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ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title, application and commencement
2. Interpretation

PART II

VESTING OF PROPERTY, *ETC.*, IN SUCCESSOR COMPANY

3. Vesting
4. Initial Government holding in the successor company
5. Government investment in further issues of shares of the successor company
6. Staff
7. Government of Malaysia to hold all shares in the successor company
8. Minister of Finance to hold shares

PART III

DIRECTOR GENERAL OF THE DEPARTMENT OF STANDARDS

9. Appointment of Director General
10. Duties and functions of the Director General

Section

- 11. Power to delegate
- 12. Power of the Minister to give directions

PART IV

ESTABLISHMENT OF THE STANDARDS AND
ACCREDITATION COUNCIL

- 13. Establishment of the Standards and Accreditation Council and its functions
- 14. Committees

PART V

STANDARDS AND ACCREDITATION

- 15. Malaysian Standards
- 16. Accreditation certificates
- 17. Restriction on the use of words
- 18. Miscellaneous offences
- 18A. Ownership of Malaysian Standards
- 19. Offences committed by body corporate
- 20. Characteristics of commodities, *etc.*, may be prescribed by reference to Malaysian Standards
- 21. Citation and proof of standards

PART VA

ENFORCEMENT

- 21A. Authorized officers
- 21B. Authority card
- 21C. Power of investigation
- 21D. Search and seizure with warrant
- 21E. Search and seizure without warrant
- 21F. Warrant admissible notwithstanding defects

Section

- 21G. Access to computerized data
- 21H. List of computers, books, records, *etc.*, seized
- 21I. Examination of persons acquainted with case
- 21J. Admissibility of statement in evidence
- 21K. Power to require attendance of persons acquainted with case
- 21L. Release of seized computer, book, record, *etc.*
- 21M. Cost of holding seized computer, book, record, *etc.*
- 21N. No cost or damages arising from seizure to be recoverable
- 21O. Additional powers
- 21P. Obstruction of authorized officers

PART VI

GENERAL

- 22. Regulations

PART VII

REPEAL AND TRANSITIONAL PROVISIONS

- 23. Repeal and savings
- 24. Continuance of criminal and civil proceedings
- 25. Saving of standards, marks and licences
- 26. Prevention of anomalies

LAWS OF MALAYSIA

Act 549

STANDARDS OF MALAYSIA ACT 1996

An Act to make new provisions in the law relating to standards, accreditation and for other matters connected therewith.

[1 September 1996, P.U. (B) 322/1996]

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:

PART I

PRELIMINARY

Short title, application and commencement

1. (1) This Act may be cited as the Standards of Malaysia Act 1996 and shall apply throughout Malaysia.

(2) This Act shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint; and the Minister may appoint different dates for the coming into force of different provisions of the Act.

Interpretation

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

“accreditation” means a procedure by which the Department gives attestation that a conformity assessment body is competent to carry out specific conformity assessment activity;

“authorized officer” means an officer of the Department or any public officer authorized under section 21A;

“accreditation symbol” means a protected symbol applied or issued under the accreditation system established and operated by the Department;

“certification” means a procedure by which a third party gives written assurance that specific requirements relating to a commodity, process, system, person, body, practice or service are fulfilled;

“commodity” means any article, product or thing that is a subject of trade or commerce;

“conformity assessment” means an activity of testing, calibrating, inspecting, certifying or any other activity as the Director General may determine for the purpose of demonstrating that the specific requirements relating to a commodity, process, system, person, practice or service are fulfilled;

“Council” means the Malaysian Standards and Accreditation Council established under subsection 13(1);

“Department” means the Department of Standards, Malaysia which is responsible for national standardization and accreditation;

“Director General” means the Director General of the Department of Standards appointed under section 9;

“Institute” means the Standards and Industrial Research Institute of Malaysia established under the Standards and Industrial Research Institute of Malaysia (Incorporation) Act 1975 [*Act 157*];

“liabilities” means liabilities, debts, charges, duties, and obligations of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in Malaysia or elsewhere);

“Malaysian Standard” means a standard declared under section 15;

“mark” includes any device, brand, heading, label, ticket, name, signature, word, letter, numeral, and any combination thereof;

“mark of conformity” means protected mark, applied or issued under the rules of a certification system, indicating that adequate confidence is provided that the relevant commodity, process, system,

person, practice or service is in conformity with a specific standard or other normative document;

“Minister” means the Minister for the time being charged with the responsibility for standards and accreditation;

“premises” includes any hut, shed, structure, platform, house, building, conveyance and land whether or not enclosed or built upon;

“property” includes—

(a) all movable and immovable property and all interests, rights and liabilities, whether equitable or legal in, to or out of such property, chose in action, investments, money and goodwill; and

(b) all rights and liabilities in respect of contracts in relation to the construction of buildings,

and “vested”, in relation to property, includes rights to property which are future or contingent;

“provisional Malaysian Standard” means a standard which has not undergone the formal procedures of technical committees deliberation and public comment and —

(a) which in the opinion of the Council is urgently needed; or

(b) in respect of which the Minister considers that trial use thereof is necessary before it can be finalised;

“recognized body”, in relation to standard, means a legal or administrative entity that has specific tasks and composition, with acknowledged authority for publishing standards;

“regulations” means regulations made under section 22;

“rights” means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

“standard” means a document established by consensus and approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for activities or their

results, aimed at the achievement of the optimum degree of order in a given context, with which compliance is not mandatory;

“standardization” means the activity of establishing, with regard to actual or potential problems, provisions for common and repeated use, aimed at the achievement of the optimum degree of order in a given context;

“successor company” means the company limited by shares incorporated under the Companies Act 1965 [*Act 125*] and named by the Minister in the order under subsection 3(1) to which property, rights, liabilities and functions of the Institute are transferred and vested in;

“technical regulation” means any written law that provides for technical requirements, either directly or by referring to or incorporating the content of a standard, technical specification or code of practice;

“vesting date” means the date on which all property, rights, liabilities and functions of the Institute are transferred to and vested in the successor company as specified by the Minister in the order under subsection 3(1).

PART II

VESTING OF PROPERTY, *ETC.*, IN SUCCESSOR COMPANY

Vesting

3. (1) The Minister may, by order published in the *Gazette*, appoint a vesting date and on that date, all such property, except those lands referred to in subsection (2), rights, liabilities and functions of the Institute shall, by virtue of this Act, be transferred to and vested in the successor company without any conveyance, assignment or transfer whatever.

(2) Any land held in the name of the Federal Lands Commissioner and which immediately before the vesting date is occupied by the Institute shall continue to be occupied by the successor company under a lease at a rental and on such terms to be agreed upon by the Federal Lands Commissioner and the successor company.

(3) Notwithstanding subsection (1), only the functions of the Institute which under this Act are not vested in the Director General and any other body shall be transferred to the successor company.

(4) Every property vested by virtue of subsection (1) in the successor company shall be so vested in the company for the like title or interest as the same was vested or held immediately before the vesting date.

(5) Every chose in action vested by virtue of subsection (1) in the successor company may, after the vesting date, be sued on, recovered or enforced by the company in its own name and it shall not be necessary for the company or the Institute to give notice to the person bound by the chose in action of the vesting effected by subsection (1).

(6) Every right and liability vested by subsection (1) in the successor company may, on or after the vesting date, be sued on, recovered or enforced by or against the company in its own name and it shall not be necessary for the company or the Institute to give notice to the person whose rights and liabilities are affected by the vesting under subsection (1).

(7) Any pending legal proceedings by or against the Institute which relate to any property, right and liability transferred to and vested in the successor company by virtue of subsection (1) may, on or after the vesting date, be continued by or against the successor company.

(8) In the case of rights and liabilities arising under any loans which vest in the successor company on the vesting date, the company may enter into such arrangements or agreements over such rights and liabilities with the Government of Malaysia or any third party.

(9) On or after the vesting date, any agreement relating to any property, rights and liabilities transferred to and vested in the successor company under subsection (1) to which the Institute was a party immediately before the vesting date, whether in writing or not, and whether or not of such a nature that rights and liabilities thereunder could be assigned by the Institute, shall have effect as if the company had been a party to the agreement.

(10) Notwithstanding subsection (9), any agreement entered into by the Institute, the subject matter of which relates to any matter falling

within the powers and functions of the Director General under this Act, shall, upon the vesting date devolve upon the Government and shall have effect as if the Government had been a party to the agreement.

(11) Where by virtue of subsection (1), any property is transferred to and vested in the successor company, the provisions in Part Thirty of the National Land Code [*Act 56 of 1965*] shall, for the purpose of effecting the registration of such vesting, apply to the successor company, as if it were a public authority.

Initial Government holding in the successor company

4. (1) As a consequence of the vesting in the successor company of the property, rights and liabilities under subsection 3(1), the successor company shall issue such securities of the company as the Minister of Finance may, after consultation with the Minister, from time to time, direct.

(2) Securities required to be issued in pursuance of this section shall be issued or allotted at such times and on such terms, as to allotment, as the Minister of Finance may, after consultation with the Minister, direct.

(3) Securities under this section—

(a) shall be of such nominal value as the Minister of Finance may direct; and

(b) shall be issued as fully paid and treated for the purpose of the Companies Act 1965 as if they had been paid up by virtue of the payment to the successor company of their nominal value.

(4) Any dividends or other sums received by the Minister of Finance by virtue of this section shall be paid into the Consolidated Fund.

Government investment in further issues of shares of the successor company

5. (1) Further issues of the shares of the successor company shall only be made as the Minister of Finance may, after consultation with the Minister, at any time, direct.

(2) Any expenses incurred by the Minister of Finance in consequence of the provisions of this section shall be treated as investments and be authorized under subparagraph 8(3)(a)(iv) of the Financial Procedure Act 1957 [*Act 61*].

(3) Any dividends or other sums received by the Minister of Finance under this section shall be paid into the Consolidated Fund.

(4) Stamp duty shall not be chargeable in respect of any increase in the capital of the successor company which—

(a) is effected by the issue of shares; and

(b) is certified by the Treasury as having been effected by the issue of shares subscribed for by the Minister of Finance under subsection (1).

Staff

6. (1) The successor company shall accept into its employment, on a date to be appointed by the Minister by notification in the *Gazette*, every person who immediately before that date is a member of the staff of the Institute and who was given an option by the Institute and has opted to serve as an employee of such company.

(2) Every such person who opts under subsection (1) to serve as an employee of the successor company shall be employed by such company on terms and conditions of service not less favourable than the terms and conditions of service to which he was entitled immediately before the appointed date.

Government of Malaysia to hold all shares in the successor company

7. (1) The Minister of Finance may, from time to time, on behalf of the Government of Malaysia, subscribe for or otherwise acquire all the shares in the successor company.

(2) Shares in the successor company held by the Minister of Finance shall be held by the Minister of Finance Incorporated under the Minister of Finance (Incorporation) Act 1957 [*Act 375*].

(3) Notwithstanding any other written law or rule of law, it shall not be necessary to complete or register a transfer of shares of the kind referred to in subsection (2) consequent upon a change in the person holding the office of the Minister of Finance.

(4) The Minister of Finance may exercise all the rights and powers attaching to the shares in the successor company held by him.

(5) The Minister of Finance may, at any time, by written notice to the Company Secretary of the successor company, authorize, on such terms and conditions as are specified in the notice, any person as he thinks fit to act as his representative at any or all of the meetings of shareholders of the successor company or of any class of shareholders, and any person so authorized shall be entitled to exercise the same powers, on behalf of the Minister of Finance, as the Minister of Finance could exercise if present in person at the meeting.

Minister of Finance to hold shares

8. (1) The Minister of Finance shall not—

(a) sell or otherwise dispose of any shares in the successor company held by him to any person; or

(b) permit shares in the successor company to be allotted to any person.

(2) Nothing in subsection (1) shall apply to redeemable preference shares that—

(a) are not convertible into shares of any other class; and

- (c) do not confer any rights to vote at any general meeting of the successor company.

PART III

DIRECTOR GENERAL OF THE DEPARTMENT OF STANDARDS

Appointment of Director General

9. (1) The Minister shall, from time to time, by notification in the *Gazette*, appoint a public officer to be the Director General of the Department of Standards for the purpose of carrying out the duties and functions assigned to him under this Act.

(2) The Director General shall hold office for such term and subject to such conditions as the Minister may, after consultation with the Public Services Commission, determine.

(3) The Director General shall have an official seal to be published in the *Gazette* for the authentication of documents required for the purposes of his duties and functions under this Act.

Duties and functions of the Director General

10. (1) The duties and functions of the Director General shall be to develop and promote standards, and to accredit conformity assessment bodies as a means of advancing the national economy, benefiting the health, safety and welfare of the public and the environment, assisting and protecting consumers, promoting industrial efficiency and development, facilitating domestic and international trade and furthering international co-operation in relation to standardization and accreditation.

(2) In discharging his duties and functions under subsection (1), the Director General may—

- (a) represent Malaysia in international standardization and accreditation activities;
- (aa) appoint, in accordance with the criteria approved by the Council, any organization in Malaysia to develop standards

and to coordinate Malaysian representation in international standardization activities;

- (b) promote co-operation between organizations concerned with standardization in Malaysia, Government departments and agencies for the purpose of achieving compatibility and maximum common usage of standards;
- (c) implement the criteria, as approved by the Council, relating to the preparation, approval, acceptance and designation of standards to be Malaysian Standards;
- (d) recommend to the Minister standards submitted by any organization appointed under paragraph (aa) as Malaysian Standards, where appropriate, and maintain an index of Malaysian Standards;
- (e) collect, translate and distribute information on standards and standardization activities in and outside Malaysia;
- (f) promote the use of Malaysian Standards;
- (g) recommend to the Minister the adoption of any international or foreign standard, with or without modifications, as are suitable for use in Malaysia;
- (h) accredit, in accordance with the criteria as approved by the Council, bodies that are engaged in conformity assessment and maintain a register of accredited bodies and of their marks of conformity;
- (i) appoint organizations as agents to provide assessment services for accreditation provided under this Act;
- (j) *(Deleted by Act A1425);*
- (k) *(Deleted by Act A1425);*
- (l) establish and register under the Trade Marks Act 1976 the Department's own accreditation symbol;
- (m) authorize and regulate the use of any accreditation symbol referred to under paragraph (l);

- (n) co-operate with the State Governments, local authorities, the industrial, commercial and trading sectors and such other organizations as he may determine with a view to securing the adoption of standards;
- (o) promote co-operative arrangements with organizations engaged in standardization and accreditation in other countries for the exchange of information;
- (p) advise the Minister on the requirement, sources and allocation of financial resources to Malaysian organizations concerned with standardization to assist them in meeting national and international requirements;
- (q) seek and maintain liaison with local and foreign organizations concerned with standardization, accreditation and other related matters in the public and private sectors, and maintain contact with industrial needs in standardization and accreditation;
- (qa) by co-operation with the relevant agencies, facilitate the development of technical regulations and develop and promote principles and procedures for the implementation of technical regulations and conformity assessment; and
- (r) perform any other function as the Minister may require.

Power to delegate

11. (1) The Director General may, in writing, delegate to any public officer, subject to such conditions, limitations or restrictions as he thinks fit to impose, any of his duties or functions under this Act.

(2) Any delegation made under this section shall not prevent the Director General himself from performing the duty or exercising the function so delegated.

Power of the Minister to give directions

12. The Minister may, from time to time, give to the Director General directions not inconsistent with the provisions of this Act and the Director General shall give effect to all such directions.

PART IV

ESTABLISHMENT OF THE STANDARDS AND
ACCREDITATION COUNCIL**Establishment of the Standards and Accreditation Council and
its functions**

13. (1) There shall be established a Council to be known as the Malaysian Standards and Accreditation Council consisting of the following members appointed by the Minister:

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) a representative of the successor company;
- (d) five representatives of the Government; and
- (e) not more than twelve other members who, in the opinion of the Minister, have wide experience or special knowledge in matters relating to standardization and accreditation.

(2) The Director General shall be an *ex officio* member of the Council.

(3) Subject to the direction and control of the Minister, the duties of the Council shall be —

- (a) to advise the Minister in respect of standardization and accreditation policies, programmes, schemes, projects and activities;
- (b) to advise the Minister in respect of programmes, schemes, projects and activities to promote industrial efficiency and development, and for consumer protection, through standardization and accreditation activities;
- (c) to advise the Minister in respect of standard for commodities, processes, practices and services;

- (d) to advise the Minister on the priorities in respect of standardization to ensure maximum effectiveness;
- (e) to advise the Minister on the effective implementation of Malaysian Standards for commodities, processes, practices and services;
- (f) to approve criteria relating to the preparation, approval, acceptance and designation of standards in Malaysia;
- (g) to approve criteria relating to the accreditation of a conformity assessment body;
- (h) *(Deleted by Act A1425)*;
- (i) to advise the Minister on the promotion and implementation of accreditation programmes;
- (j) *(Deleted by Act A1425)*;
- (k) to perform any other function as may be determined or delegated by the Minister.

(4) A member of the Council shall, unless he sooner resigns or vacates his office or his appointment is sooner revoked, hold office for a term of three years and shall be eligible for reappointment for any successive periods not exceeding three years.

(4A) The Minister may appoint, on the nomination of a member, not more than one person to be an alternate member of the member to attend meetings of the Council in place of the member when the member is for any reason unable to attend.

(4B) When attending meetings of the Council in place of a member, an alternate member shall be deemed to be a member of the Council.

(5) In the event of the Chairman being absent or unable to act due to illness or any other cause or if the office of the Chairman is vacant, the Deputy Chairman shall carry out the duties and functions of the Chairman.

(6) In the event of an equal division of votes on any matter before the Council, the Chairman shall have the casting vote.

Committees

14. Notwithstanding section 13, the Council may, subject to the prior approval of the Minister, establish such committees as the Council deems necessary for the discharge of its duties or functions or for any purpose arising out of or connected with any of its duties or functions.

PART V

STANDARDS AND ACCREDITATION

Malaysian Standards

15. (1) The Minister may approve and declare any standard that has been adopted with or without modification to be a Malaysian Standard or a provisional Malaysian Standard for the purposes of this Act, and may amend, revise or withdraw any Malaysian Standard or provisional Malaysian Standard.

(2) Where a standard has been declared to be a provisional Malaysian Standard, the expression “Provisional” or “P” shall be included in the title or number of the Malaysian Standard.

(3) No standard shall be declared to be a Malaysian Standard, and no Malaysian Standard shall be amended, revised or withdrawn, unless the Minister is satisfied that the persons who may be affected by the declaration, amendment, revision or withdrawal have had an opportunity to consider it and to comment thereon through a mechanism as the Council may determine.

(4) The declaration, amendment, revision or withdrawal of a Malaysian Standard shall be made in the manner prescribed by regulations or, if no such regulations have been made, in such manner as may be determined by the Council.

(5) *(Deleted by Act A1425).*

(6) *(Deleted by Act A1425).*

Accreditation certificates

16. (1) Any person desiring to be accredited as a conformity assessment body may apply to the Director General in the manner prescribed by regulations, or if no such regulations have been made, in such manner as may be determined by the Council.

(2) Where the Director General, after considering the application made under subsection (1), is satisfied that the criteria and procedures relating to accreditation are fulfilled, he may grant to the applicant an accreditation certificate as prescribed by regulations, or if no such regulations have been made, as may be determined by the Council.

(3) An accreditation or registration certificate under this section shall be granted for a period as specified by the Director General but so long as the terms and conditions of the accreditation certificate are complied with, the accreditation certificate may from time to time be renewed by the Director General for such periods as he may specify.

(4) Every person who applies for an accreditation certificate under this section and every person to whom an accreditation certificate is so granted shall, if he is at any time required by the Director General to do so, submit—

(a) for assessment or examination, all documents;

(b) any information,

relating to the operation in respect of which the accreditation certificate is applied for or has been granted.

(5) For the purpose of accreditation under this section, there shall be payable to the Director General by the applicant or accreditation certificate holder, the prescribed accreditation fees and such other costs as may reasonably be incurred in connection with accreditation.

(6) The Director General shall keep a register to record the details of every accreditation certificate granted under this section and the register shall be made available to the public.

(7) The Director General may at any time suspend or revoke an accreditation certificate granted under this section if, in his opinion, any terms and conditions attached to the accreditation certificate have

been breached, but an accreditation certificate holder whose accreditation certificate has been suspended or revoked may appeal to the Council.

Restriction on the use of words

17. (1) No body of persons shall, except with the consent of the Minister, exercise the functions for which it is formed under a name that contains the words “Malaysian Standard” or the “Department of Standards, Malaysia” or any abbreviation or misleading abbreviation or any resemblance of it.

(2) Where any written law provides for the registration of any body of persons, the registering authority may refuse registration if in its opinion the use of the name by which the body desires to be registered is prohibited under subsection (1).

(3) This section shall, with the necessary modifications, apply to an individual person carrying on business under any name or style other than his own.

(4) Any body of persons that, or any person who, does any act in contravention of this section shall, unless it is proved that the act was not done for gain or with intent to defraud, be guilty of 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.

Miscellaneous offences

18. (1) Any person who —

- (a) makes any statement or representation, whether in writing or otherwise, with reference to any conformity assessment that conveys or is likely to convey the impression that a person who is not accredited under this Act with reference to that conformity assessment activity is so accredited;
- (b) makes any statement or representation, whether in writing or otherwise, that conveys or is likely to convey the impression that a conformity assessment complies with the

requirements of accreditation when it does not so comply;
or

- (c) having been accredited to use the accreditation symbol, uses the accreditation certificate after its withdrawal, or during its suspension, or otherwise in contravention of the terms and conditions of the accreditation certificate,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both and, for a second or subsequent offence, to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both.

Ownership of Malaysian Standards

18A. All Malaysian Standards are owned by the Government of Malaysia and no part of a Malaysian Standard can be reproduced in any form without the written permission of the Director General.

Offences committed by body corporate

19. Where an offence against this Act has been committed by a body corporate, 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 such capacity, shall be deemed to have committed that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

Characteristics of commodities, etc., may be prescribed by reference to Malaysian Standards

20. Where any written law confers power to prescribe or define, whether by subsidiary legislation or otherwise, any characteristics of any commodity, process, practice or service, those characteristics or any of them may be prescribed or defined by reference to any Malaysian Standard or part thereof.

Citation and proof of standards

21. In any written law a Malaysian Standard may, without prejudice to any other mode of citation, be cited by the title or number given to it by the Minister; and any such citation shall, unless the context otherwise requires, be deemed to refer to that Malaysian Standard as was in force at the time when the law was made.

PART VA**ENFORCEMENT****Authorized officers**

21A. (1) The Director General may, in writing, authorize any officer of the Department or public officer to exercise the powers of enforcement under this Act.

Authority card

21B. (1) The Director General shall issue to each authorized officer an authority card which shall be signed by the Director General.

(2) Whenever the authorized officer exercises any of the powers under this Act, he shall, on demand, produce to the person against whom the power is being exercised the authority card issued to him under subsection (1).

Power of investigation

21C. (1) An authorized officer shall have all the powers necessary to carry out an investigation under this Act.

(2) In any case relating to the commission of an offence under this Act, an authorized officer carrying out an investigation may exercise all or any of the powers in relation to police investigation in seizable cases given by the Criminal Procedure Code [*Act 593*].

Search and seizure with warrant

21D. (1) If it appears to a Magistrate, upon written information on oath from the authorized officer and after such inquiry as the

Magistrate considers necessary, that there is reasonable cause to believe that any premises have been used or are about to be used for, or there is in or on any premises evidence necessary to establish the commission of an offence under this Act, the Magistrate may issue a warrant authorizing the authorized officer named in the warrant, at any reasonable time by day or night and with or without assistance —

- (a) to enter the premises and search for, seize and detain any computer, book, record, computerized data, document or other article;
- (b) to inspect, make copies of, or take extracts from, any computer, book, record, computerized data, document or other article so seized and detained;
- (c) to take possession of, and remove from the premises any computer, book, record, computerized data, document or other article so seized and detain it for such period as may be necessary;
- (d) to search any person who is in, or on, such premises and for the purpose of the search, detain the person and remove him to such place as may be necessary to facilitate the search, and seize and detain any property or document found on the person; or
- (e) to break open, examine, and search any computer, book, record, computerized data, document or other article.

(2) An authorized officer acting under subsection (1) may, if it is necessary so to do—

- (a) break open any outer or inner door of the premises and enter the premises;
- (b) forcibly enter the premises and every part thereof;
- (c) remove by force any obstruction to the entry, search, seizure, detention or removal as he is empowered to effect; or
- (d) detain any person found on the premises searched under subsection (1) until the search is completed.

(3) If, by the reason of its nature, size or amount, it is not practicable to remove any computer, book, record, computerized data, document or other article seized under this section, the authorized officer shall, by any means, seal such computer, book, record, computerized data, document or other article.

(4) Any person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (3) or removes the computer, book, record, computerized data, document or other article under seal or attempts to do so shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Search and seizure without warrant

21E. If an authorized officer is satisfied upon information received that by reason of delay in obtaining a search warrant under section 21D the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the authorized officer may enter the premises and exercise in, upon and in respect of the premises all the powers referred to in section 21D in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

Warrant admissible notwithstanding defects

21F. A search warrant issued under this Act shall be valid and enforceable notwithstanding any defect, mistake or omission therein or in the application for such warrant, and any computer, book, record, computerized data, document or other article seized under such warrant shall be admissible in evidence in any proceedings under this Act.

Access to computerized data

21G. (1) Any authorized officer conducting a search under this Act shall be given access to computerized data whether stored in a computer or otherwise.

(2) For the purposes of this section, an authorized officer shall be provided with the necessary password, encryption code, decryption

code, software or hardware and any other means required to enable comprehension of computerized data.

List of computers, books, records, *etc.*, seized

21H. (1) Where any seizure is made under this Act, an authorized officer making the seizure shall prepare a list of the computers, books, records, computerized data, documents or other articles seized and shall sign the list.

(2) The list prepared in accordance with subsection (1) shall be delivered immediately to the person in control or in charge of the premises which have been searched.

Examination of persons acquainted with case

21I. (1) An authorized officer making an investigation under this Act may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to the case put to him by the authorized officer, but he may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to questions.

(4) The authorized officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be reduced into writing and signed by the person making it or affixed with his thumb print, as the case may be—

(a) after it has been read to him in the language in which he made it; and

(b) after he has been given an opportunity to make any correction he may wish.

Admissibility of statement in evidence

21J. (1) Except as provided in this section, no statement made by any person to an authorized officer in the course of an investigation made under this Act shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to an authorized officer in the course of an investigation under this Act and may then, if the court thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [*Act 56*].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraphs 32(1)(a), (i) and (j) of the Evidence Act 1950.

(5) When any person is charged with any offence in relation to the making or the contents of any statement made by him to an authorized officer in the course of an investigation made under this Act, that statement may be used as evidence in the prosecution's case.

Power to require attendance of persons acquainted with case

21K. (1) An authorized officer making an investigation under this Act may, by order in writing, require the attendance before himself of any person who appears to him to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If any such person refuses or fails to attend as required by an order made under subsection (1), the authorized officer may report his refusal or failure to a Magistrate who shall issue a warrant to secure the attendance of such person as may be required by the order.

Release of seized computer, book, record, etc.

21L. (1) If any computer, book, record, computerized data, document or other article has been seized under this Act, the authorized officer who effected the seizure may, after referring to the Director General, release the computer, book, record, computerized data, document or other article to the person from whose possession, custody or control it was seized.

(2) A record in writing shall be made by the authorized officer effecting the release of the computer, book, record, computerized data, document or other article under subsection (1) specifying in detail the circumstances of and the reason for the release, and he shall send a copy of the record to the Director General within seven days of the release.

Cost of holding seized computer, book, record, etc.

21M. Where any computer, book, record, computerized data, document or other article seized under this Act is held in the custody of the authorized officer pending completion of any proceedings in respect of an offence under this Act, the cost of holding it in custody shall, in the event of any person being convicted of such offence, be a debt due to the Government by such person and shall be recoverable accordingly.

No cost or damages arising from seizure to be recoverable

21N. No person shall, in any proceedings before any court in respect of any computer, book, record, computerized data, document or other article seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Additional powers

21O. An authorized officer shall, for the purposes of the execution of this Act, have the power to do all or any of the following:

- (a) to require the production of any computer, book, record, computerized data, document or other article kept by any person and to inspect, examine and make copies from them;
- (b) to require the production of any identification document from any person in relation to any act or offence under this Act;
- (c) to make such enquiries as may be necessary to ascertain whether the provisions of this Act have been complied with.

Obstruction of authorized officers

21P. Any person who—

- (a) assaults, obstructs, impedes or interferes with any authorized officer in the performance of his powers under this Act;
- (b) refuses any authorized officer access to any premises which the authorized officer is entitled to have under this Act or in the execution of any duty imposed or power conferred by this Act; or
- (c) refuses any authorized officer any information relating to an offence or suspected offence under this Act or any other information which may reasonably be required of him and which he has in his knowledge or power to give,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

PART VI

GENERAL

Regulations

22. (1) The Minister may make such regulations as may be expedient or necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to all or any of the following matters:

- (a) prescribing the manner in which standards may be declared to be Malaysian Standards;
- (b) regulating the promulgation of Malaysian Standards;
- (c) providing for the amendment, revision or withdrawal of any Malaysian Standard or provisional Malaysian Standard and regulating the procedure in relation thereto;
- (d) prescribing the manner in which accreditation certificates may be granted;
- (e) regulating the issue of accreditation certificates, prescribing terms and conditions upon or subject to which such accreditation certificates may be issued, and regulating the renewal, suspension or revocation of accreditation certificates and the procedure for appealing against such suspension or revocation;
- (f) *(Deleted by Act A1425)*;
- (g) prescribing methods of proving the existence or non-existence of the terms and conditions of any accreditation certificate granted under this Act;
- (h) prescribing forms for the purposes of this Act;
- (i) prescribing matters in respect of which fees are to be payable under this Act or the regulations, the amount of the fees, and the persons liable to pay them;
- (j) prescribing the procedures to be followed at meetings of the Council;
- (k) prescribing the offences which may be compounded.

(3) Regulations made under subsection (2) may prescribe any act in contravention of the regulations to be an offence and may prescribe

penalties of a fine not exceeding twenty thousand ringgit or imprisonment for a term not exceeding two years or to both.

PART VII

REPEAL AND TRANSITIONAL PROVISIONS

Repeal and savings

23. (1) The Standards and Industrial Research Institute of Malaysia (Incorporation) Act 1975 is repealed.

(2) Notwithstanding subsection (1), all subsidiary legislation made under or in accordance with the repealed Act shall, in so far as they are not inconsistent with this Act, continue in force until modified, revoked or replaced by this Act.

Continuance of criminal and civil proceedings

24. (1) Neither the repeal under section 23 nor anything contained in this Act shall affect the liability of any person to be punished or prosecuted for offences committed under the repealed Act before the commencement of this Act or shall affect any proceedings brought before that commencement in respect of such offences.

(2) Any proceedings, whether civil or criminal, or cause of action pending or existing immediately before the vesting date by or against the Institute or any person acting on its behalf may be continued or instituted by or against the successor company as if such proceedings had been instituted by or against the Institute or such person if this Act had not been passed:

Provided that if such proceedings relate to matters pertaining to any accreditation agreements, such proceedings shall be continued or instituted by or against the Government.

(3) Any appeal brought or any leave to appeal applied for on or after the vesting date against a decision given before that date in any legal proceedings to which the Institute was a party may be brought by or against the successor company:

Provided that if such appeal relates to matters pertaining to any accreditation agreements, then the appeal shall be brought by or against the Government.

Saving of standards, marks and licences

25. (1) All standards declared to be Malaysian Standards under section 28 of the Standards and Industrial Research Institute of Malaysia (Incorporation) Act 1975 or which by virtue of section 49 of the said Act continue to subsist as Malaysian Standards declared under section 28 and subsisting as Malaysian Standards immediately before the commencement of this Act shall continue to subsist as Malaysian Standards declared under section 15 of this Act until withdrawn under that section.

(2) All marks registered as certification trade marks by virtue of section 29 of the said Act or deemed to have been registered under section 49 of the said Act and remaining so registered immediately before the commencement of this Act shall continue to remain registered.

(3) (*Deleted by Act A1425*).

Prevention of anomalies

26. (1) If any difficulty arises in connection with the transitional provisions contained in this Part, the Minister may, subject to subsection (2), by order make such modifications therein as may appear to him necessary for preventing anomalies.

(2) The Minister shall not exercise the powers conferred by subsection (1) after the expiration of two years from the commencement of this Act.

LAWS OF MALAYSIA

Act 549

STANDARDS OF MALAYSIA ACT 1996

LIST OF AMENDMENTS

Amending law	Short Title	In force from
Act A1425	Standards of Malaysia (Amendment) Act 2012	15-04-2012

LAWS OF MALAYSIA**Act 549****STANDARDS OF MALAYSIA ACT 1996****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
Long title	Act A1425	15-04-2012
2	Act A1425	15-04-2012
10	Act A1425	15-04-2012
13	Act A1425	15-04-2012
Part V	Act A1425	15-04-2012
15-18	Act A1425	15-04-2012
18A	Act A1425	15-04-2012
Part VA	Act A1425	15-04-2012
21A-21P	Act A1425	15-04-2012
22	Act A1425	15-04-2012
25	Act A1425	15-04-2012
Throughout the Act	Act A1425	15-04-2012
