

A BILL

i n t i t u l e d

An Act to amend the Private Higher Educational Institutions Act 1996.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Private Higher Educational Institutions (Amendment) Act 2012.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 2

2. The Private Higher Educational Institutions Act 1996 [*Act 555*], which is referred to as the “principal Act” in this Act, is amended in section 2 by inserting after the definition of “branch campus” the following definition:

“‘Campus’, in relation to a private higher educational institution, means the registered premises of the private higher educational institution;’.

Substitution of section 47

3. The principal Act is amended by substituting for section 47 the following section:

“Activities of students or students’ society, organization, body or group

47. (1) Subject to subsection (2), a student of the private educational institution may become a member of any society, organization, body or group of persons, whether in or outside Malaysia, including any political party.

(2) A student of the private educational institution shall not—

- (a) become a member of any unlawful society, organization, body or group of persons, whether in or outside Malaysia;
- (b) become a member of any society, organization, body or group of persons, not being a political party, which the Registrar General determines and specifies in writing to the chief executive of the private educational institution to be unsuitable to the interests and well-being of the students or the private educational institution;
- (c) stand for election to or hold any post in any society, organization, body or group of students in the Campus if the student holds any post in a political party; or
- (d) be involved in political party activities within the Campus.

(3) A student of the private educational institution and any society, organization, body or group of students of the private educational institution which is established by, under or in accordance with the constitution, shall not express or do anything which may reasonably be construed as expressing support for or sympathy with or opposition to—

- (a) any unlawful society, organization, body or group of persons, whether in or outside Malaysia; or

(b) any society, organization, body or group of persons which the Registrar General determines and specifies in writing to the chief executive of the private educational institution to be unsuitable to the interests and well-being of the students or the private educational institution.

(4) Notwithstanding subsection (3), a student of the private educational institution shall not be prevented from—

(a) making a statement on an academic matter which relates to a subject on which he is engaged in study or research; or

(b) expressing himself on the subject referred to in paragraph (a) at a seminar, symposium or similar occasion that is not organized or sponsored by any unlawful society, organization, body or group of persons, whether in or outside Malaysia, or any society, organization, body or group of persons determined by the Registrar General under paragraph (3)(b) to be unsuitable to the interests and well-being of the students or the private educational institution.

(5) The chief executive of the private higher educational institution shall comply with the directions of the Registrar General in regulating the activities of students or a society, an organization, a body or group of students of the private higher educational institution within the Campus.

(6) Any private higher educational institution which fails to comply with the directions of the Registrar General under subsection (5) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.”.

Savings

4. (1) All disciplinary actions which are pending under subsection 47(4) of the principal Act in relation to matters referred to in subparagraph 47(1)(a)(i) and paragraph 47(1c)(a) of the principal Act against any student of the private higher educational institution shall, on the date of coming into operation of this Act, be discontinued.

(2) All actions which are pending under section 49 of the principal Act in relation to matters referred to in paragraph 47(1c)(a) of the principal Act against any organization, body or group of students of the private higher educational institution shall, on the date of coming into operation of this Act, be discontinued.

EXPLANATORY STATEMENT

This Bill seeks to amend the Private Higher Educational Institutions Act 1996 (“Act 555”).

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.
3. *Clause 2* seeks to amend section 2 of Act 555 to introduce a new definition of “Campus” to clarify a private higher educational institution’s perimeters for the purpose of the exercise of rights under the new section 47.
4. *Clause 3* seeks to substitute for section 47 of Act 555 a new section 47.

The proposed subsection 47(1) seeks to extend the students’ right of association to include the right to become a member of any political party. The existing section 47 of Act 555 does not allow students to become members of political parties.

The proposed paragraphs 47(2)(a) and (b) provide restrictions on students in respect of becoming members of an unlawful society, *etc.*, and members of a society, *etc.*, which the Registrar General determines to be unsuitable to the interests and well-being of the students or the private higher educational institution. However, the determination by the Registrar General under the proposed paragraph 47(2)(b) shall not include a political party.

The proposed paragraph 47(2)(c) seeks to prohibit a student from running for election to or holding any post in any society, organization, body or group of students in the Campus if he holds any post in a political party. The prohibition seeks to maintain neutrality in the Campus.

The proposed paragraph 47(2)(d) seeks to impose restrictions on students’ involvement in political party activities inside the Campus. These restrictions seek to maintain neutrality in the Campus. However, no restriction is imposed on students’ political party activities outside the Campus.

The proposed subsection 47(3) seeks to remove the restriction imposed on students and societies, organizations, bodies or groups of students in expressing or doing anything which may reasonably be construed as expressing support for or sympathy with or opposition to any political party. This is consistent with the Court of Appeal’s decision in the case of *Muhammad Hilman Idham*

& Ors v Kerajaan Malaysia & Ors [2011] 9 CLJ 50. However, the subsection maintains the restrictions in the existing subsection 47(1c) of Act 555 whereby the students and societies, organizations, bodies or groups of students are not allowed to express or do anything which may reasonably be construed as expressing support for or sympathy with or opposition to any unlawful society, organization, *etc.*, and any society, organization, *etc.*, which the Registrar General determines to be unsuitable to the interests and well-being of the students or the private higher education institution.

The proposed subsection 47(4) seeks to provide the exceptions to the restrictions imposed in the proposed subsection 47(1c) as provided under the existing section 47 of Act 555.

The proposed subsection 47(5) seeks to impose an obligation on the chief executive to comply with the directions of the Registrar General in regulating activities of students, or students' organization, body or group, inside the Campus.

The proposed subsection 47(6) provides that the private higher educational institution which fails to comply with the directions of the Registrar General under subsection (5) commits an offence and shall be liable to a fine.

5. *Clause 4* seeks to provide for savings provision.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure.

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