

MALAYSIAN INSTITUTE OF ROAD SAFETY RESEARCH  
BILL 2012

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A BILL

*i n t i t u l e d*

An Act to establish the Malaysian Institute of Road Safety Research and for matters connected therewith.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

**Short title and commencement**

**1.** (1) This Act may be cited as the Malaysian Institute of Road Safety Research Act 2012.

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

**Application**

**2.** This Act shall apply to all persons including the Federal Government and the State Governments.

## Interpretation

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

“data” means any recorded information or document connected with or relevant to road safety, regardless of form, that covers primary data, secondary data, raw data or aggregated data, including accident data, reports, road accident sketches, injury data and traffic volume;

“document” has the meaning assigned to it in section 3 of the Evidence Act 1950 [*Act 56*];

“physical entity” means any equipment, device, article, item or thing that is designed, constructed, manufactured, distributed, sold or represented for use on roads or that generally relates to land transportation or that is connected with or relevant to road safety, and includes motor vehicles, road furniture and traffic signs;

“property” means all movable or immovable property, including intellectual property and all interests, rights and liabilities, whether equitable or legal, in such property, and includes choses-in-action, investments, money and goodwill;

“Institute” means the Malaysian Institute of Road Safety Research or MIROS;

“driving institution” means a driving school or driving institute which is issued with a permit under the Motor Vehicles (Driving Schools) Rules 1992 [*P.U. (A) 60/1992*];

“Director General” means the Director General of the Institute appointed under subsection 25(1);

“Fund” means the Malaysian Institute of Road Safety Research Fund as established under section 32;

“Board” means the Board of Directors of the Malaysian Institute of Road Safety Research established under section 10;

“Minister” means the Minister responsible for transport;

“assigned officer” means an officer appointed under section 42;

“Chairman” means the Chairman of the Board appointed under subsection 11(2);

“sample” means any amount, part or quantity taken from a physical entity to be a representative sample;

“Deputy Director General” means the Deputy Director General of the Institute appointed under section 26.

## PART II

### THE INSTITUTE

#### **Malaysian Institute of Road Safety Research**

4. (1) A body corporate by the name of the “Malaysian Institute of Road Safety Research” or “MIROS” is established.

(2) The Institute shall have perpetual succession and may sue and be sued in its corporate name.

(3) Subject to and for the purposes of this Act, the Institute may upon such terms as it deems fit—

(a) enter into contracts; and

(b) in respect of movable and immovable property and interest in movable and immovable property of every description—

(i) acquire, purchase and take such property and interest; and

(ii) hold, enjoy, convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with such property and interest vested in the Institute.

**Common seal**

5. (1) The Institute shall have a common seal and the seal may from time to time be altered and made anew as the Institute thinks fit.

(2) Until a seal is provided by the Institute, a stamp bearing the words “Malaysian Institute of Road Safety Research” may be used and shall be deemed to be the common seal of the Institute.

(3) The common seal shall be kept in the custody of the Director General or any other person authorized by the Institute in writing, and shall be authenticated by either the Director General or such other person as may be authorized by the Director General in writing.

(4) All deeds, documents and other instruments purported to be sealed with the common seal and duly authenticated shall, until the contrary is proved, be deemed to have been validly executed.

(5) Any deed, document and other instrument which, if executed by a person not being a body corporate and is not required to be under seal may in the like manner be executed by an officer of the Institute authorized in that behalf.

(6) The common seal of the Institute shall be officially and judicially noticed.

**Functions of Institute**

6. The functions of the Institute shall be—

- (a) to conduct comprehensive research on road safety, and to provide general directions for activities in respect of road safety research;
- (b) to assist in the development of national objectives, policies and priorities for the orderly development and administration of road safety;



- (c) to enhance and increase knowledge based on new developments regarding issues related to road safety;
- (d) to raise the level of public awareness on road safety;
- (e) to propose practical solutions with optimal effectiveness on road safety issues;
- (f) to collect, analyze and manage data in relation to road safety;
- (g) to develop, promote the use of, value add and commercialize research findings on road safety;
- (h) to collect, collate and disseminate information relating to research findings on road safety by way of publishing or sponsoring the publication of periodicals, journals, books and any other means available, and to provide consultation and advice on road safety issues;
- (i) to plan and evaluate road safety programmes, and to conduct related training;
- (j) to review standards and learning outcomes of the curriculum for courses of instruction provided by driving institutions and audit the benchmark in respect of the delivery system of driving institutions;
- (k) to review testing methods carried out by vehicle inspection organizations;
- (l) to be a member of, be affiliated with or to maintain liaison with, other organizations, both public and private, local and foreign, having similar functions or activities as those of the Institute; and
- (m) to co-operate with any person, association or organization, both local and foreign, with a view to furthering the effective performance of the Institute.

### **Powers of Institute**

7. (1) The Institute shall have the power to do all things necessary or expedient for or in connection with the performance of its functions.

(2) Without prejudice to the generality of subsection (1), the powers of the Institute shall include the power—

- (a) to impose fees or charges in relation to any activity or services rendered by the Institute or usage of the facilities of the Institute, and to collect and receive moneys in respect thereof;
- (b) to acquire rights in connection with any research findings on road safety owned by any person or organization;
- (c) to hold, dispose of or grant rights in connection with any research findings on road safety conducted by or for the Institute, or rights in such research findings that are vested in the Institute; and
- (d) to assign any person or body to conduct research and development activities relating to road safety on behalf of the Institute.

### **Additional power of Institute**

**8.** Without prejudice to section 9, the Institute may, with the approval of the Minister and the concurrence of the Minister of Finance establish companies under the Companies Act 1965 [*Act 125*] for purposes of carrying out or engaging in any activity which has been planned or undertaken by the Institute in connection with the discharge of its functions and powers.

### **Commercialization of research findings**

**9.** The Institute may enter into any arrangement to make available any research findings vested in the Institute to any person or body on such terms, conditions and the payment of such fees, royalties or other consideration, if any, as the Board may, with the approval of the Minister, determine for the purpose of its commercialization.

PART III

BOARD OF DIRECTORS OF INSTITUTE

**Board of Directors**

**10.** A board of directors to be known as the “Board of Directors of the Malaysian Institute of Road Safety Research” is established.

**Membership of Board**

**11.** (1) The Board shall consist of the following members:

- (a) a Chairman;
- (b) the Director General;
- (c) the Inspector General of Police or his representative;
- (d) the Director General of the Road Transport Department or his representative;
- (e) the Director General of the Road Safety Department or his representative;
- (f) a representative from the Ministry of Transport;
- (g) a representative from the Ministry of Finance; and
- (h) not less than two and not more than six members who, in the opinion of the Minister, have experience and shown capacity and professionalism in matters relating to road safety including transport, education, media, engineering, medicine, research and human resource, or are otherwise suitable for appointment because of their special knowledge and experience in matters relating to road safety.

(2) The Minister shall appoint the members in paragraphs (1)(a), (f), (g) and (h).

(3) The Schedule shall apply to the members of the Board.

**Representative of renamed organization**

**12.** Where a member of the Board is a representative of a ministry, department or organization and—

- (a) that ministry, department or organization is renamed;  
or
- (b) the functions of the ministry, department or organization have been assumed by another ministry, department or organization,

the member shall be renamed as a representative of the ministry, department or organization as renamed or of the ministry, department or organization by whom the functions are assumed.

**Deputy Chairman and Secretary**

**13.** (1) The Minister shall appoint a Deputy Chairman of the Board from among the members of the Board.

(2) The Board shall appoint an officer of the Institute to be the Secretary of the Board.

**Functions of Board**

**14.** The functions of the Board shall be—

- (a) to review the policies and the strategic direction of the Institute;
- (b) to advise the Minister on matters relating to this Act and developments pertaining to road safety research with particular reference to the implications of such developments for Malaysia;
- (c) to make recommendations to the Minister as to the methods, measures and policies to be adopted to facilitate the development of road safety research, and if approved by the Minister, to implement and assist in the implementation thereof through the Institute;

- (d) to do such things as are necessary or advantageous and proper for the governance, control and management of the Institute; and
- (e) to do such other things arising out of or consequential to the functions of the Board under this Act which are not inconsistent with the purposes of this Act, whether or not directed by the Minister.

### **Powers of Board**

**15.** The Board shall be the executive body of the Institute and may exercise all the powers conferred on the Institute by this Act.

### **Tenure of office**

**16.** (1) Subject to such conditions as may be specified in the instrument of appointment, a member of the Board appointed under paragraph 11(1)(a), (f), (g) or (h) shall, unless he resigns or vacates his office or his appointment is revoked, hold office for a term not exceeding three years.

(2) A member of the Board appointed under paragraph 11(1)(a), (f), (g) or (h) shall be eligible for reappointment.

### **Revocation of appointment and resignation**

**17.** (1) The Minister may at any time revoke the appointment of any member of the Board appointed under paragraph 11(1)(a), (f), (g) or (h) without assigning any reason for the revocation.

(2) A member of the Board appointed under paragraph 11(1)(a), (f), (g) or (h) may resign from his appointment by giving a written notice addressed to the Minister not less than fourteen days prior to the intended date of resignation.

**Vacation of office**

**18.** The office of a member of the Board appointed under paragraph 11(1)(a), (f), (g) or (h) shall be vacated—

- (a) if he dies;
- (b) if there has been proved against him, or he has been convicted on, a charge in respect of—
  - (i) an offence involving fraud, dishonesty or moral turpitude;
  - (ii) an offence under any law relating to corruption; or
  - (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;
- (c) if his conduct, whether in connection with his duties as a member of the Board or otherwise, has been such as to bring discredit on the Board;
- (d) if he becomes a bankrupt;
- (e) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (f) in the case of the Chairman, if he absents himself from three consecutive meetings of the Board without leave in writing of the Minister; or
- (g) in the case of a member of the Board appointed under paragraph 11(1)(f), (g) or (h), if he absents himself from three consecutive meetings of the Board without leave in writing of the Chairman.

**Temporary exercise of functions of Chairman**

**19.** The Minister may appoint temporarily any member of the Board to act as the Chairman for the period when—

- (a) the office of the Chairman is vacant;
- (b) the Chairman is absent from duty or from Malaysia; or

- (c) the Chairman is, for any other reason, unable to perform the duties of his office.

### **Delegation of functions**

**20.** (1) The Board may, subject to such conditions, limitations or restrictions as it deems fit to impose, delegate any of its functions, except its functions under section 59, to—

- (a) a member of the Board; or
- (b) a committee established under section 21.

(2) Any person or committee delegated with such functions shall be bound to observe and have regard to all conditions and restrictions imposed by the Board and all requirements, procedures and matters specified by the Board.

(3) Any function delegated under this section shall be performed and exercised in the name and on behalf of the Board.

(4) The delegation under this section shall not preclude the Board itself from performing or exercising at any time any of the delegated functions.

### **Committees**

**21.** (1) The Board may establish any committee as it considers necessary or expedient to assist it in the performance of its functions.

(2) The Board may appoint any person to be a member of a committee.

(3) A committee established under this section may elect any of its members to be the chairman of the committee.

(4) A committee may regulate its own procedure.

(5) A committee shall be subject to, and act in accordance with, any direction given to the committee by the Board.

(6) The meetings of a committee shall be held at such times and places as the chairman of the committee may determine.

(7) A committee may invite any person who is not a member of the committee to attend any of its meetings for the purpose of advising it on any matter under discussion, but that person shall not be entitled to vote at the meeting.

(8) The members of a committee or any person invited under subsection (7) to attend any meeting of the committee may be paid such allowances and other expenses as the Board may determine.

(9) Subject to subsections (10), (11) and (12), a member of a committee shall hold office on such conditions and for such term as may be specified in his letter of appointment and is eligible for reappointment.

(10) The Board may revoke the appointment of any member of a committee without assigning any reason for the revocation.

(11) A member of a committee may resign by giving a written notice to the Board not less than fourteen days prior to the intended date of resignation.

(12) A committee shall cause—

(a) minutes of all its meetings to be maintained and kept in proper form; and

(b) copies of the minutes of all its meetings to be submitted to the Board as soon as practicable.

### **Allowances**

**22.** There shall be paid to every member of the Board who is not an officer or servant of the Institute such allowances out of the Fund at such rates as the Minister may, after consultation with the Minister of Finance, determine.

### **Power of Minister to give directions**

**23.** (1) The Board shall be responsible to the Minister.



(2) The Minister may give to the Board directions of a general character consistent with this Act relating to the performance of the functions of the Board, and the Board shall give effect to such directions.

### **Validity of acts and proceedings**

**24.** No acts done or proceedings taken under this Act shall be questioned on the ground of—

- (a) any vacancy in the membership of or any defect in the constitution of the Board; or
- (b) any omission, defect or irregularity not affecting the merits of the case.

## **PART IV**

### **DIRECTOR GENERAL, DEPUTY DIRECTOR GENERALS, OFFICERS AND SERVANTS OF INSTITUTE**

### **Appointment of Director General**

**25.** (1) The Minister may, upon the recommendation of the Board, appoint any person with appropriate skills or expertise to serve as the Director General of the Institute and shall vest in him such powers and impose upon him such duties as may be determined by the Board.

(2) The Director General shall be responsible for the overall administration and management of the functions and the day-to-day affairs of the Institute.

(3) The Director General shall have general control of the officers and servants of the Institute.

(4) The Director General shall perform such further duties as the Board may from time to time direct.

(5) In discharging his duties, the Director General shall act under the general authority and direction of the Board.

(6) If the Director General is temporarily absent from Malaysia or is unable through illness or any other reason, to perform the duties of his office, the Director General shall appoint any person to carry out the duties of the Director General during such temporary absence or inability.

### **Appointment of Deputy Director Generals**

**26.** The Minister may appoint such persons with appropriate skills or expertise, as recommended by the Director General, to be Deputy Director Generals of the Institute to assist the Director General in the performance of his duties.

### **Power to delegate**

**27.** (1) The Director General may in writing delegate any of his functions, subject to such conditions, limitations or restrictions as he thinks fit, to a Deputy Director General or any officer of the Institute, and such person to whom the functions are delegated shall perform the functions in the same manner and with the same effect as if the functions had been conferred on him under this Act.

(2) A person purporting to act pursuant to a delegation made under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(3) A delegation made under this section may at any time be revoked by the Director General.

(4) A delegation made under this section shall not preclude the Director General himself from carrying out at any time the delegated function.

### **Appointment of officers, servants, etc.**

**28.** The Institute may appoint or employ such number of officers and servants as it thinks necessary, and upon such terms as it considers appropriate, for carrying out the functions or exercising the powers of the Institute.

### **Conditions of service, discipline and surcharge**

**29.** (1) The Institute may determine the conditions of service of its officers and servants.

(2) The Statutory Bodies (Discipline and Surcharge) Act 2000 [Act 605] shall apply to officers and servants of the Institute.

### **Loans and advances**

**30.** The Institute may grant loans and make advances to its officers and servants for such purposes and on such terms as the Institute may determine.

### **Payment of retirement benefits, etc.**

**31.** The Institute may make arrangements for the payment to its officers and servants, and their dependants such retirement benefits, gratuities and other allowances as the Institute may determine.

## PART V

### FINANCE

### **Establishment of Fund**

**32.** (1) A fund to be known as the “Malaysian Institute of Road Safety Research Fund” is established and shall be administered and controlled by the Institute.

(2) The Fund shall consist of—

- (a) such sums as may be provided from time to time by Parliament for the purposes of this Act;
- (b) all fees, administration charges, levies or other charges imposed by or payable to the Institute in relation to road safety research;
- (c) all monies derived as income from investments by the Institute under section 38;

- (d) all monies derived from the sale, disposal, lease or hire of, or any other dealings with, any property, mortgages, charges or debentures vested in or acquired by the Institute;
- (e) all monies earned from consultancy and advisory services and any other services provided by the Institute;
- (f) all other monies and property which may in any manner become payable to or vested in the Institute in respect of any matter incidental to its functions and powers;
- (g) any monies borrowed by the Institute under section 37;
- (h) any monies or grants from any sources, contributions, endowments, gifts or bequests as may be made to or in favour of the Institute; and
- (i) all other monies and property lawfully received by the Institute, including interest.

### **Expenditure to be charged to Fund**

**33.** The Fund shall be expended for the following purposes:

- (a) paying for the remuneration, allowances, reimbursement and other expenses of the Director General, Deputy Director Generals, members of the Board, members of committees, officers and servants of the Institute, assigned officers, any persons invited by the Board or committees and any persons engaged by the Institute, including the granting of loans and advances, superannuation allowances, retirement benefits, pensions and gratuities;
- (b) defraying any expenditure incurred in providing for the welfare of the officers and servants of the Institute, with the approval of the Board;
- (c) paying any other expenses, fees, costs, expenditure, grants or other payments lawfully incurred or accepted by the Institute in the performance of its functions or the exercise of its powers, including legal fees and costs;

- (d) purchasing or hiring equipment, machinery and any other materials, acquiring land and other assets, erecting buildings, and carrying out any other works and undertakings in the performance of its functions or the exercise of its powers;
- (e) repaying monies borrowed under section 37 and the interest due on such monies; and
- (f) generally, paying any expenses for carrying into effect the provisions of this Act.

### **Conservation of Fund**

**34.** It shall be the duty of the Institute to conserve the Fund by so performing its functions and exercising its powers under this Act as to secure that the total revenues of the Institute are sufficient to meet all sums properly chargeable to its revenue account for every financial year, including depreciation and interest on capital.

### **Expenditure and preparation of estimates**

**35.** (1) The expenditure of the Institute up to such amount as may be authorized by the Minister for any one year shall be defrayed out of the Fund.

(2) Before 1 September of each year, the Institute shall submit to the Minister an estimate of its expenditure, including the expenditure for research and development programmes, for the following year in such form and containing such particulars as the Minister may direct.

(3) The Minister shall, before 31 December of each year, notify the Institute of the amount authorized for expenditure generally or of the amount authorized for each description of expenditure based on the estimate prepared under subsection (2) for the following year.

(4) The Institute may, at any time, submit to the Minister, a supplementary estimate of its expenditure for any one year and the Minister may allow the whole or any part of the additional expenditure included in the supplementary estimate.

**Bank accounts**

**36.** The Institute shall open and maintain an account or accounts with such financial institution or financial institutions in Malaysia as the Institute thinks fit, and every such account shall be operated upon as far as practicable by cheques signed by any person as may be authorized by the Institute for such purpose from time to time.

**Power to borrow**

**37.** The Institute may, from time to time, borrow in such form, at such rate of interest, for such period and upon such terms as to the time and method of repayment, as may be approved by the Minister, with the concurrence of the Minister of Finance, any money required by the Institute for meeting any of its obligations or discharging any of its duties.

**Investment**

**38.** The monies of the Institute shall, in so far as they are not immediately required to be expended by the Institute under this Act, be invested in such manner as the Minister may, with the concurrence of the Minister of Finance, approve.

**Financial procedure**

**39.** Subject to this Act and the approval of the Minister, the Institute shall determine its own financial procedure.

**Financial year**

**40.** The financial year of the Institute shall begin on 1 January and end on 31 December of each year.

**Accounts and annual reports**

**41.** The Statutory Bodies (Accounts and Annual Reports) Act 1980 [*Act 240*] shall apply to the Institute.

PART VI

ASSIGNED OFFICERS

**Appointment of assigned officers**

**42.** (1) The Director General may appoint such numbers of officers of the Institute and public officers as he considers necessary to be assigned officers for the purposes of carrying out the powers as set out in this Part.

(2) The Director General shall issue to every assigned officer—

- (a) a certificate regarding the appointment of the assigned officer signed by the Director General, where such certificate shall in any legal proceedings be admissible in evidence and shall be *prima facie* evidence of the facts so certified; and
- (b) an authority card signed by the Director General.

**Access and disclosure of data**

**43.** (1) The Institute or an assigned officer may request any person to give access to or disclose data that is in his possession, where such data is necessary for carrying out road safety research in pursuance of the Institute's functions and powers under this Act.

(2) Subject to any written law, guidelines or directives, the person may, upon a request being made in pursuance of subsection (1), give access to or disclose data that is in his possession, provided that—

- (a) any data which is by its nature confidential or which is disclosed on a confidential basis shall be treated consistently in a confidential manner by the Institute or assigned officer and shall be used solely by the Institute; and

(b) no subsequent disclosure of data shall be made in a form that could reasonably be expected to identify any person to whom it relates.

(3) Where a person gives access to or discloses data under subsection (2), the assigned officer may—

(a) examine the books, documents or records containing the data; or

(b) make or cause to be made copies, or take or cause to be taken extracts, from any books, documents or records containing the data that is not by its nature confidential, and such copies or extracts certified as such by the assigned officer shall, unless the contrary is proved, be deemed to be true and correct copies or extracts.

### **Examination of physical entity**

**44.** (1) Subject to any other written law, the assigned officer may examine any physical entity and take photographs of that physical entity.

(2) For the purposes of subsection (1), where the physical entity is found on any premises, the assigned officer may, subject to the consent of the owner of the premises or the person occupying the premises, enter the premise at any reasonable time by day.

(3) Where necessary, the assigned officer shall among others mark, seal, secure, weigh, count or measure any physical entity examined under subsection (1).

### **Collection of samples, etc.**

**45.** (1) An assigned officer may, without payment, request to obtain or retain samples of a physical entity from any person in possession of such physical entity, which he believes contains information that is connected to or relevant for the purposes of road safety research, and, upon receipt of such sample, examine or analyze all its physical or chemical constituents and anything that he believes is used or capable of being used for the design, construction, manufacture, storage, distribution or sale of that physical entity.



- (2) For the purposes of sections 43, 44 and 45—
- (a) every assigned officer shall declare his office and shall on demand produce to the person against whom he is acting, his authority card; and
  - (b) a person may refuse to comply with a request or directive of an assigned officer if such officer refuses to declare his office and produce his authority card on demand being made by such person.

## PART VII

### SUPPLEMENTAL

#### **Property rights to research findings, *etc.***

**46.** (1) The property rights to every research finding or programme undertaken by the Institute that is funded entirely by grants made to the Institute by the Federal Government or any State Government shall vest in the Institute.

(2) Notwithstanding subsection (1), the Institute may reward the officer or person responsible for the research finding or programme in such manner as it deems fit.

(3) The property rights to every research finding or programme undertaken by the Institute that is funded by a private enterprise or organization shall vest in the Institute and such private enterprise or organization jointly, subject to the terms of any agreement between the Institute and the private enterprise or organization.

#### **Access to research findings and facilities**

**47.** (1) The Institute may, subject to such conditions, restrictions and limitations as it may determine, including the imposition of fees, allow any person access to the research findings and facilities of the Institute.

(2) For the purposes of this section, “facilities” includes equipment, laboratory and database.

**Retention of data**

**48.** (1) Data that is collected from other agencies for purposes of analysis under this Act shall not be retained longer than is necessary for the fulfillment of that purpose.

(2) It shall be the duty of the Institute to take all reasonable steps to ensure that the data is destroyed or permanently deleted if it is no longer required for the purpose of which it was collected.

**Symbol, design or representation of Institute**

**49.** (1) The Institute shall have the exclusive right to the use of such symbol, design or representation as the Institute may create, and thereafter display or exhibit it in connection with its activities or affairs.

(2) The symbol, design or representation created by the Institute shall be published in the *Gazette*.

(3) Any person who uses a symbol, design or representation of the Institute or any resemblance thereof, or creates any symbol, design or representation which refers to the Institute so as to deceive or cause confusion, or to be likely to deceive or cause confusion, commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

**Public servant**

**50.** The Director General, Deputy Director General, any member of the Board, any member of a committee, any officer or servant of the Institute, any assigned officer or any person engaged by the Institute while discharging his duties or performing his functions or exercising his powers under this Act in such capacity, shall be deemed to be a public servant within the meaning of the Penal Code [*Act 574*].

## **Public Authorities Protection Act 1948**

**51.** The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Institute, Director General, Deputy Director General, any member of the Board, any member of a committee, any officer or servant of the Institute, any assigned officer or any person engaged by the Institute in respect of any act, neglect or default done or any omission by it or him in such capacity.

### **Protection of members of Board from personal liability**

**52.** No member of the Board shall incur any personal liability for any loss or damage caused by any act or omission in the management or conduct of the affairs of the Institute or the Board, unless such loss or damage is occasioned by an intentionally wrongful act or omission on his part.

### **Protection against suits and legal proceedings**

**53.** No action, suit, prosecution or other proceedings shall lie or be brought, instituted or maintained in any court against the Institute, Director General, Deputy Director General, any member of the Board, any member of a committee, any officer or servant of the Institute, any assigned officer or any person engaged by the Institute in respect of any act done or omission by it or him in good faith in such capacity.

### **Representation in civil proceedings**

**54.** Notwithstanding any other written law—

- (a) in any civil proceedings by or against the Institute; or
- (b) in any other civil proceedings in which the Institute is required or permitted by the court to be represented, or to be heard, or is otherwise entitled to be represented or to be heard,

any person authorized by the Institute for that purpose may, on behalf of the Institute, institute such proceedings or appear in such proceedings and may make all appearances and applications and do all acts in respect of the proceedings on behalf of the Institute.

**Obligation of secrecy**

**55.** (1) Except for any of the purposes of this Act or for the purposes of any civil or criminal proceedings under any written law or where otherwise authorized by the Minister—

- (a) the Director General, Deputy Director General, any member of the Board, any member of a committee, any officer or servant of the Institute, any assigned officer or any person engaged by the Institute, whether during or after his tenure of office, employment or engagement, shall not disclose any information that comes to his knowledge or is obtained by him in the course of his duties; and
- (b) no person who has by any means access to any information or documents relating to the affairs of the Institute or the Board shall disclose such information or documents.

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

**Service of notices or other documents**

**56.** Service of a notice or any other document upon any person shall be effected—

- (a) by delivering the notice or other document to the person;
- (b) by leaving the notice or other document at the last known address of residence or place of business of the person in a cover addressed to that person; or
- (c) by forwarding the notice or other document by post in an A.R. registered letter addressed to the person at his last known address of residence or place of business.

**Institution of prosecution**

**57.** No prosecution for an offence under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

**Adoption of regulations, etc.**

**58.** The Minister may, after consultation with the Board, adopt with such modifications as he deems fit, any regulations, rules, policies, circulars and directives enacted or issued by the Federal Government, for the purpose of carrying out the provisions of this Act.

**Power to make regulations**

**59.** (1) The Minister may, after consultation with the Board, make such regulations as may be expedient or necessary for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may, after consultation with the Board, make regulations for all or any of the following purposes:

- (a) to prescribe the fees or charges to be imposed in respect of consultancy and advisory services rendered by the Institute;
- (b) to provide and prescribe for any fees payable in connection with the provision of any service or any matter under this Act;
- (c) to prescribe the procedure for the obtaining, dealing with and retention of samples;
- (d) to prescribe any matter for which this Act makes express provision to be made by regulations;
- (e) to prescribe all other matters as are expedient or necessary to be prescribed for giving effect to this Act.

**Things done in anticipation of the enactment of this Act**

**60.** (1) All acts and things done by any person or authority on behalf of the Institute in preparation for or in anticipation of the enactment of this Act and any expenditure incurred in relation thereto shall be deemed to have been authorized under this Act, provided that the acts and things done are consistent with the

general intentions and purposes of this Act; and all rights and obligations acquired or incurred as a result of the doing of those acts or things including any expenditure incurred in relation thereto shall, upon the coming into operation of this Act, be deemed to be the rights and obligations of the Institute.

(2) Notwithstanding subsection (1), this section shall not be deemed to have authorized the imposition of any punishment on a person for any act or thing done in preparation for or in anticipation of the enactment of this Act.

#### SCHEDULE

(Subsection 11(3))

#### **Meetings**

1. (1) The Board shall meet for the dispatch of its business at least once in every three months at such time and place as the Chairman may determine from time to time.

(2) At any meeting of the Board, five members shall form a quorum.

(3) The Chairman shall preside over all meetings of the Board.

(4) Notwithstanding subparagraph (3), if for any reason the Chairman is unable to attend a meeting of the Board, the Deputy Chairman shall exercise the powers of the Chairman during the absence of the Chairman.

(5) In the event that both the Chairman and Deputy Chairman are unable to attend a meeting of the Board, the remaining members of the Board shall elect from among themselves a person to preside over the meeting and the person elected shall have all the powers of the Chairman for the purpose of and for the duration of that meeting.

(6) If on any question to be determined by the Board, there is an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

#### **Procedure**

2. Subject to this Act, the Board may regulate its own procedure.

#### **Minutes**

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

(2) The minutes of meetings of the Board, if duly signed, shall in any legal proceedings be admissible as *prima facie* evidence of the facts stated in the minutes without further proof.

(3) Every meeting of the Board of which minutes have been made in accordance with subparagraphs (1) and (2) shall be deemed to have been duly convened and held and all members at the meeting to have been duly qualified to act.

#### **Board may invite others to meetings**

4. (1) The Board may invite any person to attend any meeting or deliberation of the Board for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at the meeting or deliberation.

(2) A person invited under subparagraph (1) shall be paid such allowances as may be determined by the Board.

#### **Disclosure of interest**

5. (1) A member of the Board having, directly or indirectly, by himself, a member of his family or his associate—

(a) an interest in a company or undertaking with which the Institute proposes to make a contract, or

(b) an interest in a contract or matter under discussion by the Board,

shall disclose to the Board the fact of his interest and its nature.

(2) A disclosure under subparagraph (1) shall be recorded in the minutes of the Board and such member shall take no part in the deliberation or decision of the Board relating to the contract or matter.

(3) For the purposes of this paragraph—

“a member of his family”, in relation to a member of the Board, means—

(a) his spouse;

(b) his parent (including a parent of his spouse);

(c) his child (including an adopted child or stepchild);

(d) his brother or sister (including a brother or sister of his spouse);  
and

(e) a spouse of his child, brother or sister; and

“associate”, in relation to a member of the Board, means—

- (a) a person who is a nominee or an employee of the member;
- (b) a firm of which the member or any nominee of his is a partner;
- (c) a partner of the member;
- (d) a trustee of a trust under which the member or a member of his family is a beneficiary; or
- (e) any corporation within the meaning of the Companies Act 1965 [Act 125], of which the member or any nominee of his or a member of the member’s family is a director or has a substantial shareholding in the corporation.

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#### EXPLANATORY STATEMENT

This Bill seeks to create a body corporate to be known as the “Malaysian Institute of Road Safety Research” which will be charged with the responsibility for conducting comprehensive research on road safety, to provide research data and analysis regarding road safety, to enhance and increase knowledge based on new developments regarding issues related to road safety, and to provide for matters connected therewith.

#### PART I

- 2. Part I deals with preliminary matters.
- 3. *Clause 1* contains the short title of the proposed Act and empowers the Minister to appoint the date for the coming into operation of the proposed Act.
- 4. *Clause 2* provides that the proposed Act shall apply to all persons including the Federal Government and State Governments.
- 5. *Clause 3* contains the definitions of several expressions used in the proposed Act.

#### PART II

- 6. Part II contains provisions relating to the Malaysian Institute of Road Safety Research.
- 7. *Clause 4* provides for the establishment of the Institute.
- 8. *Clause 5* allows the Institute to have a common seal.



9. *Clause 6* sets out the functions of the Institute.
10. *Clauses 7 and 8* set out the powers and additional power of the Institute.
11. *Clause 9* allows the Institute to make available any research findings vested in the Institute for the purpose of its commercialization.

PART III

12. Part III contains provisions relating to the Board of Directors of the Malaysian Institute of Road Safety Research.
13. *Clause 10* provides for the establishment of a Board.
14. *Clause 11* sets out the membership of the Board.
15. *Clause 12* allows a member of the Board who is a representative of a ministry, department or organization that is renamed or whose functions have been assumed by another ministry, department or organization, to be renamed as a representative of the ministry, department or organization as renamed or of the ministry, department or organization by whom the functions are assumed, respectively.
16. *Clause 13* provides for the appointment of a Deputy Chairman of the Board and a Secretary of the Board.
17. *Clause 14* sets out the functions of the Board.
18. *Clause 15* provides for the powers of the Board.
19. *Clause 16* deals with the tenure of office of members of the Board.
20. *Clause 17* provides for the revocation of appointment of specified members of the Board and their resignation.
21. *Clause 18* sets out the circumstances in which the office of specified members of the Board becomes vacant.
22. *Clause 19* empowers the Minister to appoint temporarily any member of the Board to exercise the functions of the Chairman where the office of the Chairman is vacant or when the Chairman is absent or unable to perform his functions.
23. *Clause 20* allows the Board to delegate any of its functions to a member of the Board or any committees established under *clause 21*.
24. *Clause 21* empowers the Board to establish committees to assist it in the performance of its functions.

25. *Clause 22* provides for the payment of allowances to members of the Board who are not officers and servants of the Institute.
26. *Clause 23* confers on the Minister the power to issue directions to the Board.
27. *Clause 24* contains provisions on the validity of acts and proceedings of the Board.

#### PART IV

28. Part IV deals with the Director General, Deputy Director Generals, officers and servants of the Institute.
29. *Clause 25* provides for the appointment of the Director General and sets out his powers and duties.
30. *Clause 26* provides for the appointment of Deputy Director Generals.
31. *Clause 27* empowers the Director General to delegate his functions.
32. *Clause 28* provides for the appointment or employment of officers and servants of the Institute.
33. *Clause 29* enables the Institute to determine the conditions of service of its officers and servants, and provides that the Statutory Bodies (Discipline and Surcharge) Act 2000 shall apply to the officers and servants of the Institute.
34. *Clause 30* deals with the power of the Institute to grant loans and make advances to its officers and servants, while *clause 31* provides for the payment of retirement benefits, gratuities and other allowances to the officers and servants of the Institute and their dependants.

#### PART V

35. Part V contains financial provisions.
36. *Clause 32* provides for the establishment of the “Malaysian Institute of Road Safety Research Fund” (“the Fund”) and sets out the monies that comprise the Fund.
37. *Clause 33* sets out the expenditure that may be charged to the Fund.
38. *Clause 34* places a duty on the Institute to conserve the Fund.
39. *Clause 35* provides that the expenditure of the Institute shall be defrayed out of the Fund and that the Institute is required to prepare an estimate of its expenditure.
40. *Clause 36* allows the Institute to open and maintain bank accounts.

41. *Clause 37* enables the Institute to borrow money.
42. *Clause 38* allows the Institute to invest the monies of the Institute.
43. *Clause 39* allows the Institute to determine its own financial procedure.
44. *Clause 40* states that the financial year of the Institute shall begin on 1 January and end on 31 December of each year.
45. *Clause 41* provides that the Statutory Bodies (Accounts and Annual Reports) Act 1980 shall apply to the Institute.

#### PART VI

46. Part VI contains provisions relating to assigned officers.
47. *Clause 42* provides for the appointment of assigned officers and the issuance of certificates pertaining to such appointment and authority cards.
48. *Clause 43* enables the Institute or its assigned officers to request for access to data or its disclosure to facilitate the carrying out of its functions, and the subsequent treatment of such data by the Institute.
49. *Clause 44* provides that for the purposes of road safety research, an assigned officer may examine any physical entity generally and take photographs of such physical entity.
50. *Clause 45* confers authority on an assigned officer to obtain or retain samples of a physical entity which he believes contains information that is connected to or relevant for the purpose of road safety research, and to examine or analyze such samples upon its receipt. This *clause* further provides that for the purposes of *clauses 43, 44* and *45*, every assigned officer shall on demand produce to the person against whom he is acting his authority card.

#### PART VII

51. Part VII contains provisions relating to supplementary matters.
52. *Clause 46* provides in respect of the property rights to research findings or every programme undertaken by the Institute in pursuance of the proposed Act.
53. *Clause 47* enables the Institute to allow any person access to the research findings and facilities of the Institute.
54. *Clause 48* provides in respect of the retention of data collected from other agencies for purposes of analysis under the proposed Act.
55. *Clause 49* provides for the exclusive right of the Institute to use its own symbol, design or representation.

56. *Clause 50* states that the Director General, Deputy Director General, any member of the Board, any member of a committee, any officer or servant of the Institute, any assigned officer or any person engaged by the Institute while discharging his duties or performing his functions or exercising his powers under the Act are deemed to be public servants within the meaning of the Penal Code.

57. *Clause 51* confers the protection afforded in the Public Authorities Protection Act 1948 to any action, suit, proceedings or prosecution against the Institute, Director General, Deputy Director General, any member of the Board, any member of a committee, any officer or servant of the Institute, any assigned officer or any person engaged by the Institute.

58. *Clause 52* seeks to provide for the protection of any member of the Board from incurring personal liability for any loss or damage caused by any act or omission in the management or conduct of the affairs of the Institute or the Board.

59. *Clause 53* seeks to confer protection against any action, suit, prosecution or other proceeding that may lie, or be brought, instituted or maintained against the Institute, Director General, Deputy Director General, any member of the Board, any member of a committee, any officer or servant of the Institute, any assigned officer or any person engaged by the Institute.

60. *Clause 54* deals with representation in civil proceedings.

61. *Clause 55* deals with provisions relating to the duty to maintain secrecy.

62. *Clause 56* deals with the service of notices and other documents.

63. *Clause 57* provides that the prosecution of an offence shall be instituted with the consent of the Public Prosecutor.

64. *Clause 58* enables the Minister, after consultation with the Board, to adopt any regulations, rules, policies, circulars and directives enacted or issued by the Federal Government.

65. *Clause 59* empowers the Minister, after consultation with the Board, to make regulations under the proposed Act.

66. *Clause 60* provides for things done in anticipation of the enactment of the proposed Act.

#### *FINANCIAL IMPLICATIONS*

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.