

A BILL

i n t i t u l e d

An Act to amend the Educational Institutions (Discipline) Act 1976.

[]

ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

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

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

Amendment of section 2

2. The Educational Institutions (Discipline) Act 1976 [*Act 174*], which is referred to as the “principal Act” in this Act, is amended in section 2 by deleting the definition of “Campus”.

Substitution of section 10

3. The principal Act is amended by substituting for section 10 the following section:

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

10. (1) Subject to subsection (2), a student of an Institution may become a member of any society, organization, body or group of persons, whether in or outside Malaysia, including any political party.

(2) A student of the Institution shall not—

- (a) become a member of any unlawful society, organization, body or group of persons, whether in or outside Malaysia;
- (b) become a member of any society, organization, body or group of persons, not being a political party, which the Minister, after consultation with the Executive Head, determines and specifies in writing to the Executive Head to be unsuitable to the interests and well-being of the students or the Institution;
- (c) stand for election to or hold any post in any society, organization, body or group of students in the campus if the student holds any post in a political party; or
- (d) be involved in political party activities within the campus.

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

- (a) any unlawful society, organization, body or group of persons, whether in or outside Malaysia; or
- (b) any society, organization, body or group of persons which the Minister, after consultation with the Executive Head, determines and specifies in writing to the Executive Head to be unsuitable to the interests and well-being of the students or the Institution.

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

- (a) making a statement on an academic matter which relates to a subject on which he is engaged in study or research; or
- (b) expressing himself on the subject referred to in paragraph (a) at a seminar, symposium or similar occasion that is not organized or sponsored by any unlawful society, organization, body or group of

persons, whether in or outside Malaysia, or any society, organization, body or group of persons determined by the Minister under paragraph (3)(b) to be unsuitable to the interests and well-being of the students or the Institution.

(5) The Institution shall regulate the activities of students and a society, an organization, a body or group of students of the Institution within the campus.”.

Savings

4. (1) All disciplinary actions which are pending under subsection 10(7) of the principal Act in relation to matters referred to in paragraphs 10(1)(a) and 10(5)(a) of the principal Act against any student of the Institution shall, on the date of coming into operation of this Act, be discontinued.

(2) All actions which are pending under section 9 of the Act in relation to matters referred to in paragraph 10(5)(a) of the principal Act against any organization, body or group of students of the Institution shall, on the date of coming into operation of this Act, be discontinued.

EXPLANATORY STATEMENT

This Bill seeks to amend the Educational Institutions (Discipline) Act 1976 (“Act 174”).

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.
3. *Clause 2* seeks to amend section 2 of Act 174 to delete the definition of “Campus”.
4. *Clause 3* seeks to substitute for section 10 of Act 174 a new section 10.

The proposed subsection 10(1) seeks to extend the students’ right of association to include the right to become a member of any political party. The existing section 10 of Act 174 does not allow students to become members of political parties.

The proposed paragraphs 10(2)(a) and (b) provide for restrictions on students in respect of becoming members of an unlawful society, *etc.*, and members of a society, *etc.*, which the Minister, after consultation with the Executive Head, determines and specifies in writing to the Executive Head to be unsuitable to the interests and well-being of the students or the Institution. However, the determination by the Minister under the proposed paragraph 10(2)(b) shall not include a political party.

The proposed paragraph 10(2)(c) seeks to prohibit a student from running for election to or holding any post in any society, organization, body or group of students in the campus if he holds any post in a political party. The prohibition seeks to maintain the neutrality in the campus.

The proposed paragraph 10(2)(d) seeks to impose restriction on students' involvement in political party activities inside the campus. This restriction seeks to maintain the neutrality in the campus. However, no restriction is imposed on students' political party activities outside the campus.

The proposed subsection 10(3) seeks to remove the restriction imposed on students and societies, organizations, bodies or groups of students in expressing or doing anything which may reasonably be construed as expressing support for or sympathy with or opposition to any political party. This is consistent with the Court of Appeal's decision in the case of *Muhammad Hilman Idham & Ors v Kerajaan Malaysia & Ors [2011] 9 CLJ 50*. However, the subsection maintains the restrictions in the existing subsection 10(5) of Act 174 whereby the students and societies, organizations, bodies or groups of students are not allowed to express or do anything which may reasonably be construed as expressing support for or sympathy with or opposition to any unlawful society, organization, *etc.*, and any society, organization, *etc.*, which the Minister determines to be unsuitable to the interests and well-being of the students or the Institution.

The proposed subsection 10(4) provides the exceptions to the restrictions imposed in the proposed subsection 10(3) as provided under the existing section 10 of Act 174.

The proposed subsection 10(5) seeks to impose an obligation on the Institution to regulate the activities of students or students' society, organization, body or group inside the campus.

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

FINANCIAL IMPLICATIONS

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