

LAWS OF MALAYSIA

ACT 651

MALAYSIAN HEALTH PROMOTION BOARD ACT 2006

Date of Royal Assent :	15 June 2006
Date of publication in the Gazette :	29 June 2006
Date of coming into operation :	1 April 2007

ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

Section 1. Short title and commencement

(1) This Act may be cited as the Malaysian Health Promotion Board Act 2006.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

Section 2. Interpretation

In this Act, unless the context otherwise requires—

"grants" means a sum of money awarded to any registered society by the Board to meet the expenses, partly or wholly, of any health promotion activities or programmes to be carried out by that society;

"Chief Executive Officer" means the Chief Executive Officer of the Board appointed under section 9;

"Fund" means the Malaysian Health Promotion Fund established under section 17;

"Board" means the Malaysian Health Promotion Board established under section 3;

"Minister" means the Minister charged with the responsibility for health;

"Chairman" means the Chairman of the Board appointed under section 5;

"health promotion" refers to any action or activity which strengthens the health skills and capabilities of individuals, groups and communities as well as enhances social and environmental conditions so as to improve their health status.

PART II - THE BOARD

Section 3. Establishment of the Board

- (1) There is established a body corporate by the name of "Malaysian Health Promotion Board".
- (2) The Board shall have perpetual succession and a common seal.
- (3) The Board may sue and be sued in its corporate name.
- (4) Subject to and for the purposes of this Act, the Board, upon such terms as it deems fit, may—
 - (a) enter into contracts;
 - (b) acquire, purchase, take, lease, hold, sell and enjoy movable and immovable property of every description; and
 - (c) convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer, or otherwise dispose of, or deal with any movable or immovable property and any interest in any movable or immovable property, vested in the Board.

Section 4. Common seal of the Board

- (1) The common seal of the Board shall bear such device as the Board may approve and such seal may from time to time be changed, modified and made anew by the Board as the Board thinks fit.
- (2) The common seal shall be kept in custody of the Chief Executive Officer and shall be authenticated by him or by any person authorized by the Board in writing.
- (3) All deeds, documents and other instruments purporting to be sealed with the common seal and authenticated in accordance with subsection (2) shall until the contrary is proven be deemed to have been validly executed.
- (4) Notwithstanding subsection (3), any document or instrument which if executed by a person not being a body corporate would not be required to be under seal may in like manner be executed by the Board, and such document or instrument may be executed on behalf of the Board by any officer or servant of the Board generally or specially authorized by the Board in that behalf.
- (5) The common seal of the Board shall be officially and judicially noticed.

Section 5. Members of the Board

- (1) The Board shall consist of the following members:

- (a) a Chairman to be appointed by the Prime Minister upon the advice of the Minister of Health;
 - (b) a representative of the Ministry of Health nominated by the Minister of Health;
 - (c) a representative of the Ministry of Youth and Sports nominated by the Minister of Youth and Sports;
 - (d) a representative of the Ministry of Culture, Arts and Heritage nominated by the Minister of Culture, Arts and Heritage;
 - (e) a representative of the Ministry of Finance nominated by the Minister of Finance;
 - (f) two community members from registered non-governmental organizations from the health sector nominated by the Minister of Health;
 - (g) two community members from registered non-governmental organizations from the sport sector nominated by the Minister of Youth and Sports;
 - (h) two community members from registered non-governmental organizations from the culture sector nominated by the Minister of Culture, Arts and Heritage; and
 - (i) not more than six members representing professions or possessing expertise relevant to the functions of the Board on the nomination of the Minister.
- (2) The members nominated under paragraph (1)(i) shall include one person from the health promotion sector, one from the health research sector and others from other areas which may include education, law, finance, advertising, social marketing, youth and women's interests.
- (3) The members nominated under paragraphs (1)(b) to (i) shall be appointed by the Minister.
- (4) The provisions of the Schedule shall apply to the members of the Board.

Section 6. Tenure of office

Subject to such conditions as may be specified in his instrument of appointment, a member of the Board shall, unless he sooner resigns or vacates his office or his appointment is sooner revoked, hold office for a term not exceeding three years and is eligible for reappointment subject to a maximum of two terms.

Section 7. Revocation and resignation

- (1) The appointment of any member of the Board may, at any time, be revoked by the Minister without assigning any reason.
- (2) A member may at any time resign his office by a written notice addressed to the Minister.

Section 8. Vacation of office

The office of a member of the Board shall be vacated—

- (a) if he dies;
- (b) if there has been proven 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 he becomes a bankrupt;
- (d) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) if he absents himself from three consecutive meetings of the Board without leave from the Chairman or, in the case of the Chairman, without leave from the Minister;
- (f) in the event of his resignation being accepted by the Minister; or
- (g) if his appointment is revoked by the Minister.

Section 9. Chief Executive Officer

(1) The Board shall appoint a Chief Executive Officer after consultation with the Minister, on such terms and conditions as the Minister may determine.

(2) The Chief Executive Officer shall be the Executive Secretary to the Board and be responsible for—

- (a) carrying out the decisions and directions of the Board;
- (b) managing the functions, programmes staff and other resources of the Board and ensuring compliance with the mandate and objectives of the Board;
- (c) preparing strategic plans, programmes and budgets for the consideration of the Board; and
- (d) executing all the plans, programmes and projects of the Board for effective and optimal performance.

(3) The Chief Executive Officer shall have general control of the officers and servants of the Board.

(4) The Chief Executive Officer shall perform such further acts and duties as the Board may direct.

(5) In discharging his duties, the Chief Executive Officer shall act under the general authority and direction of the Board.

(6) The Chairman may appoint any officer of the Board to perform the functions of the Chief Executive Officer—

(a) if for any period the Chief Executive Officer is unable, by reason of illness, leave of absence or any other cause, to perform his functions; or

(b) during any period of vacancy in the office of the Chief Executive Officer.

Section 10. Committees

The Board may establish committees consisting of members of the Board or persons who are not members of the Board or a combination of both to advise or assist the Board on such matter concerning its functions as it considers fit, and the Board may delegate, subject to such terms and conditions or restrictions as it may impose, such of its functions as it considers fit to any of such committees.

Section 11. Disclosure of interest

(1) Any member of the Board or any member of a committee having directly or indirectly any interest in relation to any matter under discussion by the Board or committee shall disclose to the Board or committee, as the case may be, the fact of his interest and the nature of that interest.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board or the committee, as the case may be.

(3) Upon disclosure under subsection (1) the member—

(a) shall not take part in or be present during any discussion or decision of the Board or committee; and

(b) shall be disregarded for the purpose of constituting a quorum of the meeting of the Board or committee, relating to the matter.

(4) A member of the Board or committee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(5) No acts or proceeding of the Board or committee shall be invalidated on the ground that any member of the Board or committee has contravened the provisions of this section.

Section 12. Appointment of officers and servants of the Board

(1) The Board may appoint or employ such number of officers and servants on such terms and conditions as it may think desirable and necessary, who shall be paid such remuneration, allowances and benefits, and whose appointment shall be on such terms as the Board considers appropriate for carrying out the purposes of this Act.

(2) No person shall be eligible for employment as an officer or servant of the Board if he has, directly or indirectly, by himself or his partner, any share or interest in any contract or proposed contract with, for or on behalf of the Board.

Section 13. Power of the Minister to give directions and request information

(1) The Minister may give general directions not inconsistent with this Act and the Board shall give effect to such directions.

(2) The Board shall furnish to the Minister such returns, accounts and information with respect to the performance of any of its functions under this Act as the Minister may require or direct.

PART III - OBJECTIVES, FUNCTIONS AND POWERS OF THE BOARD

Section 14. Objectives of the Board

The objectives of the Board are—

- (a) to develop the capacity of organizations including health related and community based organizations for health promotion;
- (b) to plan and implement health promotion programmes and activities for the benefit of the community, with a particular focus on youth;
- (c) to develop and support multi-strategy programmes that promote and support healthy lifestyles and healthy environments through various settings and sectors;
- (d) to develop and support programmes to improve population health by preventing, reducing or stopping the use of tobacco products;
- (e) to fund research relevant to health promotion; and
- (f) to fund and support sporting, recreational and cultural organizations to promote healthy lifestyles and healthy environments.

Section 15. Functions of the Board

The functions of the Board are—

- (a) to prepare guideline for giving grants, to evaluate grant applications and to disburse grants to any health or health-related organizations;
- (b) to determine the terms and conditions for giving grants or financial assistance from the Fund, including the amounts that may be approved in respect of each application;
- (c) to plan, develop and implement action, plans and programmes for strengthening and developing capacity for health promotion;
- (d) to assess and determine the types and extent of health promotion activities to be supported by the Board;

(e) to liaise, assist and collaborate with other international organizations with similar missions and objectives for mutual support and development as well as further the development and progress of health promotion in the world; and

(f) to consult with relevant government agencies and departments and non-governmental organizations affected by the operation of this Act.

Section 16. Powers of the Board

(1) The Board shall have the power to do all things expedient or reasonably necessary for or incidental to the carrying out of its functions.

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

(a) to give grants or other financial assistance from the Fund to support programmes and research activities in the areas of health promotion;

(b) to provide grants or other financial assistance from the Fund for health promotion through sporting, recreational and cultural activities;

(c) to collect or cause to be collected money due to the Fund;

(d) to determine the proportion of moneys of the Fund which should be used for grants or financial assistance that should be provided in respect of each approved application;

(e) to prescribe procedures to be followed relating to finance and accounts of the Fund;

(f) to appoint such agents, experts, consultants or any other person to do any act required to be done in the execution of its functions or the better carrying into effect of the purposes of this Act;

(g) to grant loans or make advances to its officers and servants from the Fund for such purpose as may be approved by the Minister and on such terms and conditions as the Board may determine; and

(h) to do such other things as it deems fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

PART IV - FINANCE

Section 17. Establishment of the Fund

(1) For the purposes of this Act a fund called the Malaysian Health Promotion Fund which shall be administered and controlled by the Board is established.

(2) The Fund shall consist of—

- (a) such sums as may be allocated annually by the Government for the purposes of this Act;
- (b) all moneys earned or arising from any property, charges or interest acquired by or vested in the Board;
- (c) all grants, donations, gifts, contributions, bequests or any other sums received by the Board from any sources except from those involved or related to tobacco, tobacco products or intoxicating liquor manufacturers, wholesalers, retailers or their agents; and
- (d) all other moneys lawfully received by the Board under this Act.

Section 18. Expenditure to be charged on the Fund

(1) The Fund shall be expended for the purpose of—

- (a) carrying out, subject to such terms and conditions as may be approved by the Minister, health promotion programmes and activities;
- (b) providing grants or any other financial assistance to sport, recreational, cultural and other health related and relevant registered societies for the purpose of health promotion;
- (c) paying any expenditure lawfully incurred by the Board, including any fees and cost, remuneration of the officers and servants employed by the Board including the granting of loans, retirement benefits, gratuities and allowances of any member of the Board or any committee established under this Act;
- (d) paying any other expenses, costs or expenditures of acquiring, purchasing or leasing of land and erecting any building or facility for its own use; and
- (e) generally paying any other expenses incidental to the management of the Fund and the functions of the Board.

(2) The proportion of the fund to be disbursed annually to the different sectors shall be determined by the Board as follows:

- (a) amounts being not less than fifty percent of the total amount disbursed in any one year to be disbursed to health organizations for health promotion programmes and activities;
- (b) amounts being not more than thirty percent of the total amount disbursed in any one year to be disbursed to sporting and recreational organizations for health promotion programmes and activities; and
- (c) amounts being not more than ten percent of the total amount disbursed in any one year to be disbursed to cultural organizations for health promotion programmes and activities.

Section 19. Reserve Fund

(1) The Board shall establish and manage a Reserve Fund within the Fund in accordance with such terms and conditions as the Minister may determine.

(2) The Reserve Fund shall only be used for the purpose of meeting contingencies in relation to the functions of the Board.

Section 20. Preparation of budget

The Board shall, in each calendar year, frame a budget showing the estimate income and expenses which it proposes to incur during the following year and shall submit a copy of the budget for the approval of the Minister before such date as may be fixed by the Minister and such budget shall contain provisions adequate in the opinion of the Board for the discharge of the liabilities incurred by the Board and for the maintenance of a working balance.

Section 21. Accounts and reports

(1) The Board shall cause to be kept proper accounts of the Fund and proper reports of its activities.

(2) As soon as practicable after the end of each financial year, the Board shall cause to be prepared for the financial year a statement of accounts of the Board which shall include a balance sheet and an account of income and expenditure and a statement of its activities.

(3) The Statutory Bodies (Accounts and Annual Reports) Act 1980 [Act 240] shall apply to the Board.

PART V - OFFENCES AND PENALTIES

Section 22. False information

Any person who makes, orally or in writing or signs any declaration, return, certificate or other document or who furnishes information required under this Act or under the regulations made under this Act which is untrue, inaccurate or misleading in any particular manner shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Section 23. Penalty for attempting to obtain money or benefit by false or misleading statement or document

Any person who—

- (a) attempts to obtain any financial assistance or other benefit provided under this Act by means of false or misleading statement or document; or

(b) obtains any financial assistance or other benefit provided under this Act by means of false or misleading statement or document, commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or imprisonment for a term not exceeding three years or to both.

Section 24. Repayment

Where a person is convicted of an offence under section 23, the court may, in addition to imposing a punishment under the section, order the person to make repayment of the amount of money or value of benefit wrongfully obtained together with interest at the rate of ten percent per annum in respect of each day from the day he received the financial assistance or benefit.

Section 25. Offence by body corporate

(1) Where a body corporate commits an offence under this Act, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management—

(a) may be charged and tried severally or jointly in the same proceedings with the body corporate; and

(b) where the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—

(i) that the offence was committed without his knowledge, consent or connivance; and

(ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) Where any person would be liable under this Act to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of such agent, if such act, omission, neglect or default was committed—

(a) by his employee in the course of his employment;

(b) by the agent when acting on his behalf; or

(c) by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

PART VI - MISCELLANEOUS

Section 26. Public servants

The Chairman, all members of the Board and of any committee, and the officers and servants of the Board, while discharging their duties as the Chairman or as such members, officers and servants shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

Section 27. Duty to maintain secrecy

(1) Except for the purposes of this Act or for the purposes of any civil or criminal proceedings under any written law, no member of the Board, member of a committee, officer or servant of the Board shall disclose any information which has been obtained by him in the course of his duties and which is not published in pursuance of this Act.

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

Section 28. Protection of officers

No action or prosecution shall be brought, instituted or maintained in any court against—

(a) the Chief Executive Officer or any other officer or servant duly appointed under this Act for or on account of or in respect of any act ordered or done for the purpose of carrying this Act into effect; and

(b) any other person for or on account of or in respect of any act done or purported to be done by him under the order, direction or instruction of the Chief Executive Officer or any other officer or servant duly appointed under this Act, if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it.

Section 29. Power to make regulations

(1) The Minister may 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 subsection (1), regulations may be made for prescribing—

(a) the procedure to be followed by any committee established under this Act;

(b) the procedure relating to the giving of grants or other financial assistance;

(c) the manner of applying for a grant or other financial assistance, the forms to be used and the information to be furnished;

(d) the form in which a register or other records shall be kept or maintained under this Act and the entries to be made in the register and records;

(e) the fees or charges to be imposed under this Act;

(f) the manner of appointment, and the terms and conditions of service of the officers and servants of the Board;

(g) the terms and conditions and the procedure for the grant of loans or advances to any officer or servant of the Board; and

(h) any other matter which the Board deems expedient or necessary for the purposes of this Act.

SCHEDULE

[Subsection 5(4)]

Meetings of the Board

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

(2) The Chairman shall preside over all meetings which he attends.

(3) The members shall, at the first meeting of the full Board, elect a Deputy Chairman from among them to preside over any meeting or part of a meeting, from which the Chairman is absent.

(4) Every member of the Board present shall be entitled to one vote. If any question to be determined by the Board there is an equality of votes, the Chairman or member presiding at any meeting shall have a casting vote in addition to his deliberative vote.

(5) The Board may invite any person to attend any meeting of the Board as and when necessary for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting.

Quorum

2. The quorum of the Board shall be seven.

Allowance

3. Members of the Board shall be paid such allowances as the Minister may determine.

Minutes

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

(2) Any minutes made of a meeting of the Board shall, if duly signed, be admissible in evidence in all legal proceedings without further proof.

(3) Every meeting of the Board in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members at the meeting to have been duly qualified to act.

Procedure

5. (1) Subject to this Act, the Board shall determine its own procedures.

(2) No act done or proceeding taken by the Board under this Act shall be questioned on the ground of—

(a) a vacancy in the membership of, or a defect in the constitution of the Board; or

(b) an omission, a defect or an irregularity in the procedure not affecting the merits of the case.

Members to devote time to business of the Board

6. Every member of the Board shall devote such time to the business of the Board as may be necessary to discharge his duties effectively.