

Private School Act, B.E. 2550 (2007)

(As Amended by the Private School Act (No. 2), B.E. 2554)

Translation

ADULYADEJ, REX.

Given on the 30th December B.E. 2550 (2007);

Being the 62nd year of the present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to revise the Law governing Private Schools;

This Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which Section 29, in conjunction with Section 33, Section 41 and Section 43 or the Constitution of the Kingdom of Thailand so permit by virtue of law;

Be it, therefore, enacted an Act by the King, by and with the advice and consent of National Legislative Assembly, as follows.

Section 1

This Act shall be called the "Private School Act, B.E. 2550 (2007)."

Section 2

This Act shall come into force from the day following the date of its publication in the Government Gazette.

Section 3

The Private School Act, B. E. 2525 (1982) shall be repealed.

Section 4

In this Act:

"School" means a private educational establishment providing education whether it be a Formal School or Non-Formal School which is not a private higher education institute under the law governing private higher education institutes.

"Formal School" means a School providing education with definite objectives, educational methods, curricula, period of study, measurement and evaluation which are conditions for finishing education.

"Non-formal School"⁽¹⁾ means a school providing education with flexibility in determining of objectives, forms, methods for provision of education, duration of education, measurement and evaluation, which are important conditions for finishing education, and shall include the Islamic educational centers of the mosques (Tadika) and Ponoh educational institutions.

"Student" means a person receiving education at School.

"Licensee" means a person granted a license to establish a School.

"Manager" means a manager of a Formal School.

"Director" means the director of a Formal School.

"Administrator" means the administrator of a Non-Formal School.

"Teacher" means a professional whose main duties are learning, teaching and promoting learning through various methods at School.

"Instructor" means a person performing duty of learning and teaching and promoting learning through various methods in a Non-Formal School.

"Educational Personnel" ⁽¹⁾ means educational supporters whose duties are to provide services or perform work relating to the provision of learning and teaching process, orientation and educational administration in a school, namely persons who perform library duty, persons who perform counseling duty, persons who perform duty of educational technology, persons who perform duty of registration and evaluation, persons who perform duty of general administration or persons who perform other duty as prescribed by the Commission.

"Licensor" ⁽¹⁾ means

- (1) the Secretary-General the Private Education Promotion Commission.
- (2) the Director the Office of the Education Area assigned by the Secretary-General of the Private Education Promotion Commission, or
- (3) The provincial governor assigned by the Secretary-General of the Private Education Promotion Commission.

"Commission" means the Private Education Promotion Commission.

"School Charter" means the charter as a juristic person of the Formal School.

"Fund" means the Formal School Promotion Fund.

"Competent Official" means a government official appointed by the minister for the execution in compliance with this Act.

"Minister" means the minister who is in charge of the enforcement of this Act.

Section 5

This Act shall not apply to

- (1) An educational establishment having a total of not exceeding 7 students.
- (2) An educational establishment established by the Sangha (the Buddhist Monastic Order) with the objectives on education and training on Dharma Vinaya (the Norm-Discipline).
- (3) Other educational establishments stipulated in the ministerial regulations as proposed by the Commission.

Section 6

In the case where it is necessary, the Minister, with the advice of the Commission, may announce any school to be exempted from compliance with this Act with regard to any matters.

Section 7

The Education Minister shall have be in charge of the enforcement of this Act and have the power to appoint competent officials and issue the ministerial regulations prescribing the fees not exceeding the rates in the Schedule attached to this Act, and other business under this Act.

Such ministerial regulations, once published in the Government Gazette, shall come into force.

CHAPTER 1

Private Education Promotion Commission

Section 8

There shall be a Private Education Promotion Commission consisting of;

- (1) Education Minister as Chairman of the Commission,

- (2) Permanent Secretary for Education, Fundamental Education Commission Secretary-General, Vocational Education Commission Secretary-General, Education Council Secretary-General, The Bureau of the Budget Director, The Comptroller-General's Department Director-General and Department of Skill Development Director-General as ex officio members.
- (3) Two commissioners appointed by the Minister, from representatives of the private school-related associations.
- (4) Commissioners appointed by the Minister each selected from the Licensees, Directors, Administrators, Teachers and Educational Personnel.
- (5) Four commissioners appointed by the Minister, from qualified persons one of whom shall be an expert in special education for the disabled.

The Secretary-General of the Private Education Promotion Commission shall be a member and Secretary.

Rules and procedures for the selection of the persons to be appointed as commissioners under (3), (4) and (5) shall be in accordance with the regulations set forth by the Minister.

Section 9

Commissioners under Section 8 (3), (4) and (5) shall hold office for a term of three years and may be reappointed, but they shall not hold office for more than two consecutive terms.

In the case where the commissioners under paragraph one vacate office at the expiration of the term but the new commissioners have not yet been appointed, the commissioners who have vacated office at the expiration of the term shall continue to perform their duties until the new commissioners are appointed.

Section 10

In addition to vacating office on the expiration of the term under Section 9, the commissioners under Section 8 (3), (4) and (5) vacate office upon;

- (1) death,
- (2) resignation,
- (3) being removed by the Minister because of misconduct,
- (4) being disqualified as commissioner in that category,
- (5) becoming a bankrupt, an incompetent or quasi-incompetent person,
- (6) being imprisoned by a final court judgment.

In case the office of the commissioner becomes vacant, and a new appointment has not been made to fill such vacancy, the Commission shall consist of the remaining commissioners.

Section 11

In the case where the commissioner under Section 8 (3), (4) and (5) vacates office prior to the expiration of the term, a new commissioner shall be appointed without delay, unless the remaining term of his/her office is less than ninety days, a replacement may not be appointed. The newly appointed person shall hold office for the remaining term of the person whom he replaces.

Section 12

The law governing Administrative Procedures shall apply to the meetings and decisions of the Commission *mutatis mutandis*.

Section 13

The Commission shall have the powers and duties as follows;

- (1) To propose to the Cabinet for their consideration and approval the policy relating to private education, development and support of the Schools, Teachers, Instructors and Educational Personnel.
- (2) To ensure the execution under this Act;
- (3) To stipulate the standards and private education curriculum development plan;
- (4) To stipulate measures on assistance, promotion and support to the Schools, Teachers, Instructors and Educational Personnel to be in line with the policy approved by the Cabinet under (1);
- (5) To issue the rules relating to the maintenance of documentary evidences of the Schools;
- (6) To propose their opinions to the Minister on the issuance of ministerial regulations, rules and announcements to ensure the execution in compliance with this Act;
- (7) To issue the rules relating to a decision on the complaints and working protection;
- (8) To issue the rules on the submission, receipt of the appeal, procedures and time for consideration of the appeal;
- (9) To appoint a sub-committee to consider or act as assigned by the Commission;
- (10) To perform other tasks prescribed by this Act or other laws or as assigned by the Cabinet.

Section 14⁽¹⁾

There shall be Office of the Private Education Promotion Commission in the Office of the Permanent-Secretary to Education, having the Secretary-General of the Private Education Promotion Commission who has a status as the Director-General and is the superior of the government officials, staff and employees, and who is responsible for the operation of the Office of Private Education Promotion Commission.

Office of the Private Education Promotion Commission shall have the powers and duties as follows:

- (1) To be responsible for administrative work and support operations of the Commission;
- (2) To submit recommendations on the strategic policy, private education development plan to the Commission;
- (3) To promote, support technique, quality assurance, research and development for private education quality assurance;
- (4) To be responsible for the operations relating to the Fund;
- (5) To allocate subsidy to private education in accordance with the measures prescribed by the Commission under Section 13 (4);
- (6) To be a data promotion and support center and private education central registration as well as to follow up and evaluate the private education management;
- (7) To perform other tasks as assigned by the Commission.

Section 15

For the purpose of the private education promotion, there shall be, in a province other than Bangkok and its perimeter provinces, a Private Education Promotion Group being an official agency in any Education Zone Office, having the powers and duties to manage private education in such particular province.

Which Education Zone Office in the province is required to have a Private Education Promotion Group and which provinces deemed to be Bangkok perimeter shall be as determined by the Commission.

In the case where any province needs to have the Private Education Promotion Groups in more than one Education Zone, it can do so with the approval of the Commission provided, however, that facilities, economy and unity of the private education policy shall be taken into account.

Section 16

If any Education Zone Office has the Private Education Promotion Group under Section 15, the committee of such Education Zone shall have two additional members who are representatives of the Licensees and the Teachers each.

The rules and procedures for the selection of the representative of the Licensees and Teachers under paragraph one shall be in accordance with the rules set forth by the Commission.

CHAPTER 2 Formal School

Part 1

Establishment and Commencement of Operation

Section 17

Category and level of the Formal Schools shall be as prescribed by the Commission, and published in the Government Gazette.

Section 18

The establishment of a Formal School shall require a license from the Licensor.

Application for and issuance of a license for each category and level shall be in accordance with the rules, procedures and conditions prescribed in the ministerial regulations. The applicant for the license shall attach to the application the School Charter and details relating to such Formal School's business.

Section 19

The School Charter under Section 18 paragraph two shall contain at least the following particulars;

- (1) objectives,
- (2) name, category, level of the Formal School;
- (3) details of the land, location and plan showing the compound and building(s) of the Formal School;
- (4) capital and properties used in the establishment;
- (5) other particulars prescribed in this Act and ministerial regulations.

The Licensor shall complete the consideration of the application for a license within thirty days from the date of submission of the application.

The Licensee shall not change any particulars under paragraph one unless otherwise authorized by the Licensor. The submission of an application for a license and the granting of a license shall be in accordance with the rules, procedures and conditions set forth in ministerial regulations.

Section 20

Details relating to the activities of Formal School under paragraph two of Section 18 shall comprise at least the following particulars;

- (1) project and operational plan;
- (2) curricula, learning and teaching methods, educational measurement and evaluation;
- (3) rates of tuition fees and other fees;
- (4) qualifications, salary rates, teaching fees, compensation, remuneration, procedures on the employment and employment termination and welfares of Teachers and Educational Personnel.

A change in a particular under (2) of paragraph one can be done upon receiving permission from the Licensor.

Regarding a change in a particular under (1), (3) and (4) of paragraph one, the Licensee shall notify the Licensor in advance of not less than fifteen days.

Section 21

An applicant for a license to establish a Formal School being a natural person shall have the qualifications and have no prohibitions as follows;

- (1) Be of Thai Nationality;
- (2) Be of no less than 20 years of age;
- (3) Possess at least Bachelor's degree;
- (4) Be a person of proper and good moral conduct;
- (5) Having faith in democratic regime with the King as the head of the country;
- (6) Not be a bankrupt;
- (7) Has never been dismissed from the government service with guilt, unless dismissed for not less than two years prior to the date of the application for a license to establish a Formal School;
- (8) The license to establish a School has never been revoked, unless such license has been revoked for at least two years prior to the date of the application for a license to establish a Formal School;
- (9) Not be an incompetent or quasi-incompetent person.
- (10) Has never been imprisoned by a final court judgment, and has been released from such punishment for not more than five years prior to the date of the application for the license to establish a Formal School, except it is a punishment for an offence committed through negligence or petty offence.

Section 22

An applicant for a license to establish a Formal School which is a juristic person shall have the qualifications and have no prohibitions as follows;

- (1) The objective is for education except the juristic person applying for such establishment is a government organization or a state enterprise.
- (2) A juristic person being a public company limited, company limited or partnership shall have the number of shares or capital belonging to the shareholders or partners of Thai Nationality of not less than a half of the total number of shares or capital.
- (3) A juristic person being a foundation shall have directors of Thai nationality of not less than one half of the total number of executive directors.

- (4) A juristic person being an association or a cooperative shall have directors of Thai nationality of not less than one half of the total number of directors, and the members of the association and cooperative shall be of Thai nationality of not less than one half of the total number of members.
- (5) The manager or representative of a juristic person shall have the qualifications and have no prohibitions set forth under Section 21.

Section 23

An applicant for a license to establish a Formal School shall have evidences to show that once a permission to establish a Formal School has already been granted, the School shall receive a transfer of ownership or the right of possession over the land or right of superficies, usufruct for a period of not less than ten years or lease right with the term of lease agreement of not less than ten years.

In the case where the land to be used as the location of the Formal School is the land vested in a government authority, a government agency, Bureau of the Crown Property, monastery under the law governing the Sangha (the Buddhist Monastic Order) or other religious bodies, the applicant for a license may produce an evidence on the authorization to use the land other than the lease agreement or the lease agreement for a term of less than ten years.

The size of land under paragraph one shall be as prescribed in ministerial regulations.

Section 24

Once a license to establish a Formal School has been obtained, such School shall become a juristic person from the date of receiving such license and the Licensee shall become a representative of such juristic person.

Section 25

Once a Formal School becomes a juristic person under Section 24, the Licensee shall proceed as follows;

- (1) ⁽¹⁾To transfer the ownership, right of possession over the land and immovable properties which are component parts of the land, right of superficies, usufruct or lease right, free from any encumbrance as indicated in the application for the license, to the Formal School within one hundred and twenty days from the date of receiving such license.
- (2) Complying with the rules and conditions prescribed in the ministerial regulation under paragraph two of Section 18 and indicated in the license only in respect of the part required to be completed prior to the commencement of operation of the Formal School within the time prescribed by the Licensor.
- (3) Transferring money and other properties being the capital other than the land to the Formal School within the period of time prescribed by the Licensor.
- (4) Arrange to have a complete number of the Executive Board members in accordance with Section 30 within the time prescribed by the Licensor.

In the case where a Licensee fails to comply with (1), (2), (3) or (4), the Licensor shall have the power to revoke the license to establish Formal School.

In the case where the land to be transferred or vested in the Formal School is mortgaged as security for debt incurred as a result of the establishment of the Formal School or debt of the Formal School, it shall not be deemed that such land has an encumbrance under (1).

Section 26

Once a Licensee has proceeded with Section 25, and is ready to commence operation of the Formal School's business, the Licensor shall be notified at least thirty days prior to the date of commencement of operation.

The Licensor shall, upon examination and consideration that the Licensee has properly preceded with Section 25, notify the Licensee to proceed with commencement of operation of business. However, in the case where the Licensor considers that the Licensee has improperly proceeded with Section 25, the Licensor may instruct the Formal School to suspend commencement of business operation until properly preceded. The Licensor shall notify the Licensee at least seven days prior to the date of commencement of business operation of the Formal School.

In the case where a Licensee has not been notified of the result of examination from the Licensor within the prescribed time under paragraph two, such Formal School shall proceed with commencement of business operation according to the time notified.

Section 27⁽¹⁾

In transferring the ownership and right of possession over the land and immovable properties which are component parts of the land under Section 25 (1) including any property to be used in the business of the school to Formal School for the purpose of provision of education, the transferor and the transferee shall be exempted from fees for registration of right and juristic act relating to immovable property, and shall be exempted from taxes as shall be prescribed by the royal decree issued under the Revenue Code.

The exemption from fees and taxes under paragraph one shall include a transfer of the ownership, right of possession over the land and immovable properties which are component parts of the land including any property to be used in the business of the school back to the Licensee, the original owner or his/her heir when the Formal School no longer utilizes the land or dissolves its business.

The provisions in paragraph one and paragraph two shall apply to the transfer of ownership, right of possession of the land and immovable property which are component part of the land including any property used in school business of the Formal Schools established before the Private Schools Act, B.E. 2550 (2007) takes effect, *mutatis mutandis*.

Section 27/1⁽¹⁾

In donating the land and immovable properties which are component parts of the land to the Formal School, the donor shall be exempted from fees for registration of right and juristic act relating to immovable property, and shall be exempted from such taxes as shall be prescribed by the royal decree issued under the Revenue Code.

The land and immovable properties which are component parts of the land donated to the Formal School shall be managed according to the purpose of the Formal School and the conditions imposed by the donor. However, if it is necessary to change said conditions, the Formal School must obtain consent from the donor or his/her heir. In case of no heir, or heir does not appear, permission must be obtained from the Executive Board.

The exemption of fees and taxes under paragraph one shall include a transfer of ownership, possession over the land the immovable properties which are component parts of the land back to the donor or his/her heir when the Formal School no longer utilizes the land or dissolves the business.

Section 28⁽¹⁾

Name of a Formal School shall be in Thai letterings of a reasonably large size posted at a clearly visible place of such Formal School comprising the word "School". In case the name is accompanied by a foreign language, the lettering size of such foreign language shall not be larger than the Thai one. For the Formal Schools which provide education in the category of vocation, both in the level of Certificate of Proficiency in Vocation or Certificate of High Proficiency in Vocation, the word "vocational college" or "technological college" may be used in place of the word "school."

Section 29

A Formal School may establish its branch. The establishment, application for and issuance of a license shall be in accordance with the rules set forth by the Commission.

No Formal School shall perform any acts to make other persons understand that it is a representative, network or branch of Formal Schools, other educational institutes or places in foreign countries unless otherwise authorized by the Licensor.

Section 30⁽¹⁾

A Formal School shall have an Executive Board consisting of the Licensee, Manager, Director, representatives of teachers, representatives of students' parents and qualified persons as members. In case the Licensee, Manager or Director is the same person, or the three is one and the same person, additional one or two qualified persons shall be appointed. However, the number and qualifications of the board members shall be consistent with the size and type of the Formal School according to the rules and conditions prescribed by the Commission.

The rules and procedures for selection of the Board members, election of the Board chairman, term of office and vacation of office shall be as specified in the School Charter.

In case a Formal School needs to have an advisor or a subcommittee to assist the Executive Board, such a school can do so by prescribing in the School Charter.

At the initial stage of establishment of the Formal School when there is no representative of students' parents, the Executive Board under paragraph one shall consist of the existing members.

Section 31

The Executive Board of a Formal School shall have the powers and duties as follows;

- (1) Issuing rules and regulations of the Formal School;
- (2) Approving the policy and education development plan of Formal School;
- (3) Giving advices on the Formal School administration and management on the aspects of personnel, work plan, budget, technique, students' activities, buildings and premises and community relations;
- (4) Ensuring the quality assurance system in the Formal School;
- (5) Following up, monitoring and evaluating the Director's performances;
- (6) Approving one or combined loans exceeding twenty-five percents (25%) of the existing value of properties of the Formal School.

In the case where the Board disapproves the loan, the Board shall propose a practical choice to the Formal School, unless the Board considers that such loan is not for the purpose of running the business of the Formal School.

- (7) Approving the prescription of tuition fees and other fees of the Formal School;
- (8) Approving the annual report, annual financial statements and appointment of an auditor;
- (9) Considering complaints of Teachers, guardians and students;
- (10) Performing any other acts specified by the law as powers and duties of the Executive Board.

Section 32

In prescribing the tuition fees and the other fees of Formal School, the expenses on the management of education, remunerations to the knowledgeable and capable Teachers and other expenses including the cost of business expansion and returns shall be taken into account.

Paragraph two⁽¹⁾ (Repealed)

The tuition fees and the other fees set forth under paragraph one shall be posted at an open place of the Formal School, and the Formal School shall not collect any other fees from students' guardians or students other than those prescribed in paragraph one.

Section 33

In the case where the Commission is of the view that the prescription of the tuition fees and other fees under Section 32 of a Formal School is in a manner seeking unreasonably excessive profit, and such Formal School fails to satisfy that it is not an unreasonable profit, the Commission shall have the power to order the reduction of such tuition fees and other fees as it thinks fit.

Section 34

In the case where the Ministry of Education considers that the tuition fees and other fees prescribed under Section 32 by a Formal School pose unreasonably excessive burden on the public, the Ministry may order such Formal School to reduce such tuition fees and other fees as it thinks fit.

Section 35

Any Formal School which does not collect tuition fees or collect such fees less than the rate calculated under Section 32 because it is a school for charity or for educating the poor shall be financially subsidized or provided with other assistances by the Ministry of Education in order to enable such Formal School to continuously carry out its operations in accordance with the standards set forth by the Commission.

Section 36

The Executive Board shall hold at least one meeting in each normal school term.

The provision under Section 12 shall apply to the Executive Board Meeting *mutatis mutandis*.

Section 37

The Licensee shall appoint a Director to look after and take responsibility for the administration and management of the Formal School and shall notify the Licensor accordingly, and forward the evidence of the appointment of the Director within one month from the date of such appointment.

The Director shall be of Thai nationality, have qualifications and have no prohibitions set forth for an educational institute administrator in accordance with the law governing the Teachers Council and Educational Personnel, and be able to perform his duties full time for such Formal School.

A Licensee may act as a Director without appointing such director referred to in paragraph one.

Section 38

Subject to paragraph three of Section 37, the Licensee may appoint one or several deputy directors to perform duties as assigned by the Director.

The deputy director(s) shall have the same qualifications and prohibitions as the Director.

Section 39

The Director shall have the duties and responsibilities as follows;

- (1) Overseeing and taking responsibilities for technical work of the Formal School;
- (2) Appointing and removing Teachers, Educational Personnel and officers of the Formal School in accordance with the rules set forth by the Executive Board;
- (3) Controlling and administering the Teachers, Educational Personnel and students of the Formal School;

- (4) Preparing a register of the Teachers, Educational Personnel, officers and students and other documents relating to the provision of education in accordance with the rules set forth by the Commission.
- (5) Preparing evidences relating to educational measurement and evaluation in accordance with the rules set forth by the Commission.
- (6) Performing other functions relating to the technical matter in accordance with the official rules and regulations including the School Charter, policy, rules and regulations of the school and other duties set forth under this Act.

Section 40

The Licensee shall appoint one Manager who shall have the duties and responsibilities as follows;

- (1) Overseeing and taking responsibilities for budgetary work of the Formal School;
- (2) Overseeing and taking responsibilities for general administration of the Formal School;
- (3) Performing duties relating to the administration in accordance with the School Charter, policy, rules and regulations of the school and other duties set forth under this Act.

A Licensee may act as the Manager without appointing such Manager referred to in paragraph one.

The qualifications, rules and procedures for the appointment of the Manager shall be in accordance with the regulations set forth by the Commission.

Section 41

In the case where a Licensee is a natural person and is unable to perform duties in any case, the licensee shall appoint a qualified person who shall not possess the prohibitions under Section 21 to perform duties on his behalf. If a person is not appointed to perform the duties on his behalf, the Director shall then perform the duties on his behalf.

Section 42

The Formal School shall provide Teachers and Educational Personnel sufficient to handle the provision of education, and the number shall properly match the students in accordance with the rules set forth by the Commission.

Teachers and Educational Personnel shall have the qualifications and have no characteristics prohibited for teaching practitioners and educational personnel under the law governing Teachers and Educational Personnel Council, as the case may be.

Section 43

The documents required to be prepared by a Formal School under this Act shall be in the Thai language.

Instruction in a Formal School other than the instruction of foreign languages shall be carried out in the Thai language, unless it is an international school or a school authorized to instruct in foreign languages, the instruction shall be carried out in the languages indicated in the license. However, the students shall be instructed to be able to read, write and speak Thai.

For the purpose of expanding the learning opportunity, the Commission may generally authorize the Formal School to carry out the instruction of some subjects in foreign languages, provided that the conditions may be imposed.

Part 2

Properties and Accounts

Section 44⁽¹⁾

(Repealed)

Section 45⁽¹⁾

(Repealed)

Section 46⁽¹⁾

The Manager shall be responsible for setting up the accounting system and preparation of financial account and other accounts of the Formal School according to the form and rules prescribed by the Commission.

A Formal School shall keep accounts and documents supporting the account entries in accordance with the accounting law.

Section 47⁽¹⁾

The Executive Board shall arrange for the audit of accounts of the Formal School in order to examine and give opinions on the financial statements of such Formal School within one hundred and fifty days from the end of the accounting period in accordance with the rules and procedures set forth by the Commission.

The beginning and the end of the Formal School's accounting period shall be in accordance with the announcement of the Formal School.

The Executive Board shall appropriate remuneration derived from operation of the Formal School to the Licensee as it deems appropriate, unless it is the remuneration from operation of the charity school, the Executive Board shall make the appropriation as prescribed by the Commission.

Part 3

Subsidization and Promotion

Section 48

The government shall provide subsidization and promotion to the Formal Schools in addition to the subsidy provided under Section 35 in accordance with the recommendations of the Commission, particularly, on the following matters;

- (1) Providing Educational Personnel together with their remuneration in the case of shortage of such personnel or in the case where any technical aspect is emphasized;
- (2) Providing Teachers together with their remuneration including educational equipments, facilities, media, other educational services and assistances to handicapped students, the underprivileged or persons with special abilities;
- (3) Reducing or exempting import duty on heavy durable goods and equipment for use in education as provided for in the law on customs tariff;
- (4) ⁽¹⁾Reducing or exempting income tax of the Licensee, however, as provided for in the Revenue Code.
- (5) Reducing or exempting building and land tax or any other similar tax as prescribed by law.

Part 4

Fund

Section 49

There shall be a Formal School Promotion Fund in the Ministry of Education for the purpose of being a working capital for granting loan to the Formal Schools.

The Fund consists of money and properties as follows:

- (1) Money transferred from working capital for the purpose of school buildings of the private Islamic schools in the Office of Permanent Secretary for Education under the regulations of the Ministry of Education governing Working Capital for the Purpose of School Buildings of Private Islamic Schools in the South, B. E. 2532 (1989);
- (2) Money transferred from working capital for private school educational development under the Office of Permanent Secretary for Education in accordance with the regulations of the Ministry of Education governing Working Capital for Private School Educational Development B. E. 2545 (2002).
- (3) Subsidy allocated by the government on an annual basis;
- (4) ⁽¹⁾*(Repealed)*
- (5) Money derived from the fees, service charges and fines as a result of default on loan repayment;
- (6) Other money and properties donated to the Fund;
- (7) Fruits and benefits arising out of the Fund;
- (8) Other money and property vested in the Fund.

Money of the Fund shall not be remitted to the Ministry of Finance under the law governing treasury reserves and the law governing Budgetary Procedures.

Section 50

Money of the Fund received from the transfer under paragraph two (1) of Section 49 shall be separated in a specific account for the purpose of support of private Islamic schools in the South in accordance with the procedures set forth by the Commission.

Section 51

The Fund money received under paragraph two (4) of Section 49 shall, should the Formal School which remitted such money dissolves its business and the debt unpaid to the Fund by such school has been deducted, be returned to such Formal School.

Section 52

In the case where it is necessary for the purpose of educational management, a Formal School shall have the right to seek loan from the Fund in accordance with the rules, procedures and conditions set forth by the Commission.

In approving a Formal School to borrow money from the Fund, the Commission may approve without interest payment and security for the portion of loan not exceeding the amount remitted to the Fund by such Formal School.

Section 53

Receipt, disbursement and maintenance of money and administration of the Fund shall be in accordance with the rules set forth by the Commission.

The Office of Permanent Secretary for Education shall maintain and disburse the Fund under this Act.

Part 5

Welfare

Section 54

There shall be a Welfare Fund being a juristic person for the purpose of welfare of Director, Teachers and Educational Personnel, which includes;

- (1) payment as provident fund to Director, Teachers and Educational Personnel;
- (2) provision of welfare and benefits to Director, Teachers and Educational Personnel;
- (3) promotion of savings of Director, Teachers and Educational Personnel;
- (4) payment of relief welfare money.

The Welfare Fund shall not be a government agency or a state enterprise under with the law governing Budgetary Procedures and its revenue shall not be remitted as the state revenue.

Section 55

The Welfare Fund consists of money and properties as follows:

- (1) Money transferred from Welfare Fund under the Private School Act, B. E. 2525 (1982);
- (2) Money remitted to the Fund by Directors, Teachers and Educational Personnel under Section 73 (1);
- (3) Money remitted to the Fund by the Formal School under Section 73 (2).
- (4) Contributions remitted to the Fund by the Ministry of Education under Section 73 (3);
- (5) Donated assets;
- (6) Surcharge under Section 74 and other revenue;
- (7) Fruits of the money and properties of the Welfare Fund.

Section 56

Fruits of the money and properties of the Welfare Fund under Section 55 shall be calculated and classified according to the portion of the Welfare Fund money as follows:

- (1) Fruits of the Welfare Fund money under Section 55 (2);
- (2) Fruits of the Welfare Fund money under Section 55 (1), (3), (4), (5), (6) and (7).

Section 57

The Welfare Fund shall have its main office located at the place announced by the Minister in his notification, and published in the Government Gazette.

Section 58

Business of the Welfare Fund shall not be subject to the labor protection law and labor relations law.

Section 59

The Welfare Fund shall have the power to do the acts within the scope of its objectives under Section 54.

The granting of loan from the Welfare Fund to the Directors, Teachers and Educational Personnel shall require security. The money which the borrower is entitled to receive from

the Fund at the time such loan is requested may be placed as security, in accordance with rules, procedures and conditions set forth by the Welfare Fund Committee.

Investing or seeking benefits from the Welfare Fund money shall obtain prior consent from the Ministry of Finance.

Section 60

The Welfare Fund's operational expenses shall be spent from the fruits of the Welfare Fund under Section 56 (2), which shall not exceed three percents (3%) of the fruits of such Welfare Fund in accordance with the rules, procedures and conditions set forth by the Welfare Fund Committee.

In the case where fruits of the Welfare Fund under paragraph one are insufficient to cover the operational expenses, the Ministry of Education shall set a budget to subsidize such operational expenses as necessary.

Section 61

There shall be a Welfare Fund Committee consisting of;

- (1) the Permanent Secretary for Education as the Chairman;
- (2) the Secretary-General of the Private Education Promotion Commission and a representative of Ministry of Finance as members;
- (3) Representatives each representing the associations relating to private schools, Directors, Teachers and Educational Personnel selected in accordance with the rules set forth by the Minister, as members.
- (4) Three qualified persons who have knowledge in finance, treasury, management of the Fund or law selected by a joint meeting between the Chairman and members under (2) and (3), as members.

The director of Welfare Fund shall be a member and secretary.

Section 62

The qualified members shall not possess the prohibitions as follows:

- (1) Not be a person dismissed, removed or terminated employment by a government authority, state enterprise or other government agency because of malfeasance;
- (2) Not be a person holding a political office, or be a member, advisor and officer of a political party.

Section 63

The qualified members shall hold office for a term of three years, and may be reappointed, but they shall not hold office for more than two consecutive terms.

Section 64

In addition to vacating office on the expiration of term under Section 63, the qualified members vacate office upon:

- (1) death,
- (2) resignation,
- (3) becoming a bankrupt,
- (4) being incompetent or quasi-incompetent person,
- (5) being imprisoned by a final court judgment,
- (6) possessing prohibitions under Section 62.

In the case the office of a member becomes vacant, and a new member has not yet been appointed as a replacement, the Committee shall consist of the remaining members.

Section 65

In the case where qualified members vacate office upon the expiration of the term, the qualified members vacating office shall continue to perform duties until the new qualified members are appointed.

In the case where a qualified member vacates office prior to the expiration of his term, a new qualified member shall be appointed without delay, unless the remaining term of his office is less than ninety days, the appointment may not be made. The newly appointed person shall remain in office for the remaining term of the person whom he replaces.

Section 66

The Welfare Fund Committee shall have the powers and duties as follows:

- (1) To stipulate policy, issue rules and regulations on the management of the Welfare Fund's business set forth under this Act;
- (2) To stipulate policy, rules and conditions for investment of the Welfare Fund and to allow the financial institutions to invest or otherwise seek benefits from the money of the Welfare Fund with the approval of the Ministry of Finance;
- (3) To supervise the management of the Welfare Fund;
- (4) To stipulate the rules and procedures for payment of relief welfare fund;
- (5) To approve expenditure budget of the Welfare Fund;
- (6) To stipulate the rules and procedures for receipt, maintenance and disbursement of money of the Support Fund;
- (7) To stipulate the rules and regulations relating to personnel administration of the staff and employees and to fix the salary and other money including the assistance and welfare;
- (8) To appoint a sub-committee to carry out the tasks as assigned by the Welfare Fund Committee;
- (9) To perform other works to ensure compliance with the objectives of the Welfare Fund.

Section 67

Meetings of the Welfare Fund Committee and sub-committee shall be in accordance with the procedures of the Welfare Fund Committee.

A member of the Welfare Fund Committee shall be prohibited to participate in the consideration of the matter in which he has an interest.

Section 68

Members of the Welfare Fund Committee and sub-committee shall receive remuneration in accordance with the rules set forth by the Welfare Fund Committee with the approval of the Ministry of Finance.

Section 69

There shall be one director of the Welfare Fund appointed by the Welfare Fund Committee from qualified persons having the qualifications and having no prohibitions as follows:

- (1) Be a Thai nationality.
- (2) Not be more than sixty-five years of age;
- (3) Be able to perform works full time for the Welfare Fund;
- (4) Has never been imprisoned by a final judgment except for the offence committed through negligence or petty offense;
- (5) Not be or used to be a bankrupt;

- (6) Not be a government official, staff or employee of a government agency;
- (7) Not be a political official, holder of political office or advisor or officer of a political party;
- (8) Not be a managing director, manager or a person holding any other position having the work of similar nature in a partnership or company except the case where the Welfare Fund Committee assigns him to be a member in the company where the Welfare Fund is a shareholder;
- (9) Not be an interested person in the contract made with the Welfare Fund or in a business undertaken for the Welfare Fund, directly or indirectly.

Section 70

Holding of office, vacation of office, prescription of conditions for probationary work and the performance of works of the director of the Welfare Fund shall be in accordance with the employment agreement prescribed by the Welfare Fund Committee.

The term of each employment shall not exceed four years. Upon expiration of the term of the employment agreement, the Welfare Fund Committee may renew the term thereof.

The chairman of the Welfare Fund Committee shall be empowered to execute an agreement on the employment of the director of the Welfare Fund on behalf of the Welfare Fund.

The director of the Welfare Fund shall receive wage, remuneration and other money prescribed by the Welfare Fund Committee.

Section 71

The director of the Welfare Fund shall supervise the staff and employees, and be responsible for the management of the Welfare Fund's business in compliance with the objectives of the Welfare Fund and the laws, rules, regulations and policy prescribed by the Welfare Fund Committee.

Section 72

In the business of the Welfare Fund relating to third persons, the director of the Welfare Fund shall be a representative of the Welfare Fund.

The director of the Welfare Fund may authorize other person to perform duties on his behalf in accordance with the regulations set forth by the Welfare Fund Committee. Such regulations shall be published in the Government Gazette.

A juristic act undertaken in violation of the regulations under paragraph two shall not bind the Welfare Fund unless ratified by the Welfare Fund Committee.

Section 73

The Formal Schools, Directors, Teachers, Educational Personnel and Ministry of Education shall remit the accumulated money or contributions, as the case may be, to the Welfare Fund in accordance with the following criteria;

- (1) The Director, Teachers and Educational Personnel shall remit accumulated money for themselves at the rate stipulated by the Welfare Fund Committee, which shall not exceed three percents (3%) of their monthly salaries received, and shall not exceed the limit prescribed the ministerial regulation.
- (2) The Formal School shall remit the contribution in the amount equivalent to the accumulated amount remitted by Director, Teachers and Educational Personnel under (1) on an individual basis.
- (3) The Ministry of Education shall remit the contribution in the amount double the accumulated amount remitted by the Director, Teachers and Educational Personnel under (1) on an individual basis.

Section 74

The Formal School shall deduct and collect the accumulated money of the Director, Teachers and Educational Personnel required to remit under Section 73 (1) in each payment of salary, and remit such accumulated money together with the contribution the Formal School is required to remit under Section 73 (2) in accordance with the procedures prescribed by the Welfare Fund Committee within the tenth day of each succeeding month.

In the case where a Formal School fails to remit the contribution within the time under paragraph one, or incompletely remits, such Formal School shall be subject to payment of surcharge at the rate of two percent per month until the contribution is remitted or remitted in full.

Section 75

The Director, Teachers and Educational Personnel who have remitted the accumulated money under Section 73 (1) for two consecutive months shall be entitled to receive the assistance welfare fund.

The assistance welfare fund under paragraph one shall be spent from the fruits of the Welfare Fund under Section 56 (2) in accordance with the rules prescribed by the Welfare Fund Committee under Section 66.

Section 76

Directors, Teachers and Educational Personnel shall be entitled to receive provident fund after retirement from work as follows:

- (1) the provident fund Type 1 equivalent to the amount remitted by the Director, Teachers and Educational Personnel, as the case may be, under Section 73 (1) including the fruits calculated under Section 56 (1);
- (2) the provident fund Type 2 equivalent to the amounts remitted by the Formal Schools and Ministry of Education under Section 73 (2) and (3) excluding the fruits under Section 56 (2).

The Directors, Teachers and Educational Personnel shall not be entitled to receive the provident fund Type 2 in case of termination of employment with cause, or prior to completion of a period of ten years in service, unless the employment is terminated because of death, sickness or physical disability examined and given opinion by a certified physician that such person can no longer practice his/her profession, or because of business dissolution of the Formal School.

If the working period of the Director, Teachers and Educational Personnel is more than twenty years, the Welfare Fund may pay remuneration in addition to the provident fund Type 2 in accordance with the rules set forth by the Welfare Fund Committee.

The working period shall be counted from the first day of the month in which the Director, Teachers and Educational Personnel remit their accumulated money under Section 73 (1).

Section 77

The Director, Teachers and Educational Personnel who retire from work without fault, and their working period is not less than five years but less than ten years, may be entitled to the provident fund Type 2 under the following conditions;

- (1) He/she has not yet received the provident fund Type 1, and continues to remit the accumulated money under Section 73 (1) equivalent to the amount remitted in last month prior to retirement until completion of ten years.
- (2) In calculating the provident fund Type 2, only the money contributed by the Schools and the Ministry of Education shall be calculated under Section 73 (2) and (3) until the date on which the Director, Teachers and Educational Personnel quit the job.
- (3) Other rules and conditions set forth by the Support Fund Committee have been satisfied.

Section 78

When the Director, Teachers and Educational Personnel die or disappear as a resulting of their performance of duties or works for the Formal School, the Welfare Fund shall pay compensation to the spouses and statutory heirs of the Director, Teachers and Educational Personnel, or to the person indicated by such Director, Teachers and Educational Personnel, in accordance with the rules and conditions set forth by the Welfare Fund Committee.

Section 79

When the Director, Teachers and Educational Personnel suffer danger as a result of their performance of duties or works for the Formal School, the relief welfare money shall be paid to them as follows:

- (1) In case of suffering bodily or mental danger until he/she becomes disabled, such relief welfare money shall be paid as compensation.
- (2) In case of suffering danger to the extent of loss of mental and bodily ability, the relief welfare money shall be paid as the cost of rehabilitation subsequent to medical treatment in order to enable such Director, Teachers and Educational Personnel to undertake a suitable career.

Payment under paragraph one shall be made from the fruits of the Welfare Fund under Section 56 (1) provided, however, that such payment shall be in accordance with the rules set forth by the Welfare Fund Committee.

Section 80

The right to receive money from the Welfare Fund under this Act is an exclusive right which is not transferable and coming under the scope of execution, unless it is a payment of debt the Director, Teachers and Educational Personnel owe to the Welfare Fund under this Act.

Section 81

The Welfare Fund shall prepare the accounts of the Welfare Fund in accordance with the accounting standards under the accounting law.

The Welfare Fund shall keep the accounts and documents supporting the account entries in compliance with the accounting law.

Section 82

The Welfare Fund shall prepare and submit the financial statements to the auditor for audit within ninety days from the end of the accounting year.

The beginning and ending date of the accounting year of the Welfare Fund shall be in accordance with the rules set forth by the Welfare Fund Committee.

Section 83

The Welfare Fund Committee shall appoint a third person who is a certified public accountant to audit the accounts of the Welfare Fund in each accounting period.

Section 84

The auditor shall have the duty to audit all accounting books and documentary evidences relating to the Welfare Fund. For this purpose, the auditor shall be empowered to inquire the Licensee, Director, Manager, Teachers and Educational Personnel, members of the Welfare Fund Committee and the persons assigned to carry out the activities relating to the Welfare Fund, and demand them to deliver additional accounting books and documentary evidences relating to the Welfare Fund as necessary.

Section 85

The auditor shall prepare and submit an audit report, financial statements of which have been given opinion, to the Welfare Fund Committee for approval within one hundred and

fifty days. The Welfare Fund Committee shall submit such audit report to the minister within one hundred and eighty days from the end of the accounting year.

The Welfare Fund shall publish the annual report showing details of the financial statements given opinion by the auditor.

Part 6

Working Protection

Section 86⁽¹⁾

The affairs of a Formal School only on the part of the Director, teachers and educational personnel shall not be subject to the law on labor protection, the law on labor relations, the law on social security and the law on compensation. However, the Director, teachers and educational personnel of a Formal School shall receive remunerations not less than those prescribed in the law on labor protection.

Working protection, the adoption of Working Protection Committee and the minimum remunerations of the Director, teachers and educational personnel of the Formal Schools shall be in accordance with the rules prescribed by the Commission.

Part 7

Supervision

Section 87

No Licensee, Director, Manager, Teachers and Educational Personnel shall use or agree to allow other person to use the building, premise and area of a Formal School for unlawful activities or activities contradictory to the order or good moral of the general public or inappropriate to the business of the Formal School.

Section 88

No Formal School shall perform or agree to allow other person to perform any act which may be detrimental to the stability or security of the country or national culture or good moral of the general public.

Section 89

No Formal School shall stop teaching for more than seven consecutive days other than normal school holidays except for unavoidable reasons. In such case, the School shall notify the Licensor in writing together with reasons therefore.

Section 90

If a danger or circumstance which affects the safety of students or provision of education to students occurs, the Licensor may order such related Formal School to stop teaching according to the time scheduled.

Section 91

In the case where it appears that the condition of the buildings, places or premises of a Formal School is inconsistent with the sanitation or hygiene, unstable, or other event which may endanger students, the Licensor shall have the power to issue a written order directing the Licensee to complete the remedial action within a reasonable time.

During remedial action referred to in paragraph one, the licensor may order the Formal School to stop teaching, and such Formal School may also be instructed to proceed with any other act necessary for the provision of education to students.

Section 92

In case where the buildings, premise or area of a Formal School has been destroyed or damaged, or any other necessary cause renders them useless, the Director of such Formal School shall notify the Licensor in writing and proceed with the remedial action to its completion without delay.

During the course of remedial action under paragraph one, if it is a time during which the school term opens, and the time required for such remedial action exceeds thirty days, the director shall provide other place to temporarily run the business of such Formal School, and notify the Licensor within three days from the date on which such other place is provided.

In the case where the Licensor is of the view that the place to be temporarily used for the purpose above is unsuitable or unsafe for students, the Licensor shall instruct the Director to provide a new place within the prescribed time.

Section 93

If it appears to the competent official, or there is a complaint that a Formal School causes trouble or damage to the general public, circumstance detrimental to the order or good moral of the general public or has violated this Act, the competent official shall conduct the fact-finding without delay, and report the result on such fact-finding to the Licensor for further giving instruction pursuant to his/her power and duty.

Section 94

The advertisement of Formal School must not be false, exaggerated or in contradiction to the order or good moral of the general public.

In the case where the Licensor is of the view that the advertisement of a Formal School violates the provisions of paragraph one, the Licensor shall have the power to issue an order directing such Formal School to perform any or several of the following acts:

- (1) Stop showing such advertisement;
- (2) Correct such advertisement;
- (3) Advertise to correct possible misunderstanding of the general public in accordance with the procedures prescribed by the Licensor.

In the case where any Formal School fails to proceed with the order of the Licensor, or violates or fails to comply with the rules and procedures prescribed by the Licensor under paragraph two, the Licensor shall have the power to revoke the license to establish such Formal School forthwith provided, however, that the severity of circumstance in which the offence is committed shall be taken into account.

Section 95

Any Formal School which violates or fails to comply with the provisions of this Act, ministerial regulations, rules or announcements issued under this Act, carries on the business inconsistent with that licensed, or provides education below the prescribed standard, the Licensor shall have the power to issue an order for remedial action within the prescribed time.

Any Formal School fails to comply with the order under paragraph one, the Licensor shall have the power to issue an order directing such Formal School to suspend admission of new students or temporarily cease to carry out all or part of the business pursuant to the license, or other order reasonable to the case, taking into account the severity of circumstance in which the offense is committed.

The order under paragraph one shall not affect the legal action taken against the person committing an act provided by the law as an offence.

Section 96

The Licensor shall have the power to issue an order requiring a Formal School to be controlled by the Office of the Private Education Promotion Commission or the Office of Education Zone of jurisdiction upon any of the following events;

- (1) The fund of such Formal School is insufficient to continue its business.
- (2) Such Formal School violates or fails to comply with the provisions of this Act, ministerial regulations, rules or announcements issued under this Act, such violation or failure may cause serious damage to the operation of business of such Formal School.
- (3) Such Formal School violates or fails to comply with the order of the Licensor or competent official given under this Act, and such violation or failure may cause serious damage to the operation of business of such Formal School.
- (4) Such Formal School fails to comply with the School Charter, and such failure may cause serious damage to the operation of business of such Formal School.
- (5) The Executive Board, Administrator, Director, Manager, Teachers, Educational Personnel or students of such Formal School commit an act seriously detrimental to the stability or security of the country, order, national culture and good moral of the general public.
- (6) Upon the cases under Section 107, Section 108, Section 109, Section 110 or Section 111.
- (7) Other cases specified in the ministerial regulations.

The order controlling such Formal School shall be notified to the Executive Board and posted at the entrance gate of such Formal School.

Section 97

When the order controlling the Formal School under Section 96 has been issued, the Licensor shall appoint a Formal School Controlling Committee consisting the committee chairman and no more than six qualified members who have knowledge, ability and experience in education and other related fields to temporarily perform duties in place of the Executive Board and run the business of such Formal School while it is controlled.

The Licensor, having appointed the Formal School Controlling Committee, shall report the same to the Commission.

Section 98

When the order controlling the Formal School under Section 96 has been issued, the Licensee, Director, Manager, Teachers, Educational Personnel, officers and other duty performers of such Formal School shall perform duties in such School as assigned by the Formal School Controlling Committee, and reasonably handle the assignments in order to maintain order and safeguard the properties of such Formal School.

The Licensee, Director and Manager shall hand over the assets together with all accounting books, documents and other items relating to assets and liabilities of such Formal School as well as evidences relating to all students of such Formal School to the Formal School Controlling Committee within seven days from the date of issuance of the order controlling the Formal School under Section 96.

Section 99

The Licensor may instruct the government officials of the Ministry of Education to perform duties at the Formal School during the period in which such Formal School has been controlled by the Formal School Controlling Committee according to necessity, which shall be treated as normal government service.

Section 100

The Formal School Controlling Committee shall, upon consideration that the event for the order controlling the Formal School has ceased, or has been corrected or improved, submit its opinions to the Licensor.

If the Licensor considers that it is expedient to revoke the order controlling Formal School, he/she shall issue a revocation order, and notify the Executive Board accordingly, and post such order at the entrance gate of the Formal School, and report to the Commission. The Formal School Controlling Committee shall return the properties and documentary evidences received under paragraph two of Section 98, to the Formal School within seven days from the date of issue of the order revoking the control over the Formal School.

Section 101

The expenses on operation of business during the period of control of the Formal School and remuneration for performance of duties of the Formal School Control Committee shall be paid from the money of the Formal School in accordance with the rules prescribed by the Commission.

In the case where the money of the Formal School is insufficient to cover the payment under paragraph one, such Formal School shall have the right to borrow money from the Fund under Section 49 to make payment.

Section 102

If the Formal School Controlling Committee is of the view that it is unreasonable for the Formal School placed under control to continue its business for any reason, it shall report the Licensor for further giving instruction.

Section 103

The Licensor, upon receiving the report under Section 102, may order the Formal School Controlling Committee to continue controlling according to the prescribed time, or issue an order revoking the license to establish a Formal School.

Section 104

In execution of duties, the Formal School Controlling Committee shall be the officials under the Criminal Code, and have the same powers as the competent officials under Section 128.

Part 8

Conduct, Manner, Discipline and Duty

Section 105

The Licensees, Directors, Administrators, Managers, Teachers and Educational Personnel who are not subject to the law governing the Teachers Council and Educational Personnel shall possess conduct, manner, discipline and duty in accordance with the rules set forth by the Commission.

Part 9

Transfer of License to Establish Formal School

Section 106

Any Licensee who desires to transfer the license to establish a Formal School to other person shall submit an application to the Licensor in accordance with the procedures set forth by the Commission.

The licensor shall, upon consideration that the transferee possesses qualifications and possesses no prohibitions under Section 21 or Section 22, as the case may be, grant permission without delay.

Section 107

If the Licensee dies or disappears, and his/her heirs wish to continue the School's business, the heir who has qualifications and has no prohibited characteristics under Section 21 shall submit an application, or in case of several heirs, those heirs shall appoint one heir who has qualifications and has no prohibited characteristics under Section 21 to submit an application for taking of transfer of a license to the Licensor within ninety days from the date on which the Licensee dies or disappears, or within the time extended by the licensor as necessary. If the application has not been submitted within the prescribed time, the Licensor shall issue an order controlling the Formal School under Section 96.

In the case where the Licensee has left his/her domicile or residence, and the news relating to the Licensee has not been obtained for a period exceeding thirty days, the heir of the Licensee under paragraph one shall have the right to submit an application for permission to assume duties in place of such Licensee until the Court adjudicates that such Licensee disappears, dies, or reappears.

Once an application to take the transfer of the license under paragraph one or paragraph two has been submitted, the applicant shall have the same rights and duties as to those of Licensee until the Licensor refuses the transfer of such license.

Section 108

Upon occurrence of the event under Section 107, or in case the Licensee has left his/her domicile or place of residence under Section 107 paragraph two for a period of one year, if the heir does not wish to continue the business of such Formal School, the heir shall submit an application for the dissolution of business of such Formal School under Section 114, or transfer the license to other person in accordance with Section 106 within ninety days from the date on which the Licensee dies or disappears or the date of completion of one year in which the Licensee has left his/her domicile or residence. If the application has not been submitted within the prescribed time, the Licensor shall issue an order controlling such Formal School under Section 96.

Section 109

In the case referred to in Section 107, if there is no any heir who has qualifications and has no prohibited characteristics under Section 21, or in case several heirs are unable to reach the agreement, and wish to continue the business of Formal School, such heirs or administrator of estate shall establish a juristic person which has qualifications and has no prohibited characteristics under Section 22 for submission of application for taking of the License to the licensor within ninety days from the date of establishment of such juristic person, provided the provisions of Section 107 paragraph three shall apply *mutatis mutandis*.

If the application has not been submitted within the time, the Licensor shall issue an order controlling such Formal School under Section 96.

Section 110

In the case where a Licensee is a natural person and lacks qualifications or has prohibited characteristics under Section 21, the Licensee shall transfer the license to the person who has qualifications and has no prohibited characteristics under Section 21 or Section 22, as the case may be, within ninety days from the date on which such Licensee lacks qualifications or has prohibited characteristics.

In the case where a Licensee is a juristic person and has been disqualified or has possessed the prohibitions under Section 22, such juristic person shall make correction within ninety days from the date on which it, has been disqualified or possessed the prohibitions.

If the Licensee fails to proceed within the time under paragraph one or paragraph two, as the case may be, the Licensor shall issue an order controlling such Formal School in accordance with Section 96.

Section 111

In the case where a Licensee who is a juristic person and ceases its status, or becomes bankrupt, the Licensor shall issue an order controlling such Formal School under Section 96.

Section 112

During the absence of a person who acts as a Licensee under this Chapter, the Director shall have the same powers and duties as the Licensee.

Part 10

Business Dissolution and Liquidation

Section 113

A Formal School dissolves its business when;

- (1) the Licensee or heirs, as the case may be, have been granted permission to dissolve the business of the Formal School or
- (2) the Licensee has been revoked a license to establish a Formal School.

Section 114

In the case where a Licensee or his/her heirs, as the case may be, do not wish to continue the business of the Formal School, such Licensee or his/her heirs shall submit to the Licensor an application for the dissolution of the Formal School's business together with reasons therefore at least one hundred and twenty days prior to the end of the academic year.

In case it is impossible for the Formal School to continue its business, the Licensee or his/her heirs, as the case may be, may submit an application for permission to dissolve the Formal School's business in advance less than the time prescribed in paragraph one.

In granting permission pursuant to the application under paragraph one or paragraph two, the Licensor may impose measures or conditions for compliance by the Formal School in order to protect or for the purpose of the provision of education to students in such school prior to granting such permission to dissolve the business of such Formal School as he/she thinks fit.

Section 115

Once the Formal School has dissolved its business in accordance with Section 113, the Executive Board or the Formal School Controlling Committee, as the case may be, shall appoint a liquidator to carry out the liquidation of the Formal School. The provisions of the Civil and Commercial Code governing Liquidation, Registered Partnership, Limited Partnership and Limited Company shall apply *mutatis mutandis*.

During the course of liquidation, it shall be deemed that such Formal School remains exist to the extent of the time necessary for such liquidation.

After the liquidation under paragraph one has been carried out, the remaining assets, if any, shall be returned to the Licensee.

Section 116

Before the permission to dissolve the Formal School's business is obtained, the Licensee, Director and Manager are required to deliver the Licensor documentary evidences under Section 39 (4) and (5) and other documents prescribed by the Commission.

If the Licensor considers that the documentary evidences delivered under paragraph one are incomplete, the Licensor shall have the power to order the persons under paragraph one to additionally deliver such documentary evidences until completion within the prescribed time.

For this purpose, such persons shall be deemed to have duties under paragraph one until the documentary evidences have been completely delivered.

When the Formal School dissolves its business, and needs to issue educational certificates, the Licensor shall have the power to issue such certificates on behalf of such Formal School.

The Licensor shall provide assistances to students of the dissolved Formal School as appropriate to the case.

Part 11

Appeal

Section 117⁽¹⁾

In Bangkok, there shall be an Appeal Committee consisting the Permanent-Secretary to Education as chairman, the representative of Office of the Attorney-General, the Secretary-General of the Private Education Promotion Commission and the chairman of Bangkok Education Area Committee appointed by the Commission, as members, and the Permanent-Secretary to Education shall appoint three representatives from the associations involving in private education as members, and appoint one director of state educational establishments in Bangkok as a secretary and one director as an assistant secretary.

In each province other than Bangkok, there shall be an Appeal Committee consisting the provincial governor or deputy provincial governor assigned by the provincial governor as chairman, a representative of the Office of Provincial Public Prosecutor, and the chairman of Education Area Committee in such province appointed by the provincial governor and three representatives of the Provincial Private Education Coordination and Promotion Committee as members, and the provincial governor shall appoint one director of the State educational establishments in such province as a secretary and one director as an assistant secretary, unless in the province where the governor is assigned by the Secretary-General of the Private Education Promotion Commission to act as the Licensor, such province shall have the Permanent-Secretary to Education or the Deputy Permanent-Secretary to Education entrusted by the Permanent-Secretary to Education as the chairman, and the Permanent Secretary to Education shall appoint the chairman of Education Area Committee, the director of the Office of Provincial Private Education and three representatives of the provincial private schools association as members, and appoint one director of any State educational establishments in such province as a secretary and one such director as an assistant secretary.

The provisions of Section 12 shall apply to the meeting of the Appeal Committee, *mutatis mutandis*.

Section 118

Any person who is subject to or affected by the order of the Licensor, and is not satisfied with such order, shall have the right to submit a written appeal to the Appeal Committee within thirty days from the date of receipt of the notice of order in writing from the Licensor or the date of knowing such order, as the case be.

The decision of the Appeal Committee shall be final.

Section 119

Submission, receipt, procedure of the appeal and time for consideration of the appeal shall be in accordance with the rules prescribed by the Commission.

The appeal shall not relieve the compliance with the order of the Licensor unless instructed by the chairman of the Appeal Committee to relieve the compliance with the order, pending the decision on the appeal according to the rules, procedures and conditions prescribed by the Commission.

CHAPTER 3

Non-Formal Schools

Section 120

The establishment of a Non-formal School shall require a license from the Licensor.

Category and nature of a Non-formal School including the provision of learning, teaching and curricula of the Non-formal School shall be as prescribed by the Commission, and published the Government Gazette.

Section 121

An application for and issuance of a license shall be in accordance with the rules, procedures and conditions set forth in the ministerial regulations which, in this connection, the applicant for permission shall attach to the application the details relating to such Non-formal School's business, and shall have at least the following particulars;

- (1) name, category and nature of the Non- formal School;
- (2) location and layout showing the compound and building(s) of the Non- formal School;
- (3) curricula, learning and teaching methods and educational measurement and evaluation;
- (4) rules for calculation of tuition fees and other fees including rules for increase in such fees.
- (5) other particulars as provided in the ministerial regulations.

The Licensee, having been granted permission, shall not change the particulars under paragraph one unless permitted by the Licensor.

The Licensor shall complete the consideration of the application for a license within ninety days from the date of receiving the application.

Section 122

The Licensee shall provide an Administrator to supervise and monitor as well as take responsibilities for the management of the work of the Non-formal School to be in compliance with the law, official rules and regulations and details in accordance with paragraph one of Section 121 which, in this connection, a Licensee possessing qualifications and having no prohibitions in under paragraph two below can be the administrator and that the evidence on the appointment of or on becoming such administrator, as the case may be, shall be forwarded to the Licensor within thirty days from the date of such appointment or assuming the management.

Qualifications and prohibited characteristics of the Administrator shall be as prescribed in the ministerial regulations.

Section 123

The Non-formal School shall provide Teachers or Instructors who have qualifications suitable for the curriculum with number appropriate to students according to the rules prescribed by the Commission.

Section 124

The Commission may require the Administrator of the Non-formal School of certain type and size to prepare a report showing activities and financial statement of such School, and submit the same to the Licensor each year according to the rules prescribed by the Commission.

Section 125

The collection of tuition fee and other fee in the Non-formal School shall not be in a manner seeking unreasonably higher profit when taking into account the educational quality, standard and rights and benefits received by students.

Section 126

In the case where a Non-formal School desires to dissolve its business, the Licensee shall give the licensor a written notice at least thirty days prior to the date on which it desires to dissolve the business, and such license shall cease to be effective when it becomes due for dissolution of business.

If the Licensor finds that any Non-formal School ceases to operate the business for a period exceeding ninety days without giving notice on the dissolution of the business in accordance with paragraph one, the Licensor shall have the power to revoke the license of such Non-formal School.

Section 127

The following provisions including related penal provisions shall apply to the Non-formal Schools *mutatis mutandis*.

- (1) Section 21, Section 22, Section 28, Section 29, Section 33, paragraph one and paragraph three of Section 43 and Section 48 (3), (4) and (5);
- (2) Section 73, Section 74, Section 75, Section 76, Section 77, Section 78, Section 79 and Section 80 for the Administrators, Teachers and Educational Personnel,
- (3) ⁽¹⁾The provisions of Part 6, Part 7, Part 8, Part 9 and Part 11 of Chapter 2, excluding Section 86.

CHAPTER 4

Competent Officials

Section 128

In performing duties under this Act, the competent officials shall have the power to enter the Schools during the working hours, and summon the persons concerned in writing to give statements, submit documents or related materials in support of consideration.

In entering the Schools under paragraph one, the competent officials shall produce their identification cards to the persons concerned. Such persons shall provide assistance to the competent officials as appropriate.

The identification cards of the competent officials shall be as prescribed in the ministerial regulations.

Section 129

In performing duties under this Act, the competent officials and the Appeal Committee under Section 117 shall be the officials under the Criminal Code.

CHAPTER 5

Penalty

Section 130

Any person who establishes a Formal School without obtaining permission under Section 18 shall be liable to imprisonment for a term not exceeding one year or a fine not exceeding twenty thousand Baht, or both.

Section 131

Any person who fails to comply with paragraph three of Section 19, paragraph one of Section 26 or Section 28 shall be liable to a fine not exceeding ten thousand Baht.

Section 132

Any Formal School which provides learning and teaching deviating from the details indicated in Section 20 (2), or collects the fees deviating from the rate indicated in Section 20 (3), or fails to comply with paragraph two of Section 20 shall be liable to a fine not exceeding ten thousand Baht.

Section 133

Any Formal School which fails to comply with Section 29 shall be liable to a fine not exceeding twenty thousand Baht.

Section 134

Any Licensee who fails to appoint the Director, or fails to notify under paragraph one of Section 37 shall be liable to a fine not exceeding twenty thousand Baht.

Section 135

Any Licensee of a Formal School who appoints a person having no qualifications under paragraph two of Section 37 as the Director, or appoints a person having no qualifications under paragraph two of Section 38 as a deputy director, or allows a person who has not been appointed as the Director or deputy director to perform the duties of the Director or deputy director, as the case may be, shall be liable to imprisonment for a term not exceeding one year or a fine not exceeding twenty thousand Baht, or both.

Section 136

Any Director who fails to comply with Section 39 (4) or (5) shall be liable to a fine not exceeding twenty thousand Baht.

Section 137

Any person who forges all or part of the documentary evidences under Section 39 (4) or (5), adds or subtracts the contents of or alters such documentary evidences by any means, or forges the seal or signature affixed thereon, or falsely prepares or certifies such documentary evidences in a manner likely to cause damage to other person or general public, if such act is done with an aim to mislead any person to believe that such documentary evidences are genuine, shall be liable to imprisonment for a term from six months up to five years or a fine from ten thousand Baht up to one hundred thousand Baht, or both.

In the case where the offender under paragraph one is the Director, the doer shall be liable to punishment twice the punishment stipulated under paragraph one.

Any person who uses or relies on the documentary evidences he himself knows that they are forged under paragraph one shall be liable to the punishment provided for under paragraph one.

If the offender under paragraph one uses or relies on such forged documentary evidences under paragraph three, punishment under paragraph three shall be imposed as one count.

Section 138

Any Formal School which fails to comply with paragraph one of Section 42, or fails to prepare documents in the Thai language under paragraph one of Section 43, or fails to

comply with paragraph two of Section 43, or fails to comply with the conditions set forth by the Commission under paragraph three of Section 43, shall be liable to a fine not exceeding fifty thousand Baht.

Section 139

Any Manager who fails to comply with paragraph one of Section 46 shall be liable to a fine not exceeding twenty thousand Baht.

Section 140

Any Formal School which fails to comply with paragraph two of Section 46 shall be liable to a fine not exceeding twenty thousand Baht.

Section 141

A Licensee, Director, Manager, Teacher or Educational Personnel who violates Section 87 shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding ten thousand Baht, or both.

Section 142

Any Formal School which violates Section 88 shall be liable to a fine not exceeding one hundred thousand Baht.

Section 143

Any Formal School which violates Section 89 or any Director who fails to notify the Licensor under paragraph one of Section 92 shall be liable to a fine not exceeding ten thousand Baht.

Section 144

Any Licensee who fails to comply with the order of the Licensor under Section 91 shall be liable to a fine not exceeding ten thousand Baht.

Section 145

Any Licensee, Director, Manager, Teachers, Educational Personnel, officers or other operators of a Formal School who fail to comply with paragraph one of Section 98 shall be liable to a fine not exceeding ten thousand Baht.

Section 146

Any Licensee, Director or Manager who fail to comply with paragraph two of Section 98, paragraph one or paragraph two of Section 116 shall be liable to a fine not exceeding one hundred thousand Baht and an additional fine of five thousand Baht per day throughout the period of violation.

Section 147

Any person who establishes a Non-formal School without permission in accordance with Section 120 shall be liable to imprisonment for a term not exceeding one year or a fine not exceeding twenty thousand Baht, or both.

Section 148

Any Non-formal School which provides learning and teaching deviating from the details indicated in Section 121 (3) or collects fees deviating from the rate indicated in Section 121 (4) or fails to comply with paragraph two of Section 121, shall be liable to a fine not exceeding ten thousand Baht.

Section 149

Any Licensee who fails to appoint the Administrator under paragraph one of Section 122, or appoints a person having no qualifications or having prohibitions under paragraph two of Section 122, or allows a non-appointed person to be an Administrator to assume duties of the Administrator, as the case may be, shall be liable a fine not exceeding ten thousand Baht.

Section 150

Any Non-formal School which fails to comply with Section 123 shall be liable to a fine not exceeding fifty thousand Baht.

Section 151

Any Administrator failing to comply with Section 124 shall be liable for punishment of a fine not exceeding twenty thousand Baht.

Section 152

Any person who obstructs, fails to comply with the orders, or fails to provide assistance to the competent official or a School Controlling Committee member who performs duties under Section 128 shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding ten thousand Baht, or both.

Section 153

In case the Licensee being a juristic person commits an offence and is punished under this Act, the director or manager or person who is responsible for the operation of such juristic person shall be liable to an imprisonment or a fine, or both under the law specifically provided for such offence, unless it can be proved that he/she does not participate in the commission of the offence of such juristic person.

Section 154

The Licensor shall have the power to make a settlement out of court on all offences the punishment of which is a fine only under this Act.

When the Licensor has settled any case out of court, and the alleged offender has paid the fine as settled within thirty days, such case shall be rescinded.

Transitory Provision

Section 155

All businesses, assets, liabilities, rights, obligations, monies and incomes of the working capital established for the purpose of school buildings for private Islamic schools in the South in the Office of Permanent Secretary for Education under the Rules of Ministry of Education governing Working Capital for the Purpose of School Buildings for Private Islamic Schools in the South, B.E. 2532 (1989) and the working capital for the development of private school education in the Office of Permanent Secretary for Education under the Rules of Ministry of Education governing Working Capital for the Development of Private School Education, B.E. 2545 (2002), shall be transferred to the Formal School Promotional Fund under this Act.

Section 156

All businesses, assets, liabilities, rights, obligations, monies and incomes of the relief fund for headmaster and teachers of private schools established under the Private School Act, B.E. 2525 (1982) shall be transferred to the Welfare Fund under this Act.

Section 157

The Private Education Commission and the Working Protection Committee under the Private School Act, B.E. 2525 holding office on the date on which this Act is published in the Government Gazette shall continue to perform duties until the Private Education Promotion Commission and the Working Protection Committee under this Act have been appointed, provided that it shall not be more than 180 days from the effective date of this Act.

Section 158

The School Controlling Committee under the Private School Act, B.E. 2525 holding office on the date on which this Act is published in the Government Gazette shall continue to perform duties until the Licensor issues an order revoking the license or cancelling such control.

Section 159⁽¹⁾

The schools established under the Private Schools Act, B. E. 2525 existing on the date on which this Act is published in the Government Gazette shall become the Formal Schools or Non-formal Schools, as the case may be, under this Act, and it shall be deemed that the Licensee is a representative of the juristic person and is exempted from the transfer of ownership or right of possession of the land to the Formal School. However, the Licensee shall proceed with the preparation of the School Charter and details relating to the affairs of the Formal School under Section 18, paragraph two, and shall arrange to have the Executive Board under Section 30.

If a Licensee of a juristic person school existing before the effective date of the Private Schools Act, B.E. 2550 has not yet prepared the School Charter and details relating to the affairs of the Formal School under Section 18, paragraph two, the documents of incorporation of juristic person which include details relating to administration of the affairs of the school shall be used as the School Charter and details relating to the affairs of the Formal School until the School Charter and details relating to the affairs of the Formal School under the Private Schools Act, B.E. 2550 have been prepared.

If a Licensee of an international school which is a juristic person existing before the effective date of the Private Schools Act, B.E. 2550 has not yet prepared the School Charter and details relating to the affairs of the Formal School under Section 18, paragraph two, and has not yet provided the Executive Board under Section 30, the documents of incorporation of juristic person which include details relating to administration of the affairs of the school shall be used as the School Charter and details relating to the affairs of the Formal School, and the Administrative Board of such juristic person shall be the Executive Board under the Private Schools Act, B.E. 2550 until the School Charter and details relating to the affairs of the Formal School have been prepared and the Executive Board has been appointed under this Act.

The proceeding under this Section shall take no more than two years after the effective date of this Act. However, the proceeding must comply with the rules, procedures and conditions prescribed by the Commission.

Section 160

During the absence of the Executive Board under Section 30, the Administrative Board under the Private School Act, B.E. 2525 holding office on the date on which this Act has been published in the Government Gazette shall perform the duties of the Executive Board until the Executive Board under this Act is appointed.

Section 161

During the absence of the Welfare Fund Committee under Section 61, the Private Education Commission under Section 157 shall perform the duties of the Welfare Fund Committee until the Welfare Fund Committee under this Act is appointed, which shall not be more than one year from the date on which this Act has been put into force.

The Private Education Commission under Section 157 shall appoint an official of the Ministry of Education to perform the duties of the director of the Welfare Fund until the director of the Welfare Fund under this Act is appointed which, in this connection, shall not exceed one hundred and eighty days from the date on which this Act has been put into force.

Section 162

The managers, headmasters and teachers under the Private School Act, B.E. 2525 (1982) performing duties on the date on which this Act has been published in the Government Gazette shall continue to perform the duties of the Manager, Director, Administrator, Teacher, Instructor or Educational Personnel, as the case may be, under this Act. However, the Directors and Teachers shall complete the request for a license to be a controlled professional practitioner under the law on Teachers and Educational Personnel Council within 180 days from the effective date of this Act.

Section 163

The headmasters and teachers entitled to receive the provident fund Type 2 upon retirement from work under the Private School Act, B.E. 2525 shall continue to enjoy the right to the provident fund Type 2, and receive the same rights and benefits under with this Act.

Section 164

A person who requests a license to establish a School prior to the effective date of this Act shall proceed with such request until it is completed, which shall be deemed an act done under this Act. However, the proceedings shall be completed within one hundred and eighty days from the effective date of this Act.

Section 165

All petitions submitted prior to the effective date of this Act shall be carried out further under the Private School Act, B.E. 2525 until completion, provided that the proceedings shall be completed within one hundred and eighty days from the effective date of this Act.

Section 166

While the ministerial regulations, rules and announcements for the implementation of this Act have not yet been issued, the ministerial regulations, rules and announcements issued under the Private School Act, B.E. 2525 shall apply *mutatis mutandis* to the extent not inconsistent or contrary to this Act.

Countersigned by

General Surayuth Chulanond

Prime Minister

(Published in Government Gazette, Volume 125, Part 7 Kor, Date 11 January, B.E. 2551 (2008))

Note

(1) is amended/added/repeal by the Private School Act (No. 2), B.E. 2554

Rate of Fees

(1) License for establishment of Formal School	5,000 Baht each
(2) License for establishment of Non-Formal School	3,000 Baht each
(3) Substitution for license for establishment of Formal School	500 Baht each
(4) Substitution for license for establishment of Non-Formal School	300 Baht each
(5) Fee for filling an application	500 Baht each

Remarks:

Reasons for promulgation of this Act are as follows:

Whereas the law on the National Education prescribes the principles of management and administration of education of a private school that a private school must be a juristic person and have an Executive Board in order to independently perform the duties of management and administration of education of a private school with the same supervision, monitoring, assessment of quality and standards as those of the state educational establishment. In addition, for private parties to participate in the administration of education with the government being ready to provide subsidies and other rights and benefits including technical promotion and support to private educational establishments, it is appropriate to improve the provisions in the Private School Act, B.E. 2525 (1982). It is therefore necessary to promulgate this Act.

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