

**PENUKARAN
INSTITUT TEKNOLOGI MARA
KEPADA
UNIVERSITI TEKNOLOGI MARA**



**AKTA
INSTITUT TEKNOLOGI MARA
(PINDAAN) 1999**

**PEJABAT REKTOR
INSTITUT TEKNOLOGI MARA
SEPTEMBER 6, 1999**

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ISU-ISU PERSEDIAAN

1. CONVERSION INTO A UNIVERSITY UNDER AUKU OR UNDER ACT 173?

Should ITM be converted into a University under the Universities and University Colleges Act, 1971 (AUKU) or under its own Akta Institut Teknologi MARA, 1976 (Akta 173)?

The Lembaga Pengarah of ITM wishes to request that ITM should be allowed to retain its own Akta for the following reasons:

- (i) ITM's all-Bumiputra policy conflicts with section 5 of the First Schedule of AUKU which forbids racial discrimination. Though section 5 of AUKU declares itself "subject to Article 153", it is anticipated that any University established under AUKU will face mounting political pressures to conform to the existing quotas applicable to other universities.
- (ii) If the new University to replace ITM is established under AUKU, Act 173 will have to be repealed. The repeal of the ITM Act is fraught with political dangers. Most respectfully, ITM wishes to alert the Ministry to the danger that the Malay opposition may allege that the repeal of the ITM Act is the first step towards the eroding of the special status of ITM. Some of the euphoria that was generated by YAB Perdana Menteri's announcement on 26 August is in danger of being lost if the ITM Act is repealed.
- (iii) YAB Perdana Menteri has stated publicly that ITM will not be placed under the provisions of AUKU.
- (iv) In 1996, YB Menteri Pendidikan, after clause by clause scrutiny of ITM's proposals for amendments to its parent law, gave his blessings to the upgrading and corporatisation of ITM. The resulting Act A964 conferred on ITM all the powers of a functioning university. In addition Act A964 gave to ITM many peculiar advantages which are not found in AUKU. ITM does not wish to forfeit these "advantages". Some of them are:
 - Under section 4(1)(a), Akta 173, ITM has the power to conduct courses of study "in Malaysia or elsewhere". ITM has already utilised this power to conduct a course in Indonesia.

- Under section 7(1), Akta 173, ITM has the power, with the permission of the Minister, to set up a Branch “in Malaysia or elsewhere”. ITM has already been approached by many Asian and African states to share its experience and expertise in “affirmative action” with other nascent states seeking to re-structure their educational systems. It is conceivable that some time in the future ITM will, with the permission of the Minister, invoke this clause to provide educational leadership outside our shores.
 - Under section 4(1)(jd), Akta173, ITM has explicit powers to franchise its products and services. The powers in AUKU under section 4(1)(kc) are less explicit.
 - Under AUKU, section 15D, when a student is charged with a criminal offence, he shall immediately thereupon be suspended from the University. The corresponding ITM provision, section 23J(1)(a), gives to ITM a discretion whether to suspend or not.
- (v) Act A964 has served ITM well. ITM wishes to retain its links with this law though it looks forward to further amendments to Act 173 with hope and confidence.
- (vi) If ITM were converted to a University by an amendment to its parent law, this will result in two parallel and conflicting laws dealing with the establishment of universities – AUKU (1971) and the ITM (Amendment) Act 1999.

It is submitted that the existence of more than one legislation on the same subject matter is not unusual. On a host of matters like corruption, gun control and dangerous drugs there is a plurality of legislation. We propose to overcome the problem of plurality by including an explicit clause in our Akta Pindaan - a new section 3A(2) - to make AUKU inapplicable to Universiti Teknologi MARA.

Even in the absence of such an explicit clause, the matter would be one of statutory interpretation. Special overrides general. Later overrides former. However, ITM's proposal is to put the matter beyond a shadow of doubt by inclusion of an explicit “exclusionary clause” in the ITM Amendment Act.

2. A NEW 'UNIVERSITI TEKNOLOGI MARA ACT, 1999' OR AN AMENDMENT TO THE EXISTING ACT 173?

A totally new Universiti Teknologi MARA Act 1999, superseding and replacing the existing Institut Teknologi MARA Act, 1976 (Act 173), can incorporate suitable provisions from AUKU as well as Act 173 with suitable amendments and additions. Beginning with a clean slate is neater.

But after weighing all the pros and cons, it is submitted that under the circumstances of the case, an Amendment Act has the following advantages over a new Universiti Teknologi MARA Act.

- The proposal for an Amendment Act has already been drafted and is enclosed.
- Valuable time will be saved in working with this Draft and precious time will be lost in drafting a new Act *de novo*.
- Besides Act 173, ITM is governed by Act 174 and a number of other subsidiary laws. (Please refer to Appendix A). The Draft Proposal for an Amendment Act which is being submitted has taken cognisance of these other laws.
- Borrowing provisions of AUKU *in toto* or substantially may lead to direct or indirect conflicts with ITM's existing legislation. The task of drafting the new Akta Universiti Teknolgi MARA cannot, therefore, be rushed. But with the October session of Parliament looming across the horizon, time is in short supply.
- The Lembaga Pengarah of ITM was briefed about the existing Draft Proposals at its last meeting on August 28, 1999. The proposal for a totally new Universiti Teknologi MARA Act will have to be laid before the Lembaga for its approval. Valuable time will be lost in seeking this approval.

3. PERLEMBAGAAN, STATUT-STATUT DAN PERATURAN-PERATURAN ITM

Act 173 operates as ITM's Constitution and parent law.

But Act 173 is not the only statute that prescribes law for ITM. ITM is served by other statutes as well. (Please see Appendix A).

In addition there are two pieces of subsidiary legislation and many "internal regulations" which, though not part of the law of the land, are enforceable under the law of contract between ITM and its staff and students.

In the years ahead ITM will follow the practice of the other universities and convert many of its internal regulations into subsidiary legislation.

Ever since Act A964 (1996) the Lembaga of ITM has been conferred the power to make Regulations under section 35 of Act 173. These Regulations do not have to go to Parliament though, of course, gazetting is required.

The legislative power under section 35 has already been exercised once by the Lembaga. That was in 1996 to notify the names of those Diplomas and Advanced Diplomas that were converted into degrees under the authority of section 4(2), Act 173/A964.

EXPLANATIONS AND JUSTIFICATIONS FOR THE INSTITUT TEKNOLOGI MARA (AMENDMENT) ACT 1999

1. Short Title and Commencement

- (1) This Act may be cited as the Institut Teknologi MARA (Amendment) Act 1999.
- (2) This Act shall be deemed to have come into force on 26 August 1999.

Note of Explanation to Paragraph 1:

- *It is proposed to backdate the Act to August 26, 1999. This backdating is necessary to give effect to successive announcements by YAB Perdana Menteri and YB Menteri Pendidikan that the conversion of ITM is effective with effect from the day of announcement.*
- *As a result of these announcements ITM is under tremendous popular pressure to start using its new name at all formal occasions and in all official ceremonies.*
- *There is a precedent of backdating in the case of Universiti Putra Malaysia. The relevant Order was signed on 26th. July 1997, gazetted on 4th. September 1997, and made applicable retrospectively to April 3, 1997.*

2. Interpretation

For the purposes of this Act, "appointed date" means the date of coming into force of this Act under subsection 1(2).

3. Change of name of Institute

The Institut Teknologi MARA established under the Institut Teknologi MARA Act 1976 shall, as from the appointed date, be known as Universiti Teknologi MARA.

Note of Explanation to Paragraph 3:

- As YAB Perdana Menteri has already announced ITM's new name, no new proposals on this matter will be submitted by ITM.
- However, the acronym for the new University is a matter on which YB Menteri will communicate the Cabinet decision to ITM in due course.
- As in Act 173, the Amendment Act 1999 does not need to mention the acronym within the body of the law.

4. All references to the Institute to be construed as references to the University

All references to Institut Teknologi MARA in any written law or in any instrument, deed, title, document, bond, agreement and working arrangement subsisting immediately before the appointed date shall, on the appointed date, be construed as references to the University Teknologi MARA.

Note of Explanation to Paragraphs 4 to 9:

Paragraphs 4 to 9 are consequential and transitional. They deal with the consequences of the change of name of ITM, and the succession by Universiti Teknologi MARA of all the rights, liabilities, contracts and obligations belonging to ITM.

5. Rights etc. not affected and legal proceedings not rendered defective

The change of name from Institut Teknologi MARA to Universiti Teknologi MARA shall not affect any rights, privileges, liabilities, duties or obligations of Institut Teknologi MARA or render defective any legal proceedings by or against it.

6. Legal proceedings to be continued in the name of University Teknologi MARA

Legal proceedings that could have been continued or commenced by or against Institut Teknologi MARA prior to the appointed date, may be continued or commenced in the name of University Teknologi MARA.

7. Liabilities enforceable against Universiti Teknologi MARA

All existing liabilities incurred by or on behalf of or for the purposes of Institut Teknologi MARA may, on the appointed date, be enforced against Universiti Teknologi MARA.

8. Vesting of lands, property and assets in Universiti Teknologi MARA

All lands, property and assets that immediately before the appointed date were vested in or reserved for Institut Teknologi MARA or any person acting on its behalf shall, on the appointed date, vest in or be reserved for Universiti Teknologi MARA or any person acting on its behalf without any conveyance, assignment or transfer whatsoever.

9. Transfer of funds

All moneys belonging to or due to Institut Teknologi MARA immediately before the appointed date shall, on that date, be vested in Universiti Teknologi MARA and transferred to the Fund.

10. Continuance of service

All persons who, immediately before the appointed date, were appointed or employed by Institut Teknologi MARA, shall on and after that date, be deemed to be appointed or employed as such by Universiti Teknologi MARA on terms and conditions which shall not be less favourable than the terms and conditions before the appointed date.

Note of Explanation to Paragraph 10:

- *This paragraph guarantees continuity of service for the employees of ITM.*
- *As the terms and conditions of service at ITM are not the same as at the Universities, there is a need to protect those members of the ITM staff whose rights, privileges and interests had been acquired, accrued and had become vested prior to the appointed date but who, were it not for this clause, may be adversely affected by a change in the terms and conditions of service.*

11. Students undergoing courses of study at the Institute

All students who immediately before the appointed date were admitted to undergo courses of study at Institut Teknologi MARA and on that date are still undergoing such courses of study shall, on the appointed

date, be deemed to have been admitted into Universiti Teknologi MARA.

Note of Explanation to Paragraphs 11 and 12:

Paragraphs 11 and 12 are merely consequential.

12. Continuance of student bodies

All student bodies established under any law applicable to Institut Teknologi MARA shall, on the appointed date, be deemed to have been established under laws applicable to Universiti Teknologi MARA.

13. General Amendments

The Institut Teknologi MARA Act 1976, which in this Act is referred to as the “Principal Act”, is amended -

- (a) by substituting for the words “Students’ Representative Committee”, wherever appearing in the Principal Act, the words “Students’ Representative Council”.

Note of Explanation to Paragraph 13(a):

- *This amendment is requested by the Students’ Representative Committee of ITM.*
- *It is meant to bring the description of SRC at ITM in line with the description of SRCs at the other Universities.*

- (b) by substituting for the word “Provost” wherever appearing therein, the word “Rector”.

Note of Explanation to Paragraph 13(b):

- *With the re-designation of ‘Rector’ as ‘Vice-Chancellor’, it is proposed that the Provosts of ITM’s Branch campuses be re-designated as ‘Rectors’ to acknowledge their role as the principal executive, administrative and academic officers of a Branch.*
- *This ‘upgrading’ is justified because many of the campuses of ITM have a student population that is larger than the overall student population of some of the Universities.*
- *The term ‘Rector’ is in wide usage in the private sector to denote the academic head of private educational institutions.*

- *The office of the Provost is mistakenly seen by some as equivalent to the office of the Provost-Marshall in the armed forces!*

- (c) by substituting for the word "Rector" wherever appearing therein, the word "Vice-Chancellor"; and
- (d) by substituting for the words "Deputy Rector" wherever appearing therein, the words "Deputy Vice-Chancellor".

Note of Explanation to Paragraphs 13(c) & (d):

The provisions for a Vice-Chancellor and Deputy Vice-Chancellors flow from the creation of the post of Chancellor and Pro-Chancellors.

14. Change of Designation Not To Affect Rights and Liabilities

- (1) All references to the Rector and or Provost in any written law or in any instrument, deed, title, document, bond, agreement or working arrangement subsisting immediately before the appointed date, shall, on the appointed date, be construed as references to the Vice-Chancellor and or Rector respectively.
- (2) The change of designation shall not affect any rights, privileges, liabilities, duties or obligations of the Rector and or Provost, or render defective any legal proceedings by or against them.
- (3) Legal proceedings that could have been continued or commenced by or against the Rector and or Provost prior to the appointed date may be continued or commenced in the name of the Vice-Chancellor and or Rector respectively.
- (4) All existing liabilities incurred by or on behalf of or for the purpose of the Rector and or Provost may, on the appointed date, be enforced against the Vice-Chancellor and or Rector respectively.

Note of Explanation to Paragraph 14:

This provision is purely consequential and transitional.

15. Amendment of Section 2

Section 2 of the principal Act is amended -

- (a) by inserting after the definition of “Chairman” the following definition:

“Chancellor” in relation to the University means the Chancellor of Universiti Teknologi MARA and includes any other person, by whatever name called, who has been appointed as the Head of the University, and “Pro-Chancellor” shall be construed accordingly.

Note of Explanation to Paragraph 15(a):

This paragraph supplies the definition of Chancellor and Pro-Chancellor.

- (b) by inserting after the definition of “course of study” the following definition:

“Court” for the purposes of section 23J means the Federal Court, the Court of Appeal, the High Court, the Sessions Court, and the Magistrate Court of any class.

Note of Explanation to Paragraph 15(b):

- *Under section 23J(2) of Act 173, if “a court finds that a charge for a criminal offence is proved” against a student, the student is automatically and without a disciplinary trial, expelled from ITM.*
- *It is proposed to confine this provision to criminal charges before ordinary courts and not before the syariah and native courts.*
- *Because the terms “criminal offence” and “courts” are not defined in Act 173, there is a body of opinion that all offences prosecuted by public authorities before any court whatsoever are “criminal offences”.*
- *The ITM administration is under considerable pressure, especially in some East Coast campuses, to use section 23J(2) to summarily expel any student convicted of syariah offences.*
- *It is proposed that section 23J(2) should not apply to personal law matters. Offences relating to personal laws can be adequately dealt with under Rule 3(a) of the Discipline of Student Rules 1976 after a full and fair disciplinary trial.*

- (c) by inserting after the definition of “degree” the following definition:

“external student” means a person who is a registered student of the University but who is exempted, in part or in whole, by the Board from the academic and or disciplinary rules of the University;

Note of Explanation to Paragraph 15(c):

- A new category of students is proposed in order to include within our definition those students who receive an ITM degree, diploma or certificate but who do not qualify as ‘students’ under section 2 of Act 173.
- Under section 2 of Act 173, a student “means a registered student of the Institut who is following a course of study on a full time or part time basis in the Institut.”
- This definition excludes franchise students. Likewise, distance learning students may be excluded because their courses are from the Institut but not in the Institut. Their learning is mostly through cyber space.
- Persons receiving training from ITM at their workplace will also not qualify as our students.
- Under section 4(1)(a), Act 173, ITM has the power to provide courses in Malaysia or elsewhere. Under section 7(1) ITM has the power, with the permission of the Minister, to set up campuses abroad.
- With the future in mind, it is advisable to create a new category of external students who would be ITM’s “external students” for academic purposes but will not be subject to ITM’s disciplinary rules if the Lembaga Pengarah so decides. University of London’s practice of having external students provides a precedent for our proposal.

(d) by deleting the definition of “Provost”;

(e) by substituting for the definition of “Rector” the following definition:

“Rector” means the principal executive, administrative and academic officer of a Branch, by whatever name called, appointed under section 7;

Note of Explanation to Paragraph 15(d) and (e):

In order to re-designate the Provosts of the campuses as Rectors, the definition of Provost must be deleted and the term Rector should be re-defined.

(f) by substituting for the definition of “student” the following definition:

“Student” means a person who is a registered student of the University and who is receiving education, instruction or training of any description from or in or by the University;

Note of Explanation to Paragraph 15(f):

A new definition of ‘student’ is proposed to encompass (a) flexible (distance) learning students and (b) students of courses which courses are conducted by ITM not at its campus but at sites outside the campus whether in Malaysia or abroad.

The new definition will encompass students receiving education not only in but also from or by the University.

- (g) by inserting after the definition of “University” or “University College” the following definition:

“Vice-Chancellor”, in relation to Universiti Teknologi MARA, means the Vice-Chancellor or President of the University appointed under section 20 and includes any other person, by whatever name called, who has been appointed as the chief executive officer of the University and “Deputy Vice-Chancellor” shall be construed accordingly.

16. Special Position of Malays and Natives of Sabah and Sarawak

The Principal Act is amended by inserting after section 3 the following section:

3A: Special Position of Malays and Natives of Sabah and Sarawak

- (1) Universiti Teknologi MARA is established to safeguard the special position of the Malays and the Natives of any of the States of Sabah and Sarawak in accordance with Article 153 of the Federal Constitution.
- (2) The Universities and University Colleges Act 1971 shall not apply to Universiti Teknologi MARA.

Note of Explanation to Paragraph 16:

The Institut Teknologi MARA (Amendment) Act should expressly state that this University is being established to further the objects of Article 153 of the Federal Constitution and that AUKU shall not apply to this university. The reasons for this proposal are:

- *Though section 5 of the First Schedule of AUKU, which forbids discrimination, is subject to Article 153, it may still be productive of constitutional difficulties for us.*
- *Two parallel laws on the setting up of universities can create conflicts between the two laws. Even though the ITM law will be special and “special overrides general”, nevertheless an explicit clause excluding Universiti Teknologi MARA from AUKU is needed.*
- *Other measures to avoid a legal challenge to Universiti Teknologi MARA’s all-Bumiputra policy could be to:*
- *Amend section 5A of AUKU to exclude ITM from its purview. It is noteworthy that this section of AUKU deals with non-applicability of AUKU to certain universities.*
- *The Yang di-Pertuan Agong could issue a direction under Article 153(8A) to command ITM to reserve its facilities for Bumiputras only.*

17. Amendment of Part III

Part III of the Principal Act is amended –

- (a) by substituting for the word “Board” in the existing heading the words “Authorities of the University”.

Note of Explanation to Paragraph 17(a):

With the creation of the offices of Chancellor and Pro-Chancellors, the heading of Part III needs to be amended.

- (b) by renumbering section 13 as section 13C.

Note of Explanation to Paragraph 17(b):

This is to enable section 13A and section 13B to be inserted.

- (c) by inserting before section 13C the following sections:

13A: The Chancellor

- (1) There shall be a Chancellor who shall be the Head of the University and shall preside when present at any Convocation and shall have such other powers and perform such other duties as may be conferred upon him by or under this Act.
- (2) The Seri Paduka Baginda Yang di-Pertuan Agong shall be the Chancellor of Universiti Teknologi MARA.

Note of Explanation to Paragraph 17(c):

Universiti Teknologi MARA wishes to have the honour of having Seri Paduka Baginda, Yang di-Pertuan Agong as its Chancellor for the following reasons:

- *Like other Universities, ITM wishes to have a person of the highest eminence to grace this post.*
- *Under Article 153 of the Federal Constitution, the Yang di-Pertuan Agong is the defender and protector of the privileges of the Malays and of the natives of Sabah and Sarawak. His Majesty's role under Article 153 fits in well with the raison d'etre of ITM's existence.*
- *ITM has campuses in every state of the country. It will, therefore, be more suitable for the Yang di Pertuan Agong, who is the visible symbol of unity in the nation, to preside over the Convocations of the University.*
- *However, if the proposal to appoint Seri Paduka Baginda is not found acceptable, then an alternative clause 13A is proposed:*

"13A: The Chancellor

- (1) *There shall be a Chancellor who shall be the Head of the University and shall preside when present at any Convocation and shall have such other powers and perform such other duties as may be conferred or imposed upon him by or under this Act.*
- (2) *The Chancellor shall be appointed by the Yang di-Pertuan Agong on the advice of the Minister for such period, not exceeding seven years, as may be specified by the Yang di-Pertuan Agong.*
- (3) *The Chancellor may by writing under his hand addressed to the Yang di-Pertuan Agong resign his office, or he may, on the advice of the Minister, be removed by the Yang di-Pertuan Agong.*
- (4) *A person shall be eligible for re-appointment to the office of the Chancellor."*

“13B: Pro-Chancellors

- (1) The Chancellor may appoint, on the advice of the Minister, such person or persons to be Pro-Chancellors as he may consider proper.
- (2) If for any reason the Chancellor is unable to exercise any of his functions under this Act, he may authorise the Pro-Chancellor or any of the Pro-Chancellors to exercise such functions on his behalf.
- (3) Every Pro-Chancellor shall hold office during the pleasure of the Chancellor.”

18. New Sections 35A, 35B and 35C

The principal Act is amended by inserting after section 35 the following sections:

“35A. Convocation

A convocation for the conferment of degrees, diplomas, certificates and other academic distinctions shall be held annually, or as often as the Chancellor may direct, on such date as may be approved by the Chancellor.

Note of Explanation to Paragraph 18, Section 35A:

Act 173 makes no reference to Convocations. This omission is being remedied.

“35B. Alumni Associations

- (1) Subject to the approval of the Board, it shall be lawful for not less than thirty graduates of Institut Teknologi MARA and Universiti Teknologi MARA to form and establish alumni associations.
- (2) The alumni associations of the Institute and of the University shall be governed and administered in accordance with their constitutions, and rules so made or any amendments thereto shall not come into force unless and until approval thereof shall have first been obtained from the Board.
- (3) Nothing in this section shall be construed as constituting the alumni associations to be authorities of the University.

Note of Explanation to Paragraph 18, Section 35C:

- *ITM recognises the positive role that Alumni Associations can play but is also aware that these Associations can be used to promote personal agendas and to compete for scarce resources. The mushrooming of too many such Associations may result in duplication of roles and uneconomic use of funds and resources.*
- *To regulate the orderly growth of such Associations, it is proposed that all future Associations should obtain the prior approval of the Board which will insist that some officers of ITM shall have ex-officio positions on the Associations as a pre-condition for ITM to work with these Associations and to give them access to our data base.*

“35C: Institut deemed to be a Malay holding or a native

- (1) For the purpose of any written law relating to land reserved for alienation to Malays, the Universiti Teknologi MARA and every corporation established under section 4A shall be deemed to be a Malay holding.
- (2) For the purpose of any written law relating to land reserved for alienation to natives of the State in which it lies, the Universiti Teknologi MARA and every corporation established under section 4A shall be deemed to be a native.”

Note of Explanation to Paragraph 18, Section 35C:

- *In the past ITM has had some difficulty in securing Malay Reserve Land in some States because no law confers on us this status.*
- *With corporatisation and our plans for a Mega-University there is a need to acquire more lands to generate income and to further our statutory purposes.*
- *Precedent for the statutory grant of the status of a Malay and a native to a statutory body exists under section 36 of the Majlis Amanah Rakyat Act. However, ITM is not seeking the status of a Malay but of a Malay holding.*

19. Amendment of Third Schedule

Paragraph (2) of Rule 13 of the Third Schedule of the principal Act is amended by substituting for the existing paragraph the following:

- “(2) A person shall cease to be a student within the meaning of this Rule upon the conferment of his degree, diploma or certificate.”

Note of Explanation to Paragraph 19:

A student's status as a student should cease only when he has been awarded his degree or diploma. This is to enable the University to overcome problems of unpaid fees, fines and unreturned library books.

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Akta Institut Teknologi MARA 1976.

MAKA INILAH DIPERBUAT UNDANG-UNDANG oleh Seri Paduka Baginda Yang diPertuan Agong dengan nasihat dan persetujuan Dewan Negara dan Dewan Rakyat yang bersidang dalam Parlimen, dan dengan kuasa daripadanya, seperti berikut:

1. Tajuk ringkas dan mula berkuatkuasa

- (1) Akta ini bolehlah dinamakan Akta Institut Teknologi MARA (Pindaan) 1999.
- (2) Akta ini hendaklah disifatkan telah mula berkuatkuasa pada 26 Ogos 1999.

2. Tafsiran

Bagi maksud Akta ini, "tarikh yang ditetapkan" ertinya tarikh mula berkuatkuasanya Akta yang ditetapkan di bawah seksyen 1(2).

3. Pertukaran nama Institut

Institut Teknologi MARA yang ditubuhkan di bawah Akta Institut Teknologi MARA 1976, hendaklah, daripada tarikh yang ditetapkan, dikenali sebagai Universiti Teknologi MARA.

4. Segala sebutan mengenai Institut hendaklah ditafsirkan sebagai sebutan mengenai Universiti

Segala sebutan mengenai Institut Teknologi MARA dalam mana-mana undang-undang bertulis atau dalam apa-apa suratcara, suratikatan, hakmilik, suratan, bon, perjanjian dan perkiraan pengusahaan yang wujud sebelum sahaja tarikh yang ditetapkan hendaklah, pada tarikh yang ditetapkan, ditafsirkan sebagai sebutan mengenai Universiti Teknologi MARA.

5. Hak dan sebagainya tidak tersentuh dan prosiding undang-undang tidak menjadi cacat

Pertukaran nama daripada Institut Teknologi MARA kepada Universiti Teknologi MARA tidaklah menyentuh apa-apa hak, keistimewaan, tanggungan, kewajipan atau obligasi Institut Teknologi MARA atau menjadikan cacat apa-apa prosiding undang-undang oleh atau terhadapnya.

6. Prosiding undang-undang hendaklah diteruskan atas nama Universiti Teknologi MARA

Prosiding undang-undang yang boleh diteruskan atau dimulakan oleh atau terhadap Institut Teknologi MARA sebelum tarikh yang ditetapkan, boleh diteruskan atau dimulakan atas nama Universiti Teknologi MARA.

7. Tanggungan boleh dikuatkuasakan terhadap Universiti Teknologi MARA

Segala tanggungan yang sedia ada yang dilakukan oleh atau bagi pihak atau bagi maksud Institut Teknologi MARA boleh, pada tarikh yang ditetapkan, dikuatkuasakan terhadap Universiti Teknologi MARA.

8. Peletakhakkan tanah, harta dan aset pada Universiti Teknologi MARA

Segala tanah, harta dan aset yang sebelum sahaja tarikh yang ditetapkan terletak pada atau dirizabkan bagi Universiti Teknologi MARA atau mana-mana orang yang bertindak bagi pihaknya hendaklah, pada tarikh yang ditetapkan, terletak pada atau dirizabkan bagi Universiti Teknologi MARA atau mana-mana orang yang bertindak bagi pihaknya tanpa apa-apa pemindahhakan, penyerahhakan, atau pemindahmilikan.

9. Pindah Milik Wang

Semua wang kepunyaan atau yang kena dibayar kepada ITM sebelum sahaja tarikh yang ditetapkan, hendaklah, pada tarikh itu, diletakhak kepada Universiti Teknologi MARA dan dipindahmilik kepada Kumpulanwang.

10. Penerusan Perkhidmatan

Semua orang yang sebaik sahaja sebelum tarikh yang ditetapkan telah dilantik atau diambil kerja oleh Institut Teknologi MARA hendaklah, pada dan selepas tarikh itu, disifatkan telah dilantik atau diambil kerja oleh Universiti Teknologi MARA mengikut terma-terma dan syarat-syarat yang tidak kurang daripada terma-terma dan syarat-syarat sebelum tarikh yang ditetapkan..

11. Pelajar yang sedang mengikuti kursus pengajian di Institut

Semua pelajar yang sebaik sahaja sebelum tarikh yang ditetapkan telah diterima masuk untuk mengikuti kursus pengajian di Institut Teknologi MARA dan pada tarikh yang ditetapkan masih lagi mengikuti kursus pengajian itu hendaklah, pada tarikh yang ditetapkan, disifatkan telah diterima masuk di Universiti Teknologi MARA.

12. Penerusan Persatuan Mahasiswa dan Badan Pelajar

Persatuan Mahasiswa Institut Teknologi MARA dan badan-badan pelajar yang ditubuhkan di bawah mana-mana undang-undang yang digunakan untuk Institut hendaklah, pada tarikh yang ditetapkan, disifatkan telah ditubuhkan di bawah undang-undang Universiti Teknologi MARA.

13. Pindaan Am

Akta Institut Teknologi MARA 1976, yang disebut "Akta ibu" dalam Akta ini, adalah dipinda -

- (a) dengan menggantikan perkataan "Jawatankuasa Perwakilan Pelajar" dimana-mana jua terdapat dalamnya dengan perkataan "Majlis Perwakilan Pelajar";
- (b) dengan menggantikan perkataan "Provos" dimana-mana jua terdapat dalamnya dengan perkataan "Rektor";
- (c) dengan menggantikan perkataan "Rektor" dimana-mana jua terdapat dalamnya dengan perkataan "Naib Canselor"; dan
- (d) dengan menggantikan perkataan "Timbalan Rektor" dimana-mana jua terdapat dalamnya dengan perkataan "Timbalan Naib-Canselor".

14. Pertukaran nama jawatan tidak akan menjejaskan hak dan tanggungan

- (1) Segala sebutan mengenai Rektor dan atau Provos dalam mana-mana undang-undang bertulis, atau dalam apa-apa suratcara, suratikatan, hakmilik, dokumen, bon, perjanjian dan perkiraan pengusahaan yang wujud sebelum sahaja tarikh yang ditetapkan hendaklah, pada tarikh yang ditetapkan, ditafsirkan masing-masing sebagai sebutan mengenai Naib-Canselor dan atau Rektor.
- (2) Pertukaran nama jawatan-jawatan itu tidaklah menyentuh apa-apa hak, keistimewaan, tanggungan, kewajipan atau obligasi Rektor dan atau Provos, atau menjadikan cacat apa-apa prosiding undang-undang oleh atau terhadap masing-masing.
- (3) Prosiding undang-undang yang boleh diteruskan atau dimulakan oleh atau terhadap Rektor dan atau Provos sebelum tarikh yang ditetapkan, boleh diteruskan atau dimulakan atas nama Naib-Canselor dan atau Provos.
- (4) Segala tanggungan yang sedia ada yang dilakukan oleh atau bagi pihak atau bagi maksud Rektor dan atau Provos boleh, pada tarikh yang ditetapkan, dikuatkuasakan terhadap Naib-Canselor dan atau Provos.

15. Pindaan seksyen 2

Seksyen 2 Akta ibu adalah dipinda -

- (a) dengan memasukkan selepas takrif "Bendahari" takrif yang berikut:

"Canselor", berhubungan dengan Universiti, ertinya Canselor Universiti Teknologi MARA dan termasuklah mana-mana orang lain, dengan gelaran apa jua disebut, yang dilantik sebagai Ketua Universiti dan "Pro-Canselor" hendaklah ditafsirkan sewajarnya;
- (b) dengan memasukkan selepas takrif "Lembaga" takrif yang berikut:

"Mahkamah" berhubungan dengan seksyen 23J, ertinya Mahkamah Persekutuan, Mahkamah Rayuan, Mahkamah Tinggi, Mahkamah Sesyen dan Mahkamah Majistret sebarang kelas;
- (c) dengan memasukkan selepas takrif "Menteri" takrif yang berikut:

“Naib Canselor”, berhubung dengan Universiti Teknologi MARA, ertinya Naib Canselor atau Presiden Universiti yang dilantik di bawah seksyen 20 dan termasuklah mana-mana orang lain, dengan gelaran apa jua disebut, yang dilantik sebagai ketua pegawai eksekutif Universiti dan “Timbalan Naib Canselor” hendaklah ditafsirkan sewajarnya;

(d) dengan menggantikan takrif “pelajar” dengan takrif yang berikut:

“Pelajar” bererti seseorang yang didaftarkan sebagai pelajar di Universiti dan menerima pelajaran, pengajian atau latihan dalam apa jua bentuk daripada atau di atau oleh Universiti;

(e) dengan memasukkan selepas takrif “pelajar” takrif yang berikut:

“Pelajar luar” ertinya seseorang yang didaftarkan sebagai pelajar di Universiti tetapi ia dikecualikan oleh Lembaga daripada sebahagian atau keseluruhan peraturan-peraturan akademik dan atau tata tertib Universiti;

(f) dengan memotong takrif “Provos”;

(g) dengan menggantikan takrif “Rektor” dengan takrif yang berikut:

“Rektor” ertinya pegawai utama eksekutif, pentadbir dan akademik sesuatu Cawangan, dengan nama-nama apa jua disebut, yang dilantik di bawah seksyen 7;

16. Kedudukan Istimewa Orang Melayu dan Natif Sabah dan Sarawak

Akta Ibu dipinda dengan memasukkan selepas seksyen 3 seksyen yang berikut:

3A: Kedudukan Istimewa Orang Melayu dan Natif Sabah dan Sarawak

(1) Universiti Teknologi MARA ditubuhkan untuk menjaga kedudukan istimewa orang Melayu dan Natif dari Negeri-Negeri Sabah dan Sarawak bertepatan dengan Artkel 153 Perlembagaan Persekutuan.

(2) Akta Universiti-Universiti dan Kolej-Kolej Universiti 1971 tidak digunapakai untuk Universiti Teknologi MARA.

17. Pindaan Bahagian III

Bahagian III Akta Ibu dipinda -

- (a) dengan menggantikan perkataan “Lembaga” di dalam tajuk yang ada, perkataan-perkataan “Pihak Berkuasa Universiti”.
- (b) dengan menomborkan semula seksyen 13 menjadi seksyen 13C.
- (c) dengan memasukkan sebelum seksyen 13C seksyen-seksyen berikut:

“13A. Canselor

- (1) Maka hendaklah seorang Canselor yang hendaklah menjadi Ketua Universiti dan hendaklah mempengerusikan mana-mana Konvokesyen apabila menghadirinya dan hendaklah mempunyai apa-apa kuasa lain dan melaksanakan apa-apa kewajipan lain yang diberikan oleh atau di bawah Akta ini.
- (2) Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong akan menjadi Canselor Universiti Teknologi MARA.

“13B. Pro-Canselor

- (1) Canselor boleh melantik, atas nasihat Menteri, beberapa orang yang difikirkannya patut sebagai Pro-Canselor.
- (2) Jika oleh kerana sesuatu sebab Canselor tidak berupaya menjalankan mana-mana daripada tugasnya di bawah Akta ini, ia boleh membenarkan Pro-Canselor atau mana-mana Pro-Canselor menjalankan tugas itu bagi pihaknya.
- (3) Tiap-tiap Pro-Canselor hendaklah memegang jawatan selama tempoh yang diperkenankan oleh Canselor.”

18. Seksyen-Seksyen Baru 35A, 35B dan 35C

Akta ibu dipinda dengan memasukkan selepas seksyen 35 seksyen-seksyen yang berikut:

“35A. Konvokesyen

Konvokesyen untuk menyampaikan ijazah-ijazah, diploma-diploma, sijil-sijil dan kepujian akademik lain hendaklah diadakan secara tahunan, atau seberapa kerap yang diarahkan oleh Canselor, pada tarikh yang diluluskan oleh Canselor.

“35B. Persatuan-Persatuan Alumni

- (1) Tertakluk kepada kelulusan Lembaga, maka adalah sah bagi seramai tidak kurang daripada tiga puluh siswazah Institut Teknologi MARA dan Universiti Teknologi MARA menubuhkan persatuan-persatuan alumni Universiti.
- (2) Persatuan-persatuan Alumni Universiti hendaklah dikelolakan dan ditadbir mengikut perlembagaan-perlembagaannya dan kaedah-kaedah yang dibuat olehnya tetapi perlembagaan-perlembagaan dan kaedah-kaedah yang dibuat itu atau apa-apa pindaannya tidak boleh berkuatkuasa melainkan dan sehingga ia telah diluluskan terlebih dahulu oleh Lembaga.
- (3) Tiada apa-apa jua dalam seksyen ini boleh ditafsirkan sebagai menjadikan Persatuan Alumni Universiti menjadi Pihak Berkuasa Universiti.

“35C: Institut dianggap sebagai pemegang harta Melayu atau natif.

- (1) Bagi tujuan mana-mana undang-undang bertulis mengenai hartanah yang disimpan bagi pemilikan kepada orang Melayu, Universiti Teknologi MARA dan mana-mana Korporasi yang ditubuhkan mengikut seksyen 4A hendaklah dianggap sebagai suatu pemegang harta Melayu.
- (2) Bagi tujuan mana-mana undang-undang bertulis mengenai hartanah yang disimpan bagi pemilikan kepada orang-orang natif sesuatu Negeri dimana ianya terdapat, Universiti Teknologi MARA dan mana-mana korporasi ditubuhkan mengikut seksyen 4A akan dianggap sebagai suatu badan natif.”

19. Pindaan Jadual Ketiga

Akta ibu adalah dipinda dengan menggantikan perenggan (2), Kaedah 13, Jadual Ketiga dengan perenggan yang berikut:

- “(2) Untuk tujuan Kaedah ini, seseorang pelajar bukan lagi dianggap pelajar sekiranya beliau telah dianugerahkan dengan ijazah, diploma atau sijil.”

A BILL

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An Act to amend the Institut Teknologi MARA Act 1976

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BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:-

1. Short Title and Commencement

- (1) This Act may be cited as the Institut Teknologi MARA (Amendment) Act 1999.
- (2) This Act shall be deemed to have come into force on 26 August 1999.

2. Interpretation

For the purposes of this Act, "appointed date" means the date of coming into force of this Act under subsection 1(2).

3. Change of name of Institute

The Institut Teknologi MARA established under the Institut Teknologi MARA Act 1976 shall, as from the appointed date, be known as Universiti Teknologi MARA.

4. All references to the Institute to be construed as references to the University

All references to Institut Teknologi MARA in any written law or in any instrument, deed, title, document, bond, agreement and working arrangement subsisting immediately before the appointed date shall,

on the appointed date, be construed as references to the University Teknologi MARA.

5. Rights etc. not affected and legal proceedings not rendered defective

The change of name from Institut Teknologi MARA to Universiti Teknologi MARA shall not affect any rights, privileges, liabilities, duties or obligations of Institut Teknologi MARA or render defective any legal proceedings by or against it.

6. Legal proceedings to be continued in the name of University Teknologi MARA

Legal proceedings that could have been continued or commenced by or against Institut Teknologi MARA prior to the appointed date, may be continued or commenced in the name of University Teknologi MARA.

7. Liabilities enforceable against Universiti Teknologi MARA

All existing liabilities incurred by or on behalf of or for the purposes of Institut Teknologi MARA may, on the appointed date, be enforced against Universiti Teknologi MARA.

8. Vesting of lands, property and assets in Universiti Teknologi MARA

All lands, property and assets that immediately before the appointed date were vested in or reserved for Institut Teknologi MARA or any person acting on its behalf shall, on the appointed date, vest in or be reserved for Universiti Teknologi MARA or any person acting on its behalf without any conveyance, assignment or transfer whatsoever.

9. Transfer of funds

All moneys belonging to or due to Institut Teknologi MARA immediately before the appointed date shall, on that date, be vested in Universiti Teknologi MARA and transferred to the Fund.

10. Continuance of service

All persons who, immediately before the appointed date, were appointed or employed by Institut Teknologi MARA, shall on and after that date, be deemed to be appointed or employed as such by Universiti Teknologi MARA on terms and conditions which shall not be less favourable than the terms and conditions before the appointed date.

11. Students undergoing courses of study at the Institute

All students who immediately before the appointed date were admitted to undergo courses of study at Institut Teknologi MARA and on that date are still undergoing such courses of study shall, on the appointed date, be deemed to have been admitted into Universiti Teknologi MARA.

12. Continuance of student bodies

All student bodies established under any law applicable to Institut Teknologi MARA shall, on the appointed date, be deemed to have been established under laws applicable to Universiti Teknologi MARA.

13. General Amendments

The Institut Teknologi MARA Act 1976, which in this Act is referred to as the "Principal Act", is amended -

- (a) by substituting for the words "Students' Representative Committee", wherever appearing in the Principal Act, the words "Students' Representative Council".
- (b) by substituting for the word "Provost" wherever appearing therein, the word "Rector".
- (c) by substituting for the word "Rector" wherever appearing therein, the word "Vice-Chancellor"; and
- (d) by substituting for the words "Deputy Rector" wherever appearing therein, the words "Deputy Vice-Chancellor".

14. Change of Designation Not To Affect Rights and Liabilities

- (1) All references to the Rector and or Provost in any written law or in any instrument, deed, title, document, bond, agreement or working arrangement subsisting immediately before the appointed date, shall, on the appointed date, be construed as references to the Vice-Chancellor and or Rector respectively.
- (2) The change of designation shall not affect any rights, privileges, liabilities, duties or obligations of the Rector and or Provost, or render defective any legal proceedings by or against them.
- (3) Legal proceedings that could have been continued or commenced by or against the Rector and or Provost prior to the

appointed date may be continued or commenced in the name of the Vice-Chancellor and or Rector respectively.

- (4) All existing liabilities incurred by or on behalf of or for the purpose of the Rector and or Provost may, on the appointed date, be enforced against the Vice-Chancellor and or Rector respectively.

15. Amendment of Section 2

Section 2 of the principal Act is amended -

- (a) by inserting after the definition of "Chairman" the following definition:

"Chancellor" in relation to the University means the Chancellor of Universiti Teknologi MARA and includes any other person, by whatever name called, who has been appointed as the Head of the University, and "Pro-Chancellor" shall be construed accordingly.

- (b) by inserting after the definition of "course of study" the following definition:

"Court" for the purposes of section 23J means the Federal Court, the Court of Appeal, the High Court, the Sessions Court, and the Magistrate Court of any class.

- (c) by inserting after the definition of "degree" the following definition:

"external student" means a person who is a registered student of the University but who is exempted, in part or in whole, by the Board from the academic and or disciplinary rules of the University;

- (d) by deleting the definition of "Provost";

- (e) by substituting for the definition of "Rector" the following definition:

"Rector" means the principal executive, administrative and academic officer of a Branch, by whatever name called, appointed under section 7;

- (f) by substituting for the definition of "student" the following definition:

“Student” means a person who is a registered student of the University and who is receiving education, instruction or training of any description from or in the University;

- (g) by inserting after the definition of “University” or “University College” the following definition:

“Vice-Chancellor”, in relation to Universiti Teknologi MARA, means the Vice-Chancellor or President of the University appointed under section 20 and includes any other person, by whatever name called, who has been appointed as the chief executive officer of the University and “Deputy Vice-Chancellor” shall be construed accordingly.

16. Special Position of Malays and Natives of Sabah and Sarawak

The Principal Act is amended by inserting after section 3 the following section:

3A: Special Position of Malays and Natives of Sabah and Sarawak

- (1) Universiti Teknologi MARA is established to safeguard the special position of the Malays and the Natives of any of the States of Sabah and Sarawak in accordance with Article 153 of the Federal Constitution.
- (2) The Universities and University Colleges Act 1971 shall not apply to Universiti Teknologi MARA.

17. Amendment of Part III

Part III of the Principal Act is amended -

- (a) by substituting for the word “Board” in the existing heading the words “Authorities of the University”.
- (b) by renumbering section 13 as section 13C.
- (c) by inserting before section 13C the following sections:

“13A: The Chancellor

- (1) There shall be a Chancellor who shall be the Head of the University and shall preside when present at any Convocation

and shall have such other powers and perform such other duties as may be conferred upon him by or under this Act.

- (2) The Seri Paduka Baginda Yang di-Pertuan Agong shall be the Chancellor of Universiti Teknologi MARA.

“13B: Pro-Chancellors

- (1) The Chancellor may appoint, on the advice of the Minister, such person or persons to be Pro-Chancellors as he may consider proper.
- (2) If for any reason the Chancellor is unable to exercise any of his functions under this Act, he may authorise the Pro-Chancellor or any of the Pro-Chancellors to exercise such functions on his behalf.
- (3) Every Pro-Chancellor shall hold office during the pleasure of the Chancellor.”

18. New Sections 35A, 35B and 35C

The principal Act is amended by inserting after section 35 the following sections:

“35A. Convocation

A convocation for the conferment of degrees, diplomas, certificates and other academic distinctions shall be held annually, or as often as the Chancellor may direct, on such date as may be approved by the Chancellor.

“35B. Alumni Associations

- (1) Subject to the approval of the Board, it shall be lawful for not less than thirty graduates of Institut Teknologi MARA and Universiti Teknologi MARA to form and establish alumni associations.
- (2) The alumni associations of the Institute and of the University shall be governed and administered in accordance with their constitutions, and rules so made or any amendments thereto shall not come into force unless and until approval thereof shall have first been obtained from the Board.
- (3) Nothing in this section shall be construed as constituting the alumni associations to be authorities of the University.

“35C: Institut deemed to be a Malay holding or a native

- (1) For the purpose of any written law relating to land reserved for alienation to Malays, the Universiti Teknologi MARA and every corporation established under section 4A shall be deemed to be a Malay holding.
- (2) For the purpose of any written law relating to land reserved for alienation to natives of the State in which it lies, the Universiti Teknologi MARA and every corporation established under section 4A shall be deemed to be a native.”

19. Amendment of Third Schedule

Paragraph (2) of Rule 13 of the Third Schedule of the principal Act is amended by substituting for the existing paragraph the following:

- “(2) A person shall cease to be a student within the meaning of this Rule upon the conferment of his degree, diploma or certificate.”