director General shall keep or cause to be kept registers in such form and manner as may be prescribed of—

- (a) all Standards approved by the Council under section 20;
- (b) all certificates of accreditation issued under section 26 containing all particulars relating to the skills training providers and the accredited programmes conducted by them;
- (c) all Certificates awarded under section 34; and
- (d) any other records as the Director General deems fit.

(2) Members of the public may make a search on the register upon payment of the prescribed fee.

Obligations of secrecy

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

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

Power to make regulations

72. (1) The Minister may make such regulations as may be expedient or necessary for the better carrying out of the provisions of this Act.

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

- (a) the procedure, manner and form of accreditation and renewal of accreditation;
- (b) the procedure, manner and form of evaluation and recognition of skills qualifications;
- (c) the procedure, manner and form of application for skills tests and the award of skills qualifications;
- (d) the fees and charges to be imposed in respect of anything done under this Act;
- (e) the procedure to be followed in respect of advertisements by the skills training providers;
- (f) the offences which may be compounded and the procedure for compounding such offences;
- (g) the procedure for the suspension or revocation of certificate of accreditation;
- (h) the procedure, manner and form for enforcement and investigation under this Act; or
- (i) any other matter which is necessary or expedient for the purposes of this Act.

(3) Regulations made under this section may provide that the contravention of any provision in the regulations shall be an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment not exceeding one year or to both.

Minister's power to exempt

73. (1) The Minister may, by order published in the *Gazette* exempt, subject to such conditions as he may deem fit to impose—

- (a) any skills training provider duly registered under any other law in force relating to skills training;
- (b) any person or class of persons; or
- (c) any skills training provider,

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

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

PART XII**TRANSITIONAL AND SAVING PROVISIONS****Accreditation of skills training programme after the coming into operation of this Act**

74. Any person or group of persons who, immediately before the appointed date, was carrying out skills training activities may continue to do so during the period of twelve months from the appointed date, but during that period such person or group of persons shall, as soon as practicable, apply for accreditation under this Act.

LAWS OF MALAYSIA**Act 652****NATIONAL SKILLS DEVELOPMENT
ACT 2006****LIST OF AMENDMENTS**

Amending law

Short title

In force from

– NIL –

LAWS OF MALAYSIA**Act 652****NATIONAL SKILLS DEVELOPMENT
ACT 2006****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
---------	--------------------	---------------

– NIL –

