



Research Paper
No. 40

ISLAMIC SOCIOECONOMIC INSTITUTIONS
AND MOBILIZATION OF RESOURCES
WITH SPECIAL REFERENCE TO
**HAJJ MANAGEMENT
OF MALAYSIA**



ISLAMIC DEVELOPMENT BANK JEDDAH
ISLAMIC RESEARCH AND TRAINING INSTITUTE SAUDI ARABIA

ISLAMIC DEVELOPMENT BANK (IDB)

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The Islamic Development Bank is an international financial institution established in pursuance of the Declaration of Intent by a Conference of Finance Ministers of Muslim countries held in Jeddah in Dhul Qa'da 1393H (December 1973). The Inaugural Meeting of the Board of Governors took place in Rajab 1395H (July 1975) and the Bank formally opened on 15 Shawwal 1 395H (20 October 1975).

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The purpose of the Bank is to foster the economic development and social progress of member countries and Muslim communities individually as well as jointly in accordance with the principles of *Shari'ah*.

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The functions of the Bank are to participate in equity capital and grant loans for productive projects and enterprises besides providing financial assistance to member countries in other forms of economic and social development. The Bank is also required to establish and operate special funds for specific purposes including a fund for assistance to Muslim communities in non-member countries, in addition to setting up trust funds.

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The Bank's financial year is the Lunar Hijra year.

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The official language of the Bank is Arabic, but English and French are additionally used as working languages.

**ISLAMIC RESEARCH AND TRAINING INSTITUTE
ISLAMIC DEVELOPMENT BANK
JEDDAH, SAUDI ARABIA**

**ISLAMIC SOCIOECONOMIC
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BY

Dr. Mohammad Abdul Mannan

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In the name of Allah, The Beneficent, The Merciful

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FOREWORD

The Islamic Research and Training Institute (IRTI) of the Islamic Development Bank has been established to undertake research for enabling the economic financial and banking activities in Muslim countries to conform to *Shari 'ah*. In order to discharge the responsibilities assigned to it IRTI pays special attention to research in the areas of Islamic economics, banking and finance.

The present monograph is on "Islamic Socioeconomic Institutions and Mobilization of Resources with special reference to *Haj* Management of Malaysia". It deals with the economics of *Haj* (pilgrimage) which is, as commonly known, one of the five pillars of Islam and an important obligation for every adult Muslim man and woman who has the ability (financial and physical etc.) to perform it. Muslims in all parts of the world aspire to visit the Holy cities of *Makkah* and *Medina* at least once in their lives. That is why more than twenty million pilgrims converge on the Holy city of *Makkah* and on other Islamic shrines every year to carry out various duties related to performance of *Haj* and *Umrah*. The movement of pilgrims on such a large scale raises a number of issues to be solved by the host country as well as those countries from where the pilgrims come. It is a source of great solace that Islamic Ummah is establishing modern institutions to deal with these problems. For example two important institutions dealing with the problems emanating from the management of *Haj* are the *Haj* Research Center at the *Umm al Qura* University in *Makkah al Mukarramah* (Saudi Arabia) and Pilgrims Management and Fund Board of Malaysia.

The pilgrims Management and Fund Board of Malaysia popularly known as *Tabung Haji* was established in 1969. The *Tabung Haji* is a corporation whose aims include enabling Muslims to save in order to provide for their *Haj* expenses as well as to participate in investment in industry, commerce, plantation and real estate and to provide for the protection and welfare of Muslims on pilgrimage through various facilities and services of *Tabung Haji*.

Although, *Tabung Haji* is not an Islamic bank, in mobilizing and utilizing financial resources, it works very much the same way as an Islamic bank does. It accepts deposits and makes investment in a manner approved by the Islamic *Shari 'ah*. *Tabung Haji* is a good example how a specialized financial institution can work successfully in accordance with the Islamic principles.

The experience of *Tabung Haji* in the area of *Haj* management is quite valuable as it has set new trends in the management of *Haj* in its various aspects. Hence, IRTI made some special efforts to disseminate the experience of *Tabung Haji* among the member countries of the IDB. In 1407 H (1987) IRTI organized a workshop on the organization and management of the Pilgrims Management and Fund Board of Malaysia (*Tabung Haji*), the proceedings of which have already been published. For its novel contribution and unique experiment in combining efficient *Haj* management and Islamic principles of finance, The *Tabung Haji* was awarded the IDB prize in Islamic Banking in 1410 H (1990).

The publication of the present research monograph is also a continuation of the similar efforts in the past. After making a review of the performance of *Tabung Haji* and analyzing the factors responsible for its success, the study goes on to make certain policy suggestions. The usefulness of the present study is further enhanced by the inclusion of the *Tabung Haji* Act of 1969 which provides a framework for the working of this important Islamic financial institution.

It is hoped that these efforts shall be helpful in disseminating vital information regarding the experience of the *Tabung Haji* in Malaysia and pave the way for the replication of this experiment in the Islamic World elsewhere.

MABID AL-JARHI Director, IRTI

ABSTRACT

This study is about the economics of Hajj management with special reference to Malaysia. It is argued that Hajj has an important role to play in promoting and sustaining economic cooperation among the Islamic countries particularly in the field of trade and joint venture projects. It is, however, felt that Hajj can serve as a forum for an informative advertisement of the various new and old products, produced by different Islamic countries. As the national level, Hajj is viewed as one of the most powerful institutions in the monetary sector of the Muslim countries for the purpose of mobilization of domestic savings and investments in conformity with *Shari'ah* as demonstrated by the successful experience of Pilgrim Management and Fund Board of Malaysia popularly known as "Tabung Hajj". It is suggested that given necessary political will and support, Tabung Hajj experience can be replicated elsewhere in the Islamic world. The paper advocated the establishment of the House of Islamic Ummah for permanent exhibition of various products of different Muslim countries under the umbrella of Organization of Islamic Conference. It is indicated that once this House of Islamic Ummah is established, it can provide information relating to investment in co-financing and joint venture projects. This can eventually lead to the formation of an Islamic Multi-National Corporation, a building block of Islamic Common Market. Lastly, the paper stressed the need to recognize the role of Hajj in the development planning of Muslim countries.

1. INTRODUCTION AND OBJECTIVES OF THE STUDY

This study seeks to examine the economic and social opportunities which could be created through the institutionalization of the management of Hajj Affairs as well as to identify the areas of economic cooperation to strengthen economic unity among the Islamic countries. It is argued that the Hajj provides, among others a unique opportunity to exhibit and sell the products, produced by different Muslim countries and communities, thereby promoting trade among them. Trade is viewed as the corner-stone of economic cooperation. It is felt that the Hajj has an extremely important role to play in consolidating and sustaining economic cooperation and integration, particularly in an inter-regional set-up like the Islamic world, which extends from the coasts of Africa to the far eastern shores of Asia, and includes economies of a highly diverse nature. While Hajj affairs is viewed as one of the significant socioeconomic institutions of Islam, attempts are made to analyze the activities of the Pilgrims Management and Fund Board of Malaysia, more popularly known as "Tabung Haji", to identify the factors responsible for its success, and to draw the lessons of experience of its operations for the members of the Organization of Islamic Conference (OIC) and its possible policy implications.

In this context, it is to be recognized that the Hajj management will remain as one of the fundamental socioeconomic and socio-religious institutions in the voluntary third sector.

The contribution of Islamic voluntary sector institutions towards the comprehensive development of modern Muslim societies can hardly be over-estimated. Despite the fact that many of the activities of the Islamic voluntary sector which may include the institutions such as *Zakat*, *Anqaf*, Mosque, Hajj, Islamic non-profit charitable trusts and foundations do not come under the conventional calculation of GNP. These institutional activities need. to be reviewed and analyzed in the light of the challenge and change, Muslim societies are facing today. In the wake of great transformation in East-West relationship resulting from:

- a) emergence of formidable economic block in Europe,

- b) collapse of communism,
- c) rise of Muslim republics in the Central Asia,
- d) the widening economic gap between North and South,
- e) severe economic backwardness, under-development and poverty in the Islamic countries of the Organization of Islamic Conference (OIC), despite their potentialities the vast resources, and
- f) rise of ethnic militancy and growing threat to Muslim minorities in non-Muslim countries, there is, perhaps an urgent need to restore these institutions to their true spirit and utilize them fully for promoting the moral, spiritual, social and economic welfare of Muslim societies, nay, the mankind as a whole. The crucial question before us is to how to operationalize and institutionalize these activities of the voluntary sector so that they can be integrated into the mainstream of economic activity, resource mobilization, savings and investments.

Considering the vast magnitude of the task and time constraints, this study as a part of the building block seeks to examine mainly the economics of Hajj affairs management with special reference to Malaysian economy and society as mentioned earlier.

METHODOLOGY AND PLAN OF THE STUDY

The study is based on secondary data. The various relevant books on Islam, published and unpublished reports and working papers on Tabung Haji of Malaysia are freely consulted and duly quoted, although the author draws his own conclusion in evaluating the experiences of "Tabung Haji". This study can be seen as a building block on the author's earlier work on Islamic Socio-Economic institution in the voluntary sector namely, "Structural Adjustments and Islamic voluntary sector with special reference to *Awqaf* in Bangladesh". Though it is a descriptive research, the study provides a number of analytical insights while examining the impact of economic opportunities related to the management of Hajj Affairs.

The study assumes some elementary knowledge in both economics and *Shari 'ah*. The main target groups of this work are the professional Islamic economists, policy makers, administrators and serious readers, interested in the study of the economics of Hajj Management.

THE PLAN OF THE STUDY

The plan of the study is structured as follows:

In the first section, the objectives of the study is highlighted, stressing the need to study the contribution of the Islamic voluntary sector in the socio-economic development of Muslim societies. It is argued that in the wake of great transformation in East-West relationship, the need for institutionalizing the activities of Islamic voluntary sector is greater than ever before. Section two provides some perspectives on Hajj management as one of the fundamental socio-economic institutions of Islam. Here it is pointed out that the economics of Hajj management involves a wide range of financial and economic activities and can serve as a basis for trade co-operation among the Islamic countries. It is seen as one of the greatest forum for advertising the various products, produced by the different Muslim countries. The third section deals with a review of Pilgrims Management and Fund Board of Malaysia, popularly known as "Tabung Hajj". It is viewed as an Islamic institution in the voluntary sector and is considered to be the best in the Islamic world for the mobilization of savings and investment by providing the most comprehensive Hajj services in "one-package". Section four deals with the factors responsible for Tabung Haji's success. It also explains why the institution has not been replicated elsewhere in the Islamic world even though it provides guidelines and lessons for other member countries of the Organization of Islamic Conference (OIC). Section five deals with policy suggestions. It is argued here that the House of Islamic Ummah for the permanent exhibition of various products of the different Muslim countries can be established for the promotion of trade, and various other economic activities. Lastly, in conclusion, it is indicated that the need to integrate the role of Islamic socio-economic institutions and organizations into the mainstream of development planning of Muslim countries is perhaps greater than ever before to face the challenge of the 21st century. In this context, the role of Hajj as a powerful social and economic institution of the Islamic

Unimak apart from its historical role as a pure religious institution needs to be recognized through conscious de-education and new educational policy in Muslim countries.

At this stage, it is perhaps in order to provide some perspectives on Hajj management as one of the fundamental socio-economic Institutions of Islam.

2. PERSPECTIVES ON ECONOMICS OF HAJJ MANAGEMENT

The pilgrimage to Makkah is generally seen as a religious institution, the socio-economic opportunities which this institution provides have not yet received the attention it deserves. The economics of Hajj management can be seen in terms of a wide range of financial and economic activities. It can act as a powerful institution for the mobilization of savings and investment, thereby creating an opportunity to perform Hajj at the least cost possible. This can be illustrated when the activities of the Pilgrims Management and Fund Board of Malaysia, popularly known as Tabung Hajj, are viewed.

Like the month of fasting, the time appointed for the pilgrimage is fixed according to the lunar calendar, and rotates throughout the year. The pilgrimage thus falls in all seasons of the year. The Pilgrimage to Makkah, one of the five pillars of Islam, is to be performed once in a lifetime, if one can afford it financially and physically. Therefore, Muslims without sufficient means to pay for the expenses of the pilgrimage to Makkah are not required to perform this religious duty. As such economics of management of Hajj is very much linked to this religious duty.

MORAL FOUNDATION OF SOCIO-ECONOMIC BEHAVIOR

Thus through mobilization and efficient utilization of Hajj funds by institutional means, a large number of Muslims can get a greater opportunity for the pilgrimage to Makkah at least possible cost. Herein lies the significance of the economics of Hajj management, although the pilgrimage is a highly emotional and spiritual experience in which the pilgrims makes the pledge to place his life at God's disposal as completely as the life of an animal owned by a person for the purpose of sacrifice at the end of the pilgrimage is

placed at its master's disposal. At the end of the pilgrimage, every pilgrim who can afford it sacrifices an animal or joins in making a sacrifice. Symbolically, this act pledges the pilgrim's life to the service of God and His creatures.

The manifestation of this moral and spiritual experience is evident from the fact that from all over the world, men and women come to Makkah clad in the pilgrim's simple garb, regardless of wealth, rank, family status and places everyone on the same level. The same garb signifies that the pilgrim has responded to the call of Allah. Everybody, regardless of his status, repeats his commitment by saying that "Allah is great, Allah is great, there is no being worthy of worship save Allah". This unique spiritual and human experience that binds all the pilgrims together into a sort of inter-relationship can be utilized as powerful incentives for an Action Program in the social and economic life of the Islamic Ummah as well as for the welfare of mankind as a whole. It follows then that the institution of pilgrimage, in its true spirit should generate a package of Action Program interconnecting moral, social and economic welfare of mankind. This Action Program, by its very definition should include measures for the alleviation of poverty.

While it remains the right of the rich to perform Hajj, at once it becomes a duty on them to help or empower the poor who are unable to have this human and spiritual experience of the pilgrimage to Makkah due to financial constraints. This is perhaps more relevant than ever before due to prevailing poverty of the large section of the Muslim Ummah.

While the pilgrimage draws Muslims from all over the world together at Makkah and puts them together at the same level in spiritual association for the glorification of Allah life-hereafter, at the social level, it recognizes the Qur'anic notion of "diversities of race, color, language, wealth, which serve their own useful purposes in the social scheme. As the Qur'an says that God has divided mankind into tribes and nations for greater facility of intercourse, neither membership in a tribe nor citizenship in a state confers any privilege, nor are they sources of honor. The true source of honor in the sight of God is a righteous life. In his Farewell Address The Prophet (PBUH) also said: 'You are all brothers and all are equal. None of you can claim any privilege or any superiority over any other. An Arab is not to be preferred to a non-Arab, nor

is a non-Arab to be preferred to an Arab'. It is indeed a great social charter of all times.

SOCIAL ECONOMICS AND OPPORTUNITIES

Islam has thus established a platform for the universal brotherhood of man. It is, however, stressed that true brotherhood can be established only by virtue of mankind's relationship with one another through God. Other factors, such as, common interests, common pursuits, common occupations - may help to foster friendship - to a degree, but the very same factors may also generate jealousy and hostility. It is only the consciousness that mankind are all equal creatures and servants of God, which can bring about the realization of true brotherhood. This social equality will be meaningful only when equal economic opportunities be given to all members of the community, irrespective of his rank and status. Without appropriate institutional arrangement, the social and economic imbalance can not be removed, the institutionalization of the management of Hajj can therefore, contribute to a great extent in creating equal social and economic opportunities for all involved.

In terms of economic shares, Hajj reaffirms the basic economic concept of Islam that absolute ownership of everything belongs to God alone; "although legal ownership by the individual, is recognized and safeguarded in Islam, but all ownership is subject to the moral obligation that in all wealth, all sections of society even animals, have a right to share. Part of this obligation is given legal form and is made effective through legal sanctions, but the greater part is secured by voluntary effort put forth through a desire to achieve the highest moral and spiritual benefits for all concerned. In fact, this supplementing of legal obligations which secure the irreducible minimum with moral obligations to be discharged through voluntary effort runs through every part of the Islamic system".⁹⁾ Its operation can be observed in every sphere. For instance, there are the obligatory prayer services, and supererogatory prayers, prayer and remembrance of God at all other times. There is the obligatory fast during the month of Ramadan and supererogatory fasts at other times. There is the obligation upon those who can afford to perform the pilgrimage once, but Umrah may be performed at any time, and the pilgrimage itself may be repeated as often as a person desires.

INCOME DISTRIBUTION:

The same principle holds in the economic sphere. The object of the Islamic economic system is to secure the widest and most beneficent distribution of wealth through institutions set up by it and through moral exhortation. Wealth must remain in constant circulation among all sections of the community and should not become the monopoly of the rich. This very Qur'anic inspiration implies obligation on the rich who should at their individual as well as collective level try to develop the income earning capacity of the poor. Hajj as an institution can contribute in achieving this objective of the Islamic economic system. Institutionalizing the management of Hajj affairs at the local, national and international level can reap all the benefits of division of labor and economics of scale.

In fact, the economics of Hajj management involves a wide range of financial and economic activities such as:

- i. conversion and exchange of different currencies,
- ii. buying and selling of varieties of goods and services involving both imports and exports,
- iii. a system of transport by land, sea and air,
- iv. arrangement for housing, water and sanitary system,
- v. provision for medical care, security and safety of the pilgrims,
- vi. management and distribution of sacrificial meat among the deserving member countries of the Organization of Islamic Conference and Muslim communities of non-member countries, and a host of other related areas.

The need for understanding each of the economic and financial activities during Hajj is perhaps greater than ever before, particularly when the flow of pilgrims to Makkah is going to increase every year. Although the

quota of Muslim pilgrims from each of the member countries of the OIC may control the flow of pilgrims, yet the basic economic problems and issues relating to the management of Hajj affairs would remain for all times to come.

ECONOMIC CO-OPERATION AND SOCIAL PROGRESS

Since almost all the member countries - of the OIC send their respective Hajj delegations to look after the overall welfare of their pilgrims, it would perhaps be useful to initiate some action programs under the umbrella of the OIC to look into the various socioeconomic problems and issues concerning Hajj management in cooperation with the Kingdom of Saudi Arabia, to foster economic cooperation and social progress among the member countries of the OIC and Muslim communities of non-member countries, and to draw lessons from the successful operational experience of Tabung Haji of Malaysia. In this context it is pertinent to quote Mr. Zafrullah Khan when he observed: "The pilgrimage draws Muslims together at Makkah from the ends of the earth. It should be a truly representative gathering of the whole Islamic world. In effect, it should be the World Assembly of Islam gathered together in spiritual association for the glorification of God and the promotion of human welfare. The week preceding it and the week following it, and indeed, a longer period if it be necessary, should be utilized for consultation, discussion, and examination of schemes and projects having as their object the strengthening of human fellowship, brotherhood, and cooperation and the promotion of human welfare in the whole world" ⁽²⁾ This very important aspect of the pilgrimage needs to be operationalized however modest it might be. "Ultimately it may even serve to secure the formulation of agreed policies and the putting into effect of beneficent projects in every part of the world. This is an objective well worth striving for. The spirit and the occasion are already there; men of vision and understanding are needed to harness them for the service of man, which is the true service of God. Before or after the pilgrimage, it is customary for large numbers of pilgrims to visit Madina, to supplement their knowledge of, and association with, the historic places connected with the life of the Prophet and with the beginning of Islam, to revive the memories of the glories and inspiring events of that period, and more particularly, to express their love for the Prophet by praying for him at his tomb." ⁽³⁾ This instant historical experience could be used as one of the

motivating factors for initiating the process of Islamic economic cooperation and social progress at both micro and macro levels of the Islamic world.

TRADE COOPERATION

Viewed from those perspectives, Hajj can serve as a forum for trade co-operation among the Islamic countries and informative advertising of each others' products. At the operation level an Islamic Ummah Village (IUV) may be established under the umbrella of the Organization of Islamic Conference(OIC). IUV may provide a permanent venue to exhibit the new and the old manufacturing products of each of the Islamic countries, or communities during the Hajj season and throughout the year as Umrah can be performed anytime in a year. If it is carefully planned and implemented, it can go a long way in promoting trade among the Islamic countries. As noticed earlier trade is the cornerstone of any economic cooperation effort. It may be noted here that the volume of trade among member countries of the Bank has been persistently low, when measured in both absolute and relative terms and as compared to other developing countries. The relative shares of both their exports and imports as compared to the world totals however continued to stagnate at around 10 percent in 1990 after hitting 12-13 per cent in the early 1980s. Despite the efforts of member countries and the institutions of the Organization of the Islamic Conference (OIC), particularly the IDB, the level and composition of intra-Islamic trade expansion has not reached its potential or optimal level. This failure may be partly attributed to the interplay of a number of factors, namely, the lack of complementarity linkages among the economic structures of the member countries, the inadequacy of the infrastructure, geographical dispersion as well as lack of information about each others' products. Intra-trade expansion demands yet more coordinated and serious efforts by member countries themselves and their institutions, including the OIC."

Islamic Development Bank 'Annual Reports 1411H, 1412H, 1413H & 1414H (1993-94)

• Islamic Development Bank 16th Annual Report, 1411H (1990-91), Jeddah, p.53.

MUSLIM WORLD TRADE HOUSE

The establishment of the proposed Islamic Ummah Village or Muslim World Trade House may serve as a forum for informative and educative advertisement. In my earlier work entitled "The Making of Islamic Economic Society (1984)" it was pointed out that while informative advertising intended for educating the customers is consistent with the Islamic principle of beneficence, aggressive advertisements intended to manipulate the demand for the product is clearly against the spirit of Islam, for, it involves wastage of resources and implies its mis-allocation. The fact is that the Islamic firm seeks to minimize the imperfection of market as far as practicable. All forms of economic exploitation including monopoly business is not allowed in Islam. As such artificial barriers to entry with a view to earn abnormal profit is also not permissible in Islam. It must however be mentioned that the firm's choice of objectives can be profoundly influenced by the amount of advertising expenditure.

By assumption, unlike price reduction which may or may not increase total revenue, informative advertising tends to increase the total revenue. So the firm in an Islamic economy will be able to increase its sales up to a point of acceptable level of profit."

ISLAMIC COMMON MARKET AND MONETARY UNIT

It follows then that Hajj provides perpetual opportunity to exhibit the diverse new products of developing Muslim countries, provided an institutional arrangement is made to visit these exhibition centers before or after the pilgrimage. If the Hajj delegations comprise representatives of the members of Islamic Chambers of Commerce, this may lead to the development of joint-venture projects and eventual formation of inter-regional Islamic Common Market. What is really needed is the imaginative leadership at the OIC level in co-operation with the Kingdom of Saudi Arabia.

Apart from the prospects and possibilities of trade-co-operation, among the Islamic countries, the evolution and introduction of Islamic Dinar should be possible in the context of massive exchange of currencies of

different Muslim countries. The eventual establishment of an Islamic Common Market and Monetary Union can not be ruled out.

At this stage, a review of the operation of Tabung Haji appears to be relevant and pertinent. Muslim world can draw lessons of experience.

3. PILGRIMS MANAGEMENT AND FUND BOARD OF MALAYSIA TABUNG HAM: A REVIEW

The Pilgrims Management and Fund Board of Malaysia, popularly known as Tabung Haji was established in 1969 under the laws of Malaysia, although the Pilgrims Savings Corporation was first introduced in 1962 and was subsequently merged with the office of the Pilgrims Affairs Office. Its purpose is to provide an appropriate Islamic means of mobilizing savings gradually, investing them in economic activities in conformity with *Shari 'ah*, thereby assisting Muslims to perform the pilgrimage in Makkah at the least possible cost.

Based on his research in the 1950's, Royal Professor Ungku Abdul Aziz observed that Muslims saved money in pillows, under mattresses and floors, in cupboards, in earthen jars, etc. to meet expenses of their journey to the Holy Land to make it completely free of interest ("Riba"). This is savings in any bank or financial institution at that time (before the formation of Bank Islam Malaysia) would involve *riba*. Thus his study indicated that these traditional methods of saving were not only detrimental to rural development, but also inconsistent with the *Shari 'ah*. As such in 1959, he submitted a number of recommendations to the then Government in which it was stressed that future pilgrims should be provided institutional cover under which they can invest in diverse lawful activities out of which dividends can be paid, and this would assist them financially in meeting their expenses for the Hajj in an efficient way.⁶⁵

The recommendation could only be implemented in 1962 when Sheikh Mahmoud al-Shahlut the then, Rector of Al-Azhar University of Egypt visited Malaysia, and praised the study as one that would greatly benefit the Muslims in Malaysia and urged its implementation. Thus, the Pilgrims Savings Corporation was established in August 1962 and become

operational on September 30, 1963. Subsequently, this Corporation was merged with the Pilgrims Affairs Office which had been in operation since 1961 to give birth to the present. Pilgrims Management and Fund Board in 1969 or more popularly known as Tabung Haji under the Laws of Malaysia Act 8: The Pilgrims Management and Fund Board 1969 and Act A 168 The Pilgrims Management and Fund Board (Amend.), 1973. Over the years the Tabung Haji emerged as an institution for mobilization of savings and investments. (6)

TABUNG HAJI AND MOBILIZATION OF SAVINGS AND INVESTMENTS

Tabung Haji as an organization started a on modest scale with 1,281 depositors and a total of M\$46,600 in deposits collected through its three branch offices in 1963. Tabung Haji has now grown into a big corporate body with over 83 branch offices throughout the country with a clear plan for further growth. The financial functions of "Tabung Haji" are classified into two major activities. The first concerns financial management including savings and withdrawal of funds by the depositors, and the second concerns the investment carried out upon their savings?

In implementing its functions as a saving institution, Tabung Haji works somewhat in the way an Islamic bank operates in dealing with depositors. Here depositors give consent to Tabung Haji to manage their deposits for the purpose of investment. The profits derived from the investment are the distributed among the depositors in the form of bonus.

In order to attract the savings, Tabung Haji has made all possible efforts in simplifying the saving procedure and expanding its retail collection network to ensure easy accessibility to deposit source. Also as in the case of withdrawals of deposit, Tabung Haji provides a level of withdrawal convenience comparable, if not better than those of competing financial institutions. In a competitive market environment efficient and fast services to the depositors play an important role in attracting deposit. Membership of Tabung Haji is limited to Malaysian Muslims only. No age limit is imposed. In order to ensure a steady growth both in the number of new depositors and deposits, Tabung Haji yearly sets a "target" expected from its branch offices.

The long term target is to achieve at least 50% of the Malaysian Muslim population to be members of Tabung Haji.

WITHDRAWAL OF DEPOSIT

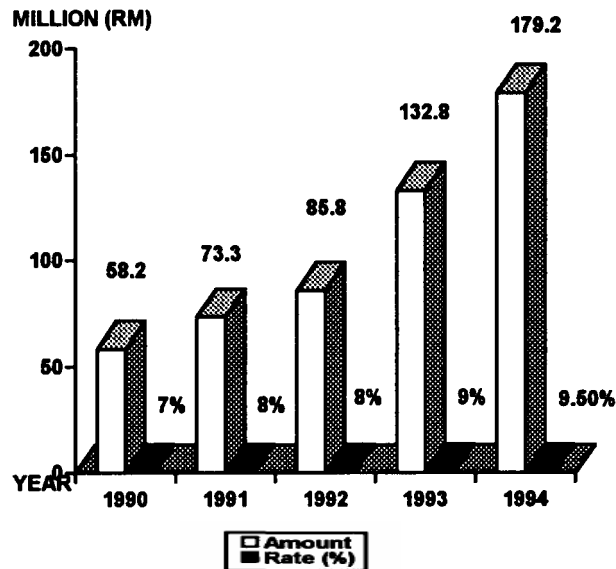
Depositors can withdraw any amount up to 100% of their credit balance. Tabung Haji allows a depositors to withdraw his/her saving once in 6 months, but unless it is for some urgent and important needs additional request for withdrawal of saving can be considered. Withdrawal of deposits are encouraged primarily by the need to incur pilgrimage expenses rather than other purposes. Tabung Haji also provides withdrawal services for pilgrims while they are at the Holy Land performing the Hajj and has started computerizing fully in order to facilitate administrative, Hajj, investments and accounts matters. The computer system operations cover membership, Hajj, ledger, salary deduction for its depositors, bank reconciliation, personnel, shares, land and building, rental collection, budgeting, cash withdrawal at headquarters and state offices, and cash withdrawal in Saudi Arabia.

Since its inception there has been a steady increase in number of new depositors of Tabung Haji. The yearly percentage increase was about 16% to 20% from 1986 to 1994.

DEDUCTION OF ZAKAT

As an Islamic institution, Tabung Haji before distribution of dividend (bonus) to its members pays, *zakat* at the rate of 2.5% which is deducted from the profits earned during the *zakat year* and the amount of working capital at the end of the *zakat* financial year (Hijrah). The following bar chart-I shows the steady increase of *zakat* collection from 3.04 million R.M. (Malaysian dollars) in 1990 to 6.5 million in 1994.

**PILGRIMS MANAGEMENT AND FUND BOARD
PAYMENT OF BONUS**



Source: Tabung Haji Report (1995)

Tabung Haji pays business *zakat* on behalf of its depositors based on "*Aqad Izin*" where depositors are considered as a fund provider for the business and investment activities of Tabung Haji. Subsidiary companies of Tabung Haji are also paying *zakat* using the same formula as above.

PROFIT AND BONUS

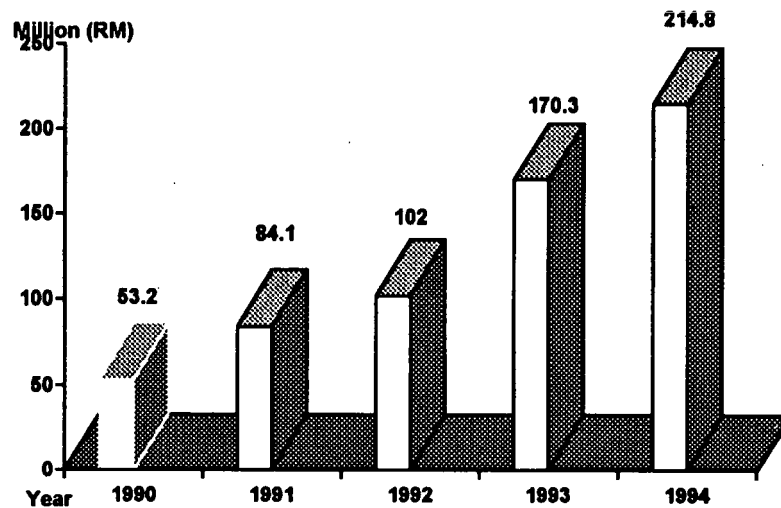
Tabung Haji has made a substantial profit during the last five years (1990-1994). The profit made in 1994 was RM 214.8 million compared to RM 170.3 million in 1993 after deduction of *zakat*. The trend shows that Tabung Haji has maintained a steady increase of profit at the average of 43% as shown by Bar Chart II and III.

The bonuses paid to depositors are based on the principle of profit sharing which differentiate the bonus from the concept of 'Riba'. Bonus will only be paid if Tabung Haji makes profit. The value of bonus depends on the profits derived in the particular year. In 1994, the rate of bonus paid to the depositors was 9.5% compared to 9.0% in 1993. The trend shows that Tabung Haji has maintained a steady rate of return as indicated in the Appendix IV. However, it is reported that this rate is not very competitive enough compared to other financial institutions in Malaysia resulting in funds switching over to other financial institutions.

Starting from 1st January 1986 (Assessment of year 1987) the bonus paid to the depositors has been fully exempted from income tax. This exemption is due to the payment of business zakat by Tabung Haji on behalf of the depositors.

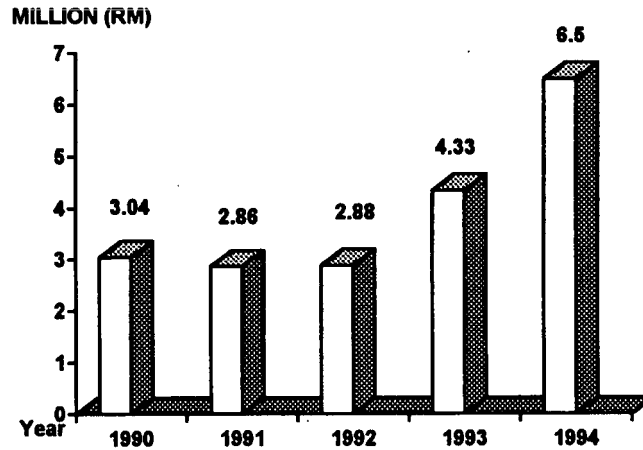
Bar Chart H

PILGRIMS MANAGEMENT AND FUND BOARD PROFIT



Source: Tabung Haji Report (1995)

**PILGRIMS MANAGEMENT AND FUND BOARD
PAYMENT OF ZAKAT**



Source: Tabung Haji Report (1995)

DIVERSIFICATION OF INVESTMENTS AND THEIR PRINCIPLES

Tabung Haji which is now considered to be a sound investment institution has diversified and increased its investment activities in the plantation, industry, commercial sector, real estate and other profitable ventures through equity participation in public listed and non-public listed companies, joint-venture projects and privatization projects in conformity with Islamic principles. As noted earlier all investment activities are guided by overriding *Shari 'ah* principles. At the operational level, pragmatic investment choices are made consistent with the following criteria:

- (a) emphasizing growth sectors that benefit from changes and improvement in the industrial structure and economy,
- (b) equity participation into those companies with good track records,

- (c) risk minimization and steady investment return. It may be noted here that investment decisions are made by an Investment Advisory Panel whose members are appointed by the Prime Minister of Malaysia and approved by Tabung Haji's Board of Directors.

As an Islamic investment institution, Tabung Haji adopts the **following Shari 'ah** Principles in its investments:

a) *Al-Musaraka*

Shareholders will finance a project and the dividends or profits are divided accordingly as agreed by the parties (e.g. Corporate Notes). With this instrument, financing requirements can be securitised through the issue of *Shahadah Al Dayn* (Promissory notes or debt certificates). As such, this has paved the way for the creation and trading of Islamic debt instruments.

b) *Al-Bai' Bithaman Ajil*

Financing with deferred repayments over a specific period of time (deferred sale) e.g. Housing and Motor Vehicle Loan.

c) *Al-Mudharaba*

An agreement to provide the capital by one party and management expertise by the other party. In case of any losses, the provider of Capital loses his money, and management his labor. This instrument is basically a time deposit where the bank will invest the deposits collectively over a specified period and any returns will be divided accordingly.

d) *Al-Murabaha*

This is a financing arrangement with a repayment agreed by both parties, that includes the profit mark-up e.g. Islamic Accepted Bills. This instrument is issued by Bank Islam Malaysia under the Islamic Accepted Bills Export/Import guidelines from Bank Negara, Central Bank of Malaysia.

e) Al-Qardhul-Hasan

In case of Benevolent loan, the provider of capital is guaranteed at least the principal amount (e.g., Government Investment Certificates). This instrument is issued by the government of Malaysia to enable Islamic financial institutions to meet their short term liquidity requirements.

1) Al-Ijarah

This is a financing arrangement with a repayment to acquire the right to use the services of a given asset. Normally, Tabung Haji uses this facility provided by **Bank Islam** of Malaysia for the purchases of equipments such as **computers and others**.

TYPES OF INVESTMENT

Broadly, there are 4 types of investment made by Tabung Haji, namely:

1. Investment in shares mainly in quoted shares of the stock exchange (equity participation).
2. Investment in Subsidiary Companies (plantations, transport trading, housing and property management).
3. Investment in Land and Building (investment in property market in the constructions of building for office and rental purposes etc.).
4. Short term investment in Bank Islam Malaysia in the case of large, short term samples.

In order to ensure the success of investment, in conformity with *Shari 'ah* Tabung Haji sets a special panel called "Finance Advisory Council" as well as Religious Advisory Council to advice the management of Tabung Haji on investment operations.

Tabung Haji's various types of investment as on Dec. 31, 1994 are shown in the following Table I..

TABLE 1
TOTAL INVESTMENT

DETAILS	31/12/1993 RM	31/12/1994 RM
Quoted Shares	543,344,125	693,674,957
Unquoted Shares	191,802,634	190,941,737
Subsidiary Companies	136,355,260	165,462,916
Trading	20,965,245	36,802,494
Nominee	30,490,086	60,216,764
Sub Total	922,957,350	1,147,098,868
Government Investment Securities	592,927,160	884,130,405
Corporate Notes	108,020,000	154,144,860
Overseas Investment	12,227,915	4,585,584
Islamic Accepted Bills	22,656,611	45,388,241
General Investment/Bank Islam	66,338,165	3,000,000
Sub-Total	802,169,851	1,091,249,090
Land and Building	276,453,083	313,918,779
Total Investment	2,001,580,284	2,552,266,737

Note: Amount in Ringgit Malaysia (RM) based on Book Value.
Source: Tabung Hajj Report (1995).

INCOME FROM INVESTMENT

The incomes received by Tabung Haji are derived from the following investments:

- a) Dividend from investment in shares (equity participation);
- b) Rental of Buildings;
- c) Profits on the rate of foreign exchange;
- d) Profits on sales of shares;
- e) Dividends and bonus from investment in security market.

FINANCING FACILITIES FOR THE STAFF AND PILGRIMS

Tabung Haji provides credit facilities to its staff for the purpose of buying a house/vehicle based on the principle of "*Bai' Bithaman Ajil*" as

indicated earlier. It also provides loans to the needy pilgrims in the Holy Land based on the principle of "*Al-Qardhul Hassan*".

As an Islamic Institution, Tabung Haji had proved its ability in managing the depositor's fund in conformity with the principles of *Shari'ah* and at the same time capable of paying reasonable return to the depositors despite its limitations on interest based investment.

So far, we have discussed the strategies adopted by Tabung Haji in mobilization and management of savings and investments, for not only paying reasonable return to the depositors but also providing a package of Hajj services covering both pre-Hajj, and during Hajj and period. Let us now review the package of Hajj services provided by Tabung Haji.

PACKAGE OF SERVICES PROVIDED BY TABUNG HAJI

Services provided by Tabung Haji to Malaysian pilgrims are very comprehensive indeed. These services are also extended to Muslims from countries like Australia, Singapore, Thailand who wants to perform Hajj through Tabung Haji. These comprehensive services include the following:°

PRE-HAJJ SERVICES

- i) Medical examination and inoculation.
- ii) Registration for the Hajj.
- iii) Hajj guidance courses given to the pilgrims usually for two days at the states and district level.
- iv) Issue of Hajj passport and Hajj visa.
- v) Arrangement for transport by air, or by sea, if required.

SERVICES GIVEN DURING HAJJ PERIOD

To ensure the welfare, safety and services during the Hajj period include both welfare and medical services are provided.

WELFARE TEAM SERVICES

Among the services that are provided by the welfare team are:

- i. Accommodation
- ii. Saving and withdrawal
- iii. Receive complaints from pilgrims and the necessary remedial actions.
- iv. Counseling
- v. Conduct search for lost pilgrims
- vi. And administer changes in flight schedules.

MEDICAL TEAM SERVICES

The medical team provides the following:

- i. Medical services at pilgrims' residence
- ii. Medical information to pilgrims Mobile clinic services iv. Administer clinic or dispensaries and other medical facilities.

These comprehensive Hajj services in one package deal have been viewed as among the best in the world. Now the question arises: what are the factors responsible for its success and why has it not been replicated elsewhere in the Muslim world. In next section an attempt will be made to make an appraisal of Tabung Hajj's experience.

4. THE TABUNG HAJI EXPERIENCE : AN APPRAISAL

Tabung Haji which has been in operation since 1963 is viewed as one of the most successful experiments in the management of Hajj affairs in the Islamic Ummah. Despite its success, this model has not yet been replicated in other Muslim countries. So it is worth exploring some of the underlying causes and factors which can serve as guidelines and lessons for other member countries of the Organization of Islamic Conference (OIC) to follow. These factors can be explained in terms of the following ten political, psychological, economic, social and religious factors:

i) Political will with a Social Vision:

Tabung Haji is an extraordinary example of how a "political will" with a social vision can be translated into an action program backed by an appropriate technical knowledge. As indicated earlier that the pioneering study made by Royal Professor Uraku Abdul Aziz in the 1950s shows that Muslims saved money in pillows, under mattresses and floors, in cupboard, in earthen jars mainly for the purpose of performing the Hajj. His study clearly showed that these traditional methods of savings are not only detrimental to the rural economy but also not beneficial for the future pilgrims. It is recommended that future pilgrims can save in a financial institution without Riba, and the profits or dividend derived from investments could be given to the depositors, thereby helping them to perform Hajj earlier than planned. Besides, this would enable Muslims to invest and effectively participate in the development process of the country. His conclusive study and its recommendation captured the imagination of the then Prime Minister of Malaysia, the late Tunku Abdul Kaltman, a man with political vision. He immediately saw the tremendous possibility of development of Hajj Management as an institution and through an act of parliament, after due consultation from the view points of *Shari 'ah*, Tabung Haji was established. This is how a "Political will" was translated into an action program backed by a sound technical study.

ii) Need to achieve at the Community Level: Bumiputra (i.e. indigenous Malay Muslim) Psychological Motivation:

The success of Tabung Haji may be attributed to a great extent to strong bumiputra psychological factor demonstrating that indigenous dominant Malay Muslim Community can succeed in business enterprise and corporate management involving integration of Islamic values with corporate philosophy and culture. It may be noted here that indigenous Malays form about fifty five percent of about 17.6 million population in 1991. During the 60's there was a growing feeling that indigenous Malays were being bypassed by the non-indigenous Chinese and Indian ethnic groups during the rapid pace of post-independence economic and social development.

"Undoubtedly, the imbalance between the indigenous and the non-indigenous ethnic groups was the result of the discontinuities in the social and economic structure of the country arising from almost a century of British colonial rule. However, political demands for corrective equity were growing more insistent and imperative. Indeed, the signs of bumiputra (indigenous) Malay disgruntlement at the slow pace of socio-economic development of the dominant Malay community had been evident among the post-war educated aspiring economic and political elites. These disaffections had been voiced quite vociferously in the bumiputra economic congresses in 1965 and 1968, and resolutions had been passed calling for the state to play a more activist role in promoting Malay Socio-economic advancement. The serious erosion of electoral support for the coalition government of the then Alliance Party, comprising UMNO (United Malays' National Organization), MCA (Malaysian Chinese Association) and MIC (Malaysian Indian Congress) convinced the political leadership that, for political stability and economic progress, special attention must be paid to bumiputra-Malay demands. Hence was born various ambitious affirmative-action programs of social engineering under the rubric of a New Economic Policy (NEP) which underpinned national socioeconomic development policy and planning. The instrumentalities of the State were mobilized to implement these NEP policies and programs".⁽⁹⁾ The establishment of Tabung Haji in 1969 may also be seen against this background. In such a racial competitive environment, there is a push factor, responsible for Muslim solidarity. In a sense, the success of Tabung Haji demonstrates the actualization of the collective "Bumiputra" will. In a multi-racial society, it is relatively easy to introduce competition and to set its standard where minority community is having a higher economic status.

iii) Monopoly Business

Tabung Haji has an exclusive right to deal with the management of Hajj affairs in Malaysia, thereby ensuring the steady flow of pilgrims' deposits each year. This monopoly status is actually derived from the provision within the Tabung Haji Act, which precludes any other individual or entities to provide Hajj services in Malaysia without the consent from the Minister-in-Charge of Tabung Haji. Therefore, this act helped in building up the institution and saved the infant organization from unnecessary competition from other institutions in the country.

iv) Government guarantee

The Government of Malaysia provides guarantee to each depositor, thus adding their confidence in the organization. Besides, Tabung Haji encourages savings not only for the purpose of pilgrimage but also for other needs of depositors. Thus it has been successful in attracting the saving of potential Muslim depositors.

v) Flexibility of Deposit

The simplification of procedures of deposits as well as cooperation with other similar institutions has enabled Tabung Haji to mobilize tremendous savings for investment purposes. A person can save through any one of the following means:

- (a) Any Tabung Haji office throughout Malaysia.
- (b) Any post office throughout Malaysia.
- (c) Monthly deduction by their employers.
- (d) Mailing the deposit direct to Tabung Haji Head Office, and
- (e) Saving scheme for dependents. This flexibility has been made possible due to governmental support for ensuring the services of agencies other than Tabung Haji. This is another example how a determined administrative will can be translated into operational guidelines for policy action.

vi) Diversification of Investment

The diversity of investment in a variety of economic enterprises namely, commercial, industrial, housing development and plantations minimized the risk and ensured the continued dividend to the depositors at a competitive rate. Although the main reason for such investment was to enable Muslims to perform Hajj with the *'Halal* income, yet in 1966, only after 3 years of its establishment, Tabung Haji was able to pay a bonus of 3% excluding 2.5% payment for Zakat and in 1994 it paid bonus of 9.5%.

vii) Development of a Professional Cadre and Participatory Management

Since its inception, Tabung Haji has made concerted effort to develop a highly motivated cadre of professional people, capable of achieving the objective for which Tabung Haji is established. The participatory and service oriented management concept under which Tabung Haji has been operating has increased the efficiency of the organization considerably. Depositors, pilgrims and the staff can easily see the Director General to voice their grievances. This has helped to establish good rapport among the depositors, pilgrims and the public.

viii) Non-partisan Approach by the Government

Since its inception, there are evidence to support that Tabung Haji has emerged as a genuine people's organization. The non-political and nonpartisan attitude of the Government also allows the management to achieve its goals, objectives for the benefit of its depositors and the pilgrims. It has already been mentioned that Government guarantees the depositors' savings so every effort is made to build the confidence of the people in the management of Tabung Haji.

ix) Coordination with other Agencies and Government

Over the years, Tabung Haji has evolved a sound strategy of coordination and cooperation both at home and abroad. For the purpose of Hajj work, Tabung Haji coordinates with other government agencies like the Registration Department, Ministry of Health, Ministry of National Unity and Social Development and Malaysian Airlines System (MAS). With such coordination these government agencies are involved and have become part and parcel of the Hajj operation. In addition, Tabung Haji has established a close cooperation with the Saudi Government and other authorities in Saudi Arabia, to take advantage of the improved facilities provided by the Saudi Government for the Hajj operation. Tabung Haji has maintained close relationship with the mass-media for dual purpose of disseminating information to the public about Tabung Haji and giving feed backs about public concerns, issues and problems.

Evolving Efficient System of Management

Over the years, Tabung Haji has been able to evolve a system of management which ensures:

- a) separation of power between the Governing Board, the Director-General, the Investment Panel as well as the government Auditor General,
- b) decentralization of authority, thereby cutting down of unnecessary red-tapes and bureaucratic hurdles,
- c) introducing the system of accountability, and
- d) Lastly, encouraging full use of the new and modern technology computers, telefax and others which have helped to further improve the financial operation and Hajj services management.

It may be noted here that it took more than 32 years for Tabung Haji to be in the position of what it is today. Now, besides performing functions that of a financial intermediary, Comprehensive Hajj services deserve serious consideration of all authorities concerned involved in the management the Hajj affairs in other Muslim countries.

The success of Tabung Haji is not the effort of one person, but it is the combination of various factors and efforts from various sectors. At the conceptual level, the key thrust of success of Tabung Haji lies in translating political and Muslim community will into an action program. Operationally speaking, the tremendous support given by the government of Malaysia, active participation of the Muslim as depositors of Tabung Haji and their confidence in an efficient and trustworthy management are essential ingredients of success of Tabung Haji.⁽¹⁰⁾ That is why, Islamic Development Bank awarded its Prize in Islamic Banking to Tabung Haji, in 1410H (1990).

In spite of what Tabung Haji has achieved, there is the realization that the future holds greater challenge. Thus, Tabung Haji has therefore consolidated general plans for its future. These include further increased effort to mobilize Muslim funds for increased diversified investment in all spheres of commerce and industry which adheres to Islamic principles. At an operational level, efforts are being made to establish offices in every district in

Malaysia and to raise the profit margin of its business ventures so as to increase the bonus payments and maintain Hajj services on a sustainable basis.

NEED FOR REDUCING OVERHEAD EXPENDITURE

So far we have examined the factors responsible for the success of Tabung Hajj. It is, however reported that recently Tabung Hajj's rate of return on investments is not competitive, compared to other financial institutions. It appears that overhead cost is becoming heavy. There is a need to end overhead administrative expenditure and a greater degree of financial accountability should be introduced, (state source of reference).

LESSONS OF EXPERIENCE

From the preceding analysis of factors responsible for the success of Tabung Haji, it is evident that "political will" and "collective community will" becomes the dominant factor for its successful functioning. Given these twin wills, plus effective and efficient management (Tabung Haji has been able to translate these wills into an operational action program for actual implementation. It is implicit in the analysis of these factors as to why it has not been replicated in other Muslim societies. The presence or absence of these key factors in varying degrees would explain the possibility of replication of Tabung Haji in Muslim countries and their different stages of development. It is to be understood that each of Muslim countries have patterns of colonial past and socio-economic history, apart from differences in natural and physical resource endowments.

"The momentum of Islamic social and economic ethics and their creative values of new ideas, technology and institutions which can alter the status quo received a series setback due to the successive stages of several centuries of colonization and cultural domination of vital areas of the Muslim world. Despite the fact that Muslims themselves must share their part of responsibilities for the Islamic momentum, the process of colonization has indeed' contributed to a great extent to bring about the de-Islamization of the Muslim mind.⁽¹⁰⁾ What is needed is the self-evaluation of each of the Muslim societies only to develop the corrective measures for action programs. The Management of Hajj funds is a part of the package. Given required political

will, it should be possible to translate the experience of Tabung Haji into an action program in other Muslim countries of the OIC, although it is not any easy task for several reasons: Firstly, there is hardly any Muslim country with such racial diversity. Secondly, in terms of natural resources, Malaysia is indeed a very rich country, it is one of the few countries of the world who is under populated. Thirdly, it is one of the few Muslim countries where democratic institutions is flourishing and there exist a political stability which has created appropriate investment opportunities and growth of both local and foreign enterprises. Last, but not least, Malaysia has been endowed with a number of politicians having social visions. It is, perhaps one of the few Muslim countries which is planning its development on the basis of the 21st Century Concept of Malaysia: 2020.

5. SUGGESTIONS FOR POLICY DECISIONS

From the preceding discussions of the Economics of Hajj Management and factors responsible for the success of Tabung Haji, the following policy suggestions may be put forward.

A. Establishment of the House of Islamic Ummah for Economic Cooperation

We all know that Islam stands of a happy blending of the spiritual and material welfare of life. Therefore, worldly occupations are recommended again and again both in the Qur'an and the *Hadith*. The Qur'an says: "And when the prayer is finished, then may ye disperse through the land and seek the Bounty of Allah". (Surah LXII:10). It appears to be in order to suggest that economic activities can go side by side with the religious duties of the Hajj. Therefore, it is to be examined whether under the umbrella of OIC Islamic Ummah village or House of Islamic Ummah in cooperation of the Kingdom of Saudi Arabia can be established under which each member country of the Muslim community be given a permanent space to exhibit and sell their products. At the beginning or end of pilgrimage, an arrangement can be made for the optional visit by all pilgrims and also by other Muslims who came to 'Umrah' during the whole year. This House of Islamic Ummah can serve as a forum for informative advertising of the products of different

Islamic countries as well as one of the important building blocks of eventual formation of an Islamic Common Market.

A data bank accessible by Muslim entrepreneurs and businessmen by the interest for networking purposes can also be provided by the House of Islamic Ummah.

B. Evolution of Islamic Ummah Corporation

This House of Islamic Ummah once established can provide scope for exchange of information relating to investment in co-financing and joint venture projects. These can eventually lead to the formation of an Islamic Multi-national Corporation or Islamic Ummah Cooperation in the various fields such as petrochemicals, textile, leather, electronics, etc.

C. Evolution of Islamic Dinar

Since exchange of different currencies into local currency and vice-versa are taking place throughout the Hajj and Umrah seasons of the year, attempts may be made for further operationalizing of Islamic Dinar and eventual regional or inter-regional monetary integration.

D. Development/establishment of Hajj Management Bank in OIC Member Countries

The successful experience of Tabung Hajj need be disseminated among the Muslim peoples in their own languages. Technical Assistance program of IDB may be extended to those countries interested to establish such an organization in their own countries. One-day annual seminar and workshop on Tabung Hajj in cooperation with the Government of Malaysia can be organized in which Heads of Hajj Mission of different Islamic countries and their members may, among others be invited to attend. Private sector of member countries should also be encouraged to take initiative to set up Hajj Management Banks in respective Muslim countries.

E. Publishing Information Bulletin

The information needs of the pilgrims are indeed extensive. They need basic information on religious duties, health and a host of other matters. The question is as to how to coordinate these information needs of the pilgrims, communicate with them in their own languages, physically accessible to all of them.

F. Development of Hajj related Industries and Tourism

Some of the related questions requiring investment in research in the management of Hajj relate to:

- a) design and development of special Hajj tent, capable of protecting the pilgrims from the sun of the mid-day as well as the cold of the desert night which can be carried by an individual pilgrim and assembled¹²;
- b) development and design of factories involving use of sacrificial meat for mass-produce operating throughout the year;
- c) development and preservation of cultural property and historical sites such as
 - Hodaybiyya, half way between Jeddah and Makkah, where the famous truce was concluded between the Prophet and the Makkans,
 - Badr, two-thirds of the way from Jeddah to Madina, where the first battle was fought by the Prophet with the Makkans,
 - many other places of historical interest in and around Madina - there is the mosque at Quba, where the Prophet stayed for a few days on his first arrival from Makkah. There is the mosque in which the Prophet was leading the service when the revelation came which changed the *Qibla* - direction toward which worshipers face during the service from Jerusalem to Makkah. There is the graveyard where most of the early Muslims are buried, including Uthman, the third Khalifa, Haleema, the foster mother of the Prophet; Ibrahim, the Prophet's little son; several

members of the Prophet's family and many of his companions. There is the battlefield of thud, a few miles east of Madina, where the second battle with the Makkans took place, the one in which the Prophet himself was wounded.¹³ The main significance of development and preservation of these cultural property and historical sites lie in the fact that lessons of history and cultural heritage become the instant source of inspiration to preserve and uphold the glory of Islam and emulate their righteous life.

G. Haj j transport Co-ordination Bureau on a Regional Basis

There is a need for further research investment in the study of Hajj population and their Hajj management over time, and the trends and issues in technologies that are appropriate for the Hajj environment within the boundaries set by the physical and spiritual limits of Hajj. Despite introduction of the quota system, it is expected that the pressure to increase the number of quota for pilgrims will increase. The problem associated with their accommodation, food, health care, sanitary system and transportation facilities may look formidable, in the first instance. Given efficient management, they are manageable. Seminar and workshop can be organized to examine whether the benefits of division of labor and specialization can be achieved through better cooperation and coordination of the flow of pilgrims via better coordination of land, sea and air transport among the member countries of the OIC.

6. CONCLUSION

Taken all in all, it can be said that the need to integrate the role of Islamic socio-economic institutions and organizations into the mainstream of development planning of Muslim countries to face the challenge of 21st Century is perhaps greater than ever. In this context, there is a clear need to recognize the role of Hajj as a powerful social and economic institution of the Islamic Ummah, apart from its historical role as a pure religious institution. The process of centuries of colonization which has indeed contributed to a great extent to bring about the de-Islamization of the Muslim world need to be contained and reversed through conscious de-education and new

educational policy in Muslim countries. Historical distortion should be corrected and right priorities are to be set up. Given political will, there is no reason why Tabung Hajj's experience cannot replicated in other Muslim countries. Attempts should be made to disseminate the experience of the Tabung Hajj among the Islamic countries.

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APPENDIX

LAWS OF MALAYSIA ACT, 8 TABUNG HAJI ACT OF MALAYSIA 1969 S AMENDED AND IN FORCE IN 1982

[Author's Note: Why this Appendix: Tabung Haji which has been in operation since 1963 is viewed as one of the most successful experiments in the management of Hajj affairs in the Muslim world and has now grown into a big corporate body for mobilizations of savings and investments in conformity with Shari *'ab*. That is why, Islamic Development Bank awarded its **Prize in Islamic Banking** to Tabung Haji in 1410H (1990). Despite its success, this model has not yet replicated elsewhere. Hence, there is a need to disseminate the successful experience of Tabung Haji and Act on which it operates. Hence, it is found desirable to add this appendix. This Act is very informative but is not readily available either in the book-store or in the library].

LAWS OF MALAYSIA

Act 8

**LEMBAGA URUSAN DAN TABUNG
HAJI ACT 1969**

Printed by the Director General of National Printing, Kuala Lumpur, with the authority of the Commissioner of Law Revision under section 14 of the Revision of Laws Act 1968 (Act 1), and containing the amended law as in force on 30th September 1982

**DICETAK OLEH JABATAN PERCETAKAN NEGARA, KUALA LUMPUR
MOKHTAR BIN HAJI SHAMUDDIN, J.S.D., S.M.T., K.M.N., P.I.S.
PEMANGKU KETUA PENGARAH
1982**

ACT 8
LEMBAGA URUSAN DAN TABUNG HAJI
ACT 1969

Act to provide for the establishment of a Corporation to be known as Lembaga Urusan dan Tabung Haji, the functions of the Lembaga, the management of a Fund for the maintenance and utilization of savings in connection with the protection, control and general well-being of the pilgrimage to the Hedjaz, and matters ancillary thereto.

[P. U.(B)
191/69.]
[8th August 1969.]

Be it Enacted by the Dull Yang Maha Mulia 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

1. (1) This Act may be cited as the Lembaga Urusan dan Tabung Haji *Short title* Act 1969, and shall come into force on such date as the Minister may by notification in the *Gazette* appoint, such date not being earlier than the date on which the notification is published.

(2) This Act shall apply throughout Malaysia.

2. (1) In this Act unless the context otherwise requires— Definition

"Chief Customs Officer" means the chief executive officer of Customs for any port or place outside Malaysia;

"Director General" means the Director General appointed u section 13 (1);

"effects" includes clothes and documents;

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"Financial Year" means a period of twelve months ending on the 31st day of December;

"Fund" or "the Fund" means the Fund of the Lembaga Urusan dan Tabung Haji established under section 19;

"Harbour Master" means any officer by whatever name called duly appointed to perform the duties of a harbour master at any port in Malaysia;

[Am.Act
A514.]

"Land Authority" in relation to any matter affecting land in a State means the Ruler in Council or Yang di-Pertua Negeri in Council of that State;

"Master" includes every person, except a pilot, having command or charge of any ship;

"Medical Officer" means a medical officer having the prescribed qualifications;

"Minister" means the Minister charged with responsibility for pilgrimage control;

"Officer" in relation to a ship includes a master, mate, engineer, radio officer, gunner, helmsman, engine driver and apprentice;

"Owner" in relation to a ship or aircraft includes a charterer;

[Am.Act
A168.]

"Passenger" means any person carried in a ship other than the master, pilot, crew, the owner, his family and servants, and persons on board the ship either in pursuance of the obligations laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstances which neither the master nor the owner could have prevented or forestalled;

[Am.Act
A168.]

"Passenger Haji" means the travel document in the prescribed form issued to a pilgrim under this Act which travel document shall be deemed to be a valid passport as if issued under any law relating to passports and which shall further be deemed to be a valid re-entry permit as if granted under any law relating to immigration

Provided that such passport Haji shall not be valid as a travel document for the purposes of travel except on a pilgrimage to or a return from the Hedjaz

LEMBAGA URUSAN DAN TABUNG HAJI

"Pilgrim" means any person other than a non-resident of Malaysia who travel from any port, airport or place in Malaysia for the sole purpose of pilgrimage to the Hedjaz; *[Sub. Act A168.]*

"Pilgrim Aircraft" means any aircraft chartered or arranged for the purpose of conveying pilgrims from or to any airport in Malaysia to or from any airport in Jeddah or Mecca; *[Ins. Act A168.]*

Provided that any aircraft carrying passengers more than a quarter of whom are pilgrims shall be deemed to be a pilgrim aircraft;

"Pilgrim ship" means any ship conveying or about to convey pilgrim from or to any port in Malaysia to or from any port in the Red Sea, the Gulf of Aden or the Arabian Sea other than any port in India or Pakistan:

Provided that no ship carrying passengers, other than pilgrims for whom no accommodation in a cabin or saloon is reserved and having on board such pilgrims in a less proportion than one pilgrim from every one hundred tons of the gross tonnage of the ship, shall be deemed to be a pilgrim ship within the meaning of this Act;

"Pilgrim Ticket" means a ticket which entitles, or purports to entitle, any person to a passage on a pilgrim ship or pilgrim aircraft; *[Am. Act A168.]*

"Pilot" means any person not belonging to a ship who has the conduct thereof;

"Police Officer" means a police officer not below the rank of Sub-Inspector;

"Port" means any port or place declared to be a port under the Merchant Shipping Ordinance 1952, or the Merchant Shipping Ordinance of the Republic of Singapore. *[Am.S'pore Act 9/65.]*

70/52.

"Port Health Officer" means any officer, by whatever name called, duly appointed to perform the duties of a Port Health Officer at any port in Malaysia;

"Proper Officer Of Customs" means any officer of customs acting in the fulfillment of his duties under any written law relating to customs for the time being in force in Malaysia whether such duties are assigned to him, specially or generally, expressly or by implication.

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"Public Officer" means any person employed by any government in Malaysia;

"Representation means probate, administration, confirmation or other instrument constituting a person, the executor, administrator or other representative of a deceased person;

"Seaman" includes every person, except master, pilots and apprentices duly indentured and registered, employed or engaged in any capacity on board any ship;

"Ship" includes every description of vessel used in navigation not propelled by oars;

[Am. Spore Act 9/65.] 70/52.

"Statutory Load Line Mark" means the load-line marked upon a ship in accordance - with the provisions of the Merchant Shipping Ordinance 1952, or under the Merchant Shipping Ordinance of the Republic of Singapore or under any law for the time being in force in the Republic of Singapore;

"Surveyor of Ships" means any Surveyor of Ships appointed under the Merchant Shipping Ordinance 1952;

"Voyage" means the whole time and the whole distance between the ship's port or place of departure and her final port or place of arrival.

(2) In this Act, unless the context otherwise requires, any reference to failure to do any act or thing shall include a reference to refusal to do that act or thing.

PART II ESTABLISHMENT OF LEMBAGA

Establishment of Lembaga Urusan dan Tabung Haji.

3. (1) There is hereby established a body corporate by the name of "Lembaga Urusan dan Tabung Haji" (hereinafter referred to as the "Lembaga") with perpetual succession and a common seal and may sue and be sued in its name and, subject to and for the purposes of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield-up, charge, mortgage, demise, reassign, transfer, or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the Lembaga upon such terms as it deems fit.

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- (2) The provisions of the First Schedule shall have effect with respect to the Lembaga.
- (3) The Lembaga shall consist of the following members:
 - a) A Chairman;
 - b) A Deputy Chairman;
 - c) a representative of the Prime Minister's Department;
 - d) a representative of the Treasury;
 - e) the Director General; and
 - f) not more than five other members appointed by the Minister.
- (4) The members of the Lembaga other than the ex-officio members shall be appointed or nominated from amongst citizens who are Muslim.
- (5) The Chairman and the Deputy Chairman shall be appointed by the Yang di-Pertuan Agong.
- (6) If the Chairman is unable to exercise his functions under this Act owing to illness, absence from Malaysia or for any other cause whatsoever, his functions shall be exercised by the Deputy Chairman.
- (7) A member of the Lembaga, other than ex-officio members and the Director General, shall unless his appointment is sooner resigned or revoked, hold office for a term, not exceeding three years and shall be eligible for reappointment.
- (8) The common seal of the Lembaga shall bear such device as the Lembaga may approve and such seal may from time to time be broken, changed, altered and made anew by the Lembaga as it may think fit.
- (9) Until a seal is provided by the Lembaga a stamp bearing the description "Lembaga Urusan dan Tabung Haji" may be used and shall be deemed to be the common seal.
- (10) The common seal or the stamp under subsection (9) shall be kept in the custody of the Director General and shall be authenticated by him or by any officer authorized by the Lembaga in writing; and all deeds, documents, and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall until the contrary is proved be deemed to have been validly executed:

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Provided that 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 Lembaga; and any such document or instrument may be executed on behalf of the Lembaga by any officer or servant of the Lembaga generally or specially authorized by the Lembaga in that behalf.

(11) The seal of the Lembaga shall be officially and judicially noticed.

Functions
of the
Lembaga.

4. (1) It shall be the functions of the Lembaga to administer the Fund and all matters concerning the welfare of the pilgrims and to formulate policies in connection therewith and to do such other things as may be done under this Act.

(2) For the purposes of discharging its functions the Lembaga shall be assisted by the Finance and Welfare Committees established under this Act.

(3) The Lembaga may employ and pay agents and technical advisers including advocates and solicitors, bankers, stockbrokers, surveyors or valuers or other persons, to transact in business or to do any act required to be transacted or done in the execution of its functions or for better carrying into effect of the purposes of this Act, and may pay from the Fund all charges and expenses so incurred.

Establish-
ment of
Majlis
Penasihat.
[Ins. Act
A168.]

4.A. (1) There is hereby established for the purposes of this Act a body by the name of Majlis Penasihat Urusan Haji (hereinafter referred to as Majlis Penasihat) whose functions shall be

- a) generally to advise the Minister on matters pertaining to the welfare of the pilgrims; and
- b) to advise the Minister on any matter referred to it by the Minister.

(2) The Majlis Penasihat shall consist of the following members--

- a) the Chairman of the Lembaga who shall be the Chairman of the Majlis Penasihat;
- b) a representative of the Prime Minister's Department;

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- (c) a representative of the Treasury;
 - (d) a representative of the Ministry of Foreign Affairs;
 - (e) the Director General who shall be the Secretary of the Majlis Penasihat;
 - (f) a representative from each of the States in Malaysia;
 - (g) not more than ten other members appointed by the Minister.
- (3) The provisions of the First Schedule shall have effect to the Majlis Penasihat.
- (4) The members of the Majlis Penasihat other than the ex-officio members shall be appointed or nominated from among citizens who are Muslims.
- (5) The Majlis Penasihat shall meet at least once during every calendar year.
- (6) The Chairman or any member presiding in the absence of the Chairman at such meeting and ten other members shall form a quorum at any meeting of the Majlis Penasihat.
- (7) In the event of the votes on any question being equal, the Chairman or any member presiding as Chairman shall have the casting vote in addition to his original vote.
- 5.(1) The Minister may give to the Lembaga such directions of a general character not inconsistent with the provisions of this Act as relates the exercise and performance of its functions and the Lembaga shall give effect to all such directions.
- (2) The Lembaga shall furnish the Minister with such returns, accounts and other information with respect to the property and activities of the Lembaga as he may from time to time require.
6. (1) The Lembaga shall meet at least once in every three months.
- (2) Three members, at least two of whom shall be chosen among persons specified in paragraphs (a) to (d) of subsection (3) of section 3, shall form a quorum at any meeting of the Lembaga.

Powers of Minister in relation to the Lembaga.

Meetings of the Lembaga.
[Am. Act A168].

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(3) In the event of the votes on any question being equal, the Chairman shall have the casting vote in addition to his original vote.

(4) Subject to subsections (1), (2) and (3) the Lembaga may determine its own procedure.

Liability of members.
[Am. Act A168.]

7. No member of the Lembaga, the Majlis Penasihat, the Finance or Welfare Committee shall incur any personal liability for any loss or damage caused by any act or omission in the administration of the affairs of the Lembaga unless such loss or damage is occasioned by an intentionally wrongful act or omission on his part.

Allowances payable to members to the Lembaga, the Finance and Welfare Committees.
[Am. Act A168.]

8. There may be paid to each member of the Lembaga, the Majlis Penasihat, the Finance and Welfare Committees out of the Fund such allowances, including traveling and subsistence allowances, as the Lembaga may from time to time determine subject to such limits and conditions as the Minister may direct.

Disclosure by member of the Lembaga of interest in transaction with the Lembaga and disqualification of such a member from voting.

9.(1) Any member who has or acquires, directly or indirectly by himself, his partner or agent

(a) any share or interest

- i. in any contract made with the Lembaga;
- ii. in any work done for the Lembaga ; or
- iii. in any company or firm or in respect of any undertaking with which the Lembaga proposes to enter into a contract; or

(b) any beneficial interest in land proposed to be acquired, purchased, leased or otherwise dealt with by the Lembaga, which he knows to be affected or likely to be affected by *any* project, scheme or enterprise approved or proposed to be approved by the Lembaga.

shall declare *the* nature and extent of his share or interest to the Lembaga.

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- (2) The declaration required to be made by a member under subsection (1) shall be made at a meeting of the Lembaga at which any question relating to such contract, acquisition, purchase, lease, dealing, project or scheme is first taken into consideration, or if the member has not at the date of that meeting any such share or interest, at the next such meeting held after he acquired such share or interest, and in a case where a member acquires any such share or interest in any contract with the Lembaga after it has been made, the said declaration shall be made at the first meeting held after that member acquires such share or interest.
- (3) For the purpose of this section, a general notice given to the other members by a member to the effect that he is a member of any specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with or by that company or firm, shall be deemed to be a sufficient declaration of interest in relation to any contract or application so made:
- Provided that such notice shall be of no effect unless either it is given at a meeting of the Lembaga or the member concerned takes reasonable steps to secure that it is brought up and read at the next meeting of the Lembaga after it is given.
- (4) Every declaration made in pursuance of this section shall be recorded in the minutes of the meeting at which it was made or read.
- (5) A member shall not vote upon any resolution or question relating to any contract, acquisition, purchase, lease, dealing, project or scheme in which he has any share or interest, whether or not he has declared the same, nor shall he take part in any deliberation (except by the invitation of the Lembaga) or decision relating thereto or to any matter incidental thereto, and if he shall do so his vote shall not be counted, nor shall he be counted in the quorum present at the meeting for the purpose of such resolution or question.

10. The provisions of section 9 shall apply to a member of the majlis Penasihat, the Finance or Welfare Committee appointed by the Lembaga in respect of any contract or any acquisition, purchase, lease, or dealing in land or any project, investment or scheme with which such Committees are concerned in the manner as it applies to member of the Lembaga in respect of like matters in relation to the Lembaga.

Application of section 9 to Finance and Welfare Committees.
[Am. Act A168.]

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Public servants. F.M.S. Cap. 45.[Am. Act A168; Act A327.]

11. All members of the Lembaga, the Majlis Penasihat, the Finance and Welfare Committees, officers and servants of the Lembaga shall be deemed to be public servants within the meaning of the Penal Code.

Public authorities protection. Act 198. [Am. Act A168.]

12. The Public Authorities Protection Act 1948 shall apply to any action, suit, prosecution or proceeding against the Lembaga or against the Chairman, any member of the Lembaga, the Majlis Penasihat, the Finance and Welfare Committee, officer, servant or agent of the Lembaga in respect of any act, neglect or default done or committed by him in such capacity.

PART III

DIRECTOR GENERAL, DIRECTORS, OFFICERS AND SERVANTS OF THE LEMBAGA

Director General of the Lembaga.

13. (1) There shall be a Director General, to be appointed by the Yang di-Pertuan Agong, who shall be Chief Executive of the Lembaga.

(2) The Director General shall be responsible for the preparation of programs, schemes, or projects for the consideration of the Lembaga, the Finance Committee and the Welfare Committee, and for the implementation of decisions of the Lembaga, the Finance and the Welfare Committees.

Director of Finance Committee.

14. The Lembaga shall appoint a Director of Finance who shall be the executive officer of the Finance Committee and *who* shall assist, and be responsible to, the Director General.

Director of Welfare Committee.

15. The Lembaga shall appoint a Director of Welfare who shall be the executive officer of the Welfare Committee and *who* shall assist, and be responsible to, the Director General.

Terms and conditions of service of Director General, Director of Finance, Director of Welfare, and appointment of officers & servants.

16. (1) The Director General, the Director of Finance, and the Director of Welfare shall, unless their appointments are sooner resigned or revoked, hold office for such period as may be specified in the instruments appointing them, and shall serve on such terms and conditions as may be prescribed.

LEMBAGA URUSAN DAN TABUNG HAJI

- (2) Subject to any regulations which may be made under section 93, the Lembaga may from time to time appoint and employ on such terms and conditions as the Lembaga may think fit a Pilgrimage Commissioner and such officers and servants as may be necessary for carrying out the purpose of this Act.

PART N FINANCE AND WELFARE COMMITTEES

17. (1) The Lembaga shall establish a Finance Committee under the Chairmanship of the Director General. Establishment of Finance Committee.
- (2) The provisions of the Second Schedule shall have effect with respect to the Finance Committee.
- (3) The Director of Finance appointed under section 14 shall be the Secretary of the Committee.
- (4) The Finance Committee shall consist of the following members-
- (a) the Director General; [Am. Act A35;
 - (b) the Director of Finance; Sub. Act A168.1
 - (c) a representative of the Prime Minister's Department;
 - (d) a representative of the Treasury; and
 - (e) one member appointed by the Lembaga.
- (5) The Finance Committee shall, in accordance with the policies of the Lembaga, be responsible for the administration and investment of the Fund of the Lembaga and shall have such powers as may be delegated by the Lembaga.
- 18.(1) The Lembaga shall establish a Welfare Committee under the Chairmanship of the Director General.
- (2) The provisions of the Second Schedule shall have effect with respect to the Welfare Committee. Establishment of Welfare Committee.

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(3) The Director of Welfare appointed under section 15 shall be the Secretary of the Committee.

[Am. Act
A35;
Sub. Act
Act A 168.1

(4) The Welfare Committee shall consist of the following members:

- (a) the Director General;
- (b) the Director of Welfare;
- (c) a representative of the Prime Minister's Department; and one member appointed by the Lembaga.
- (d)

(5) The Welfare Committee shall, in accordance with the policies of the Lembaga, be responsible for the welfare, protection, control and general well-being of pilgrims, and shall have such powers as may be delegated by the Lembaga.

PART V FINANCE

Fund.

19. For the purposes of this Act, in particular for the purposes of enabling citizens to save for the pilgrimage to Mecca in a manner which will enable their savings to be utilized, there shall be established a Fund to be known as the Lembaga Urusan dan Tabung Haji Fund vested in the Lembaga--

- (a) into which shall be paid deposits made as provided under this Part and such other sums as are directed by this Act to be paid into the Fund;
- (b) into which shall be paid such sums as may from time to time be contributed or loaned to the Lembaga by the Government;
- (c) into which shall be paid passport Haji fees and such other fees as may be prescribed;
- (d) into which shall be paid monies earned from the investment or by the operation of any project, agency scheme or enterprise financed from the Fund;

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- (e) into which shall be paid all grants, gifts, contributions and bequests made under section 22;
 - (f) from which deposits will be repayable with such bonus thereon as is provided by this Act, and from which shall be paid such other out-goings, subject to section 20, as are directed by this Act to be paid out of the Fund.
20. (1) The Fund may be applied for the purpose of carrying out the Expenditure of the functions of the Lembaga: the Lembaga
- Provided that expenditure of the Lembaga shall not be made against the accounts of the depositors.
- (2) The Lembaga may borrow, on such terms and conditions and for such period as the Treasury may approve, any sums required by the Lembaga for the purpose of this Act. '
21. The Lembaga may with the approval of the Minister make regulations as to the manner in which deposits in the Fund are to be made; and such regulations shall provide for separate accounts to be kept for each depositor. Manner of making deposits.
22. Any Federal or State grants, any gifts, contributions or bequests made to the Lembaga shall be paid into the Fund. Grants, gifts and receipts of the Lembaga.
23. (1) The assets of the Fund shall, in so far as they are not required to be expended by the Lembaga under this Act, be invested in such manner as the Lembaga may think fit: Investment of Fund.
- Provided that the Lembaga shall not invest in securities issued or registered, or other property situated, outside Malaysia except with the approval of the Treasury.
- (2) Before exercising their powers of investment under subsection [Am. Act (1), the Lembaga shall consider any report or A168.] recommendations A 168] made to them by the Majlis Penasihat Kewangan hereinafter referred to.
- (3) For the purpose of advising the embaga on matters relating to investments, there shall be constituted as Mailis Penasihat Kewangan consisting of the Director General, the Director of Finance **and** four members to be appointed by the Minister. [Am. Act A 168]

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which shall make reports and recommendations to the Lembaga on the question whether or not it is desirable for the Lembaga to invest any assets of the Fund in any particular investment or in investments of any particular description or to retain *any* investment already made.

Declaration
of bonus.

24. (1) Subject to the provisions of this section, the Lembaga may with the approval of the Treasury declare a rate of bonus for any financial year of the Fund; and if a declaration is made the amount standing to the credit of each depositor at the end of the year shall be increased accordingly.

(2) No bonus shall be declared unless the Lembaga have established a Reserve Fund, and no bonus shall be declared in *any* year unless at the end of that year

(a) the assets of the Fund established under section 19 were not less than the aggregate liabilities of that fund, amounts due to depositors being calculated as if immediately payable; and

(b) the assets of the Reserve Fund were not less than such percentage of the amounts actually standing to the credit of the depositors as at the end of that year including the bonus, as the Treasury may approve.

(3) Any payments required to be made out of the Fund shall in so far as the moneys in the Fund are insufficient for that purpose, be made out of the Reserve Fund.

(4) Subsections (1) to (3) of the preceding section shall apply to the assets of the Reserve Fund as they apply to the assets of the Fund established under section 19 and all income from investment of assets of the Reserve Fund shall be paid into the Fund so established.

(5) The Lembaga may from time to time transfer assets from the Reserve Fund to the Fund or from the Fund to the Reserve Fund.

Withdrawals .

25. (1) Subject to the provisions of this section any amount standing to the credit of a depositor's account under this Act may be withdrawn

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- (a) for defraying all or part of the costs of the depositor's pilgrimage;
- (b) on the death of the depositor;
- (c) on the depositor satisfying the Lembaga that by reason of age, sickness or in other circumstances he is unlikely to be able to make his pilgrimage during his lifetime;
- (d) on the depositor satisfying the Lembaga that he is about to leave Malaysia and has no intention of returning thereto;
- (e) in any other case where the Lembaga having regard to all the circumstances of the case allow the withdrawal,

but not otherwise.

(2) The Lembaga may if it thinks fit refuse an application for withdrawal under paragraph (a) of subsection (1) if the amount to be withdrawn is inadequate to meet the normal cost of the pilgrimage in respect of the depositor and the Lembaga is not satisfied that he has other means to meet the costs.

(3) On a withdrawal under paragraph (a) of subsection (1) the Lembaga may, in lieu of making payment in cash provide the depositor with tickets, travel vouchers or other documents necessary for the pilgrimage.

(4) The Lembaga may with the approval of the Minister make regulations as to the manner in which withdrawal are to be made and the evidence to be produced on any application for withdrawal.

26. (1) If any expenditure of the Lembaga under section 25 cannot be met out of the Fund or the Reserve Fund it shall be charged on and payable out of the Consolidated Fund.

Government's
guarantee of
payments.

(2) Any payment put of the Consolidated Fund shall as soon as practicable be repaid by the Lembaga to the Consolidated Fund and until repaid shall be a debt to the Government and a first charge on the assets of the Fund and the Reserve Fund.

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- Annual Estimates.
- 27.(1) The Director General shall, not later than one month before the commencement of each financial year, lay before the Lembaga an estimate of the expenditure of the Lembaga (including capital expenditure) for the ensuing year in such detail and form as the Lembaga may determine.
- (2) A copy of such estimates shall be sent to each member of the Lembaga not less than fourteen days prior to the meeting before which the estimates is to be laid.
- Accounts and audit.
- 28.(1) The Lembaga shall keep proper accounts and other records in respect of its operation and shall prepare statement of accounts in respect of each financial year.
- (2) The accounts of the Lembaga shall be audited annually by the Auditor General or by auditors appointed by the Lembaga with the approval of the Minister.
- (3) After the end of each financial year, as soon as the accounts of the Lembaga have been audited the Lembaga shall cause a copy of the statement of accounts to be transmitted to the Minister together with a copy of any observations made by the Auditor General or other auditor appointed under subsection (2) on any statement or on any accounts of the Lembaga.
- (4) The Minister shall cause a copy of every such statements and observations to be laid on the table of each House of Parliament.
- Annual report.
29. (1) The Lembaga shall not later than the 30th day or April in each year, cause to be made and transmitted to the Minister a report dealing with *the* activities of the Lembaga during the preceding financial year and containing such information relating to the proceedings and policy of the Lembaga as the Minister may from time to time direct.
- (2) The Minister shall cause a copy of every such report to be laid on the table of each House of parliament.

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PART VI PILGRIM SHIPS AND PILGRIM AIRCRAFT

30. (1) No pilgrim ship shall depart or proceed from, or discharge pilgrims at, any port or place within Malaysia other than a port or place appointed in that behalf by the Minister.
- (2) After a pilgrim ship has departed or proceeded on a voyage from a port or place so appointed, no person shall be received on board as a pilgrim, except at some other port or place so appointed or at some port or place outside Malaysia appointed by the Minister.
- (3) No vessel, having taken on board any pilgrim from a pilgrim ship lying outside the limits of any port or place so appointed, shall land such pilgrim at any port or place so appointed to a pilgrim ship lying outside the limits of such port or place, unless the sanction of the Harbour Master in writing has been previously obtained.
- (4) If a pilgrim ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within Malaysia in contravention of subsection (1), the master or owner shall be guilty of an offence and shall for every pilgrim carried in the ship or for every pilgrim so discharged be liable upon conviction to a fine not exceeding fifty ringgit or to imprisonment for a term not exceeding one month or to both.
- (5) If any person is received as a pilgrim on board a pilgrim ship in contravention of subsection (2), the master or owner shall for every such person so received be liable on conviction to such punishment as is specified in subsection (4).
- (6) If any pilgrim is landed from or conveyed to a pilgrim ship in any vessel in contravention of subsection (3), the master or owner of such pilgrim ship shall for every such pilgrim so landed or conveyed be liable on conviction to such punishment as is specified in subsection (4).
- (7) The aggregate term of imprisonment awarded under this section severally shall not exceed one year.

[Am. Act
A168.]
Pilgrim-ship
to sail from
or discharge
only at
places
appointed.

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Pilgrimage
not to sail
without
certificates
bill of health
and
statement.

31. (1) No pilgrim ship shall commence a voyage from a port or place in Malaysia unless the master holds-

- a) a certificate in accordance with the provisions of subsection (1) of section 33 (hereinafter called "Certificate");
- b) a certificate in accordance with the provisions of subsection (2) of section 33 (hereinafter called "Certificate B");
- c) a certificate signed by the Port Health Officer (hereinafter called "the bill of health") stating the name, nationality and tonnage of the ship, the names of the master and medical officer or officers, the number of the crew and the pilgrims embarked, the nature of the cargo, the place of departure and the condition of such place in respect of disease; and
- d) a duplicate copy of the statement and an additional statement (if any) made by the master in accordance with the provisions of sections 41 and 43 countersigned by a Police Officer.

(2) The proper officer of customs shall not grant a port clearance unless the master holds the certificates, bill of health and statement referred to in subsection (1).

(3) If a pilgrim ship commences a voyage in contravention of the provisions of this section, the master or owner shall be guilty of an offence and shall for every pilgrim carried be liable on conviction to a fine not exceeding one hundred ringgit or to imprisonment for a term not exceeding one month or to both.

(4) The aggregate terms of imprisonment awarded under this section severally shall not exceed one year.

Detention of
ship until
penalties
paid.

32. When ship, which has contravened the provisions of section 30 or section 31 is found within two years of such contravention in any port or place within Malaysia such ship may be seized and detained by the Harbour Master until the penalties incurred under this Act by her master or owner have been adjudicated and any fines imposed upon him under this Act, with costs, have been paid.

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33. (1) Certificate, A to be issued by *the* Surveyor of Ships, shall state-

- a) that the ship has one of the certificates referred to in section 208 of the Merchant Shipping Ordinance, 1952, or the corresponding provision of the written law for the time being in force in the Republic of Singapore or, in the case of a ship belonging to a country to which the International Convention for the Safety of Life at Sea, 1960, applies, has a Safety Certificate in force and applicable to the voyage on which she is about to proceed.
- b) that the ship is properly equipped, fitted and ventilated;
- c) the number of pilgrims of each class which the ship is capable of carrying;
- d) that the ship has the proper complement of duly certificated officers;
- e) that the ship is propelled principally by steam, oil, electricity or other mechanical power and that she complies with *the* prescribed requirements as to tonnage and power;
- f) that the ship is provided with the necessary apparatus for distilling a sufficient quantity of water to provide each person on board with not less than two gallons per day during the voyage;
- g) that the ship possesses a proper disinfecting apparatus;
- h) that the ship has hospital accommodation on board capable of accommodating such number, not exceeding five per centum of *the* pilgrims embarked, as may be prescribed; and
- i) that the ship possesses an approved wireless apparatus for sending and receiving messages.

Contents of certificates A and B and fees for such certificates.

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Singapore
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(2) Certificate B, to be issued by the Harbour Master, shall state-

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- a) the voyage which the ship is to make and the intermediate ports, if any, at which she is to touch;
- b) that the ship has been put in a proper state of cleanliness and, if it is necessary, has been disinfected, and that the ship has not on board any cargo likely from its quality, quantity or mode of stowage to injure the health or endanger the safety of the passengers;
- c) that good food, fuel and pure water over and above what is necessary for the crew and all other stores, as may be prescribed (if any), for pilgrim ships have been placed on board, and that such food is of the quality prescribed and properly packed and sufficient to supply the pilgrims on the board during the period of the voyage which the ship is to make and during any period of detention in quarantine as may be required, according to the scale for the time being prescribed;
- d) that the master holds Certificate A;
- e) that the arrangements of the ship are such that all requirements prescribed for the voyage can be observed;
- f) that the requirements of subsection (1) of section 54 have been complied with; and
- g) such other particulars as may be prescribed.

(3) For every certificate granted under this section the owner, agent or master of the pilgrim ship in respect of which it is granted shall pay such fee as may be prescribed.

Discretion as
to grant of
certificates.

34. (1) The Harbour Master shall not grant Certificate B in respect of a pilgrim ship unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode or stowage to injure the health or endanger the safety of the pilgrims embarked.

(2) Subject to the provisions of subsection (3) it shall be in the discretion of the Surveyor of Ships or the **Harbour**

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Master, as the case may be, to grant or withhold a certificate under section 33.

- (3) The exercise of the discretion referred to in sub-section (2) by the Surveyor of Ships or the Harbour Master as the case may be, shall be subject to the control of the Minister for the time being charged with responsibility for transport.

35. (1) The master or owner of every pilgrim ship shall post in a conspicuous part of *such* ship, so as to be visible to persons on board-

Copy of certificates bill and tariff to be exhibited.

- a) a copy of each of the Certificates A and B granted in respect thereof,
- b) a bill, printed in the principal languages of the pilgrims embarked, setting forth the destination of the ship, the price of tickets, the daily rations of food and water to be served out to the pilgrims; and
- c) a tariff of other food not included in the daily rations, which may be obtained on payment,

and shall keep such copies, bill and tariff so posted throughout the voyage.

- (2) Any master or owner of a pilgrim ship who, without reasonable excuse, the burden of proving *which* shall lie upon him, fails to comply with the requirements of this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred ringgit or to imprisonment for a term not exceeding one month or to both.

36. (1) Any person who -

- (a) knowingly and willfully makes or assists in making or procures to be made a false or fraudulent Certificate A or B or bill of health; or

Penalty for forgery of certificate.

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- (b) forges, assists in forging, procures to be forged, fraudulently alter, assists in altering or procures to be fraudulently altered any Certificate A or B or any bill of health or anything contained in, or any signature to, any such certificate or bill of health,

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

- (2) If the offence under subsection (1) committed related to a bill of health the ship shall be liable to be treated as infected.

Notice prior to sailing.

37. (1) The master, owner or agent of a pilgrim ship departing or proceeding from any port or place within Malaysia shall give notice to the Harbour Master and to the Port Health Officer of the following-

- a) the fact that the ship is to carry pilgrims;
- b) the destination of the ship; and
- c) the proposed time of sailing.

- (2) The notice aforesaid shall be given-

- a) at the original port of departure of the ship, where the port of departure is in Malaysia, not less than three days before the proposed time of sailing; or
- b) in any other case, at the first port in Malaysia at which the ship calls, not less than twenty-four hours before the proposed time of sailing.

- (3) Any master, owner or agent of a pilgrim ship who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

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38. (1) The Harbour Master and the Port Health Officer may at all times after receiving the notice referred to in section 37 enter and inspect the ship, her fittings and the provisions and stores on board, and may muster and count the pilgrims on board. Power to enter and inspect pilgrim- ship.
- (2) Provisions brought on board by pilgrims shall be destroyed if the Port Health *Officer* considers it necessary in the interest of the health of pilgrims on board the ship to have the provisions so destroyed.
- 39.(1) The master of every pilgrim ship entering a port in Malaysia shall permit the Port Health Officer to inspect the crew and if, in the opinion of the Port Health Officer, any member of the crew is suffering from infectious or contagious disease or shows any symptom of the same or is liable to transmit any disease, shall- Inspection of crew.
- a) comply with the directions of the Port Health Officer regarding such member of the crew;
 - b) if so required, send such member of the crew to a hospital approved by the Port Health Officer; and
 - c) comply with the directions of the Port Health Officer regarding the disinfection or destruction of such articles as may belong to such member of the crew.
- (2) Any master of a pilgrim ship who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act. Preventive measures.
40. (1) The master of every pilgrim ship entering a port in Malaysia shall take such measures as the Port Health Officer may direct-

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Statement to be delivered before ship departs.

41. (1) The master of every pilgrim ship departing or proceeding from any port or place in Malaysia shall sign a statement in duplicate in the prescribed form giving-

- a) the names and sex of all the pilgrims embarked;
- b) the serial numbers of their passport Haji;
- c) the number of the crew on board; and
- d) such other particulars as are prescribed;

and shall deliver both copies to a Police Officer who shall after having first satisfied himself that the entries are correct and that all the pilgrims have passport Haji and return tickets or, in the case of pilgrims to whom written authority has been granted under subsection (1) of section 75 tickets for the single journey, thereupon countersign and return to the master one of the copies.

(2) If any pilgrim disembarks at any port of call the master shall note the fact on the list opposite the pilgrim's name.

Death on voyage.

42. (1) In the event of a death occurring during the voyage, the master of a pilgrim ship shall note in writing-

- a) on the copy of the statement returned to him in accordance with subsection (1) of section 41 and on any additional statement made under subsection (1) of section 43, the date and supposed cause of death of every pilgrim who dies on the voyage; and
- b) in his log, the name of the deceased, his age, the place from which he came, the supposed cause of death according to the medical certificate and the date of death,

and shall supply to the Director General an extract of such entry in the log, certifying death.

(2) When the pilgrim ship arrives at her port or place of destination or at any port or place at which it is intended to land pilgrims, the master of the ship shall before any pilgrim disembarks produce, if such port or place is outside Malaysia, such statement and any additional statement to the Malaysian

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Ambassador or Consul, the Pilgrimage Commissioner at such port or place, the Senior Officer of Customs thereat or a Police Officer.

- (3) When a death from an infectious disease occurs the corpse shall be wrapped in a shroud impregnated with a disinfecting solution and shall be committed to the deep.

43. (1) Where-

- a) after a pilgrim ship has commenced her voyage any additional pilgrim is taken on board at a port or place within Malaysia, appointed under this Act for the embarkation of pilgrims; or
- b) a pilgrim ship in the course of *her* voyage touches or arrives at a port or place mentioned in paragraph (a), having previously received on board additional pilgrims at any place beyond Malaysia.

Pilgrim ship taking additional pilgrims at intermediate place.

the master of such ship shall obtain a fresh Certificate B from the Harbour Master at that port or place, and shall furnish to a Policy Officer an additional statement in duplicate in the prescribed form giving in respect of such additional pilgrims the particulars specified in subsection (1) of section 41.

(2) All the foregoing provisions of this Act with respect to Certificate B and the statement concerning pilgrims to be signed and delivered in accordance with subsection (1) of section 41 shall be applicable to any certificate issued or statement furnished under this section.

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Statement to be delivered before pilgrims disembark in Malaysia.

44. The master of every pilgrim ship arriving at any port or place in Malaysia at which it is intended to discharge pilgrims shall before any pilgrim disembarks deliver to a Police Officer, a statement signed by him, giving-

- a) the names and sex of all the pilgrims on board;
- b) the serial numbers of their passport Haji;
- c) the number of the crew; and
- d) such other particulars as may be prescribed.

Penalty for breach of sections 41 to 44.

45. Any master of a pilgrim ship who-

- a) fails to comply with any of the provisions of sections 41, 42, 43 and 44 as to statements concerning pilgrims;
- b) fails to obtain any such fresh certificate or to make any such additional statement as is required by subsection (1) of section 43,

shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two hundred and fifty ringgit or to imprisonment for a term not exceeding three months or to both.

Penalty for alteration in pilgrim-ship after certificate obtained.

46. Any master of a pilgrim ship who, after having obtained any of the certificates mentioned in section 31 or section 43, knowingly or negligently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, the pilgrims on board or any other matter to which the certificate relates, shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one thousand ringgit or it imprisonment for a term not exceeding six months or to both.

Prohibition of increasing weight on safety-valve.

47. A person shall not increase the weight on the safety-valve of a pilgrim ship beyond the limits fixed in the certificate or declaration of survey of such ship and if he does so shall in addition to any other liability *which* he incurs by so doing be guilty of an offence and be liable for each offence upon conviction to a 'fine not exceeding one thousand ringgit.

Master to supply prescribed provisions.

48.(1) The master of a pilgrim ship shall supply to each pilgrim the prescribed allowance of wholesome food and water.

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(2) The master, owner or agent of a pilgrim ship who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable to a fine of fifty ringgit for every pilgrim who has suffered detriment by the omission of the master to comply with the provisions of subsection (1).

49.(1) No open boat in tow of a pilgrim ship shall be allowed to carry pilgrims while so towed, except in the case of accidents. Open boats in tow.

(2) When any pilgrim is carried on board a pilgrim ship in contravention of subsection (1), the master of the ship shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five hundred ringgit and for every pilgrim so carried, to a fine not exceeding ten ringgit.

50.(1) No pilgrim ship shall carry as cargo or ballast any gun-powder, dynamite, petroleum, explosive or other inflammable substance or any other cargo which, from its quality, quantity or mode of stowage, is likely to injure the health or endanger the safety of the pilgrims or which the Minister by notification in the Gazette declares to be cargo which offends or is likely to offend Muslim religious susceptibilities. Prohibition of certain cargo and ballast.

(2) Where cargo or ballast is carried in contravention of subsection (1), the master of the ship shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five hundred ringgit and not less than fifty ringgit, and in addition thereto the ship may be detained until such time as-

- a) such cargo or ballast has been removed;
- b) the penalty incurred by the master has been adjudicated; and
- c) any fine imposed upon him under this Act, with costs, has been paid.

51.(1) A pilgrim ship shall not carry pilgrims, whether in any cabin, saloon or otherwise, on more than one deck below the statutory load-line mark. Regulations as to carriage of pilgrims.

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- Disposal of baggage. (2) If the provisions of this section are not complied with in the case of any ship the master and *the* owner thereof shall be guilty of an offence and shall be liable for each offence upon conviction to a fine not exceeding five thousand ringgit.
- Upper deck space to be provided. 52. The baggage of all pilgrims shall be deposited on board in such manner as may be prescribed.
- 53.(1) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as will provide not less than six superficial feet for each pilgrim on board.
- (2) Subject *to* the provisions of subsection (1) *to* any regulations made under this Act, deck space may be allotted among the different classes of pilgrims in such proportions as the master or owner thinks fit.
- Medical Officers and attendants. (3) All deck space reserved for the use of pilgrims shall be free from merchandise and encumbrances.
54. (1) Every pilgrim ship shall have on board throughout the voyage-
- a) a medical officer;
 - b) such attendants as may be prescribed; and
 - c) if, the number of pilgrims carried exceeds one thousand, a second medical *officer*.
- (2) Medical attendance and medicines shall be provided for the pilgrims free of charge.
- (3) It shall be the particular duty of the medical officer *to* examine pilgrims for symptoms of disease and to vaccinate pilgrims where he considers such vaccination necessary.
- (4) If this section is not complied with, the master and owner of the ship shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two thousand five hundred ringgit.

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55. All pilgrims traveling on a pilgrim **ship shall** be under an obligation to submit to vaccination where the medical officer considers such vaccination necessary, and any pilgrim who refuses to submit to such vaccination when so required shall be liable to be detained in the ship's hospital. Pilgrims to submit to vaccination.
56. (1) The medical officer or officers of every pilgrim ship shall keep such diaries and shall submit such reports or other returns as may be prescribed. Medical Officer's diaries and reports.
- (2) A medical officer of any pilgrim ship who fails to comply with the provisions of this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two hundred and fifty ringgit or to imprisonment for a term not exceeding three months, or to both.
57. (1) The master shall enter in the log a note of all preventive measures taken during the voyage. Preventive measures to be entered in log.
- (2) The master shall, if so requested, submit his log for inspection by the Harbour Master or Port Health Officer at any port in Malaysia whether it be a port of call or the port of final destination.
- (3) Any master of a pilgrim ship who fails to comply with the provisions of subsection (1) or subsection (2) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one thousand ringgit.
58. (1) Every owner of one or more pilgrim ships or his agent resident in Malaysia shall deposit and maintain with the Secretary to the Treasury- Deposit.
- a) cash to the amount of one million ringgit or to such lesser amount as may be required by the Secretary to the Treasury; or
- b) securities valued at such amount and approved by the Secretary to the Treasury.

- (2) Such deposit shall be held as security for the due performance of or compliance with the obligations imposed by subsection (1) of section 59, and where the owner or his agent resident in Malaysia fails to secure the performance of or compliance with any obligations imposed by paragraph (a) or (b) of subsection (1) of section 59, such owner or agent shall forfeit to the Government such sum not exceeding three thousand ringgit as the Minister may direct.
- (3) The person making the deposit shall be entitled to receive the interest accruing due on any *such* securities or, in the case of a cash deposit, interest at the rate of two per centum per annum.
- (4) It shall be lawful for the Secretary to the Treasury from time to time to deduct from the deposit such amount or amounts as may be required-
- a) to cover the amount of any forfeiture under subsection (2);
 - b) to pay any sum or sums claimed by the Minister under the provisions of paragraph (b) of sub-section (10) of section 59;
 - c) to pay any sum or sums which may be payable to the Malaysian Ambassador or Consul at Jeddah under the provisions of paragraph (c) of subsection (1) of section 59; and
 - d) to repay any sum or sums which may have been paid by the Government under the provisions of subsection (2) of section 61 or subsection (7) of section 75:

Provided that if the whole or any part of the deposit is in the form of securities, the Secretary to the Treasury may realize such securities as may be sufficient to cover the amount or amounts to be deducted under this subsection.

- (5) Any dispute or difference which may arise in connection with any deduction made under subsection (4) shall be referred to arbitration, and the provisions of the Arbitration Act 1952, shall apply to every such arbitration.

Obligations
of owner.

- 59.(1) Every owner of one or more pilgrim ships, or his agent resident in Malaysia, shall be responsible to the Government for the due performance of and compliance with the following obligations in connection with every voyage of a pilgrim ship-

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- a) that the master and medical officer or officers shall comply with this Act and any regulations made thereunder;
- b) that where any pilgrim provided with a return ticket issued in Malaysia within the previous twelve months is detained at Jeddah or Mecca owing to no accommodation being offered by a ship for which his ticket is available, for a period longer than thirty-five days from the Hajj day, or where any such pilgrim who has visited Medina is detained at Jeddah, owing to no accommodation being offered by a ship for which his ticket is available, for a period longer than twenty days from the day on which such pilgrim presents his ticket to the Malaysian Ambassador Or Consul at Jeddah, notifying his desire to embark for the return passage, the master, owner or agent of the ship which conveyed such pilgrim to Jeddah shall forfeit and pay to the Minister in respect of every such pilgrim any sum which the Minister may claim as the cost of repatriating such pilgrim:

Provided that such claim shall not exceed twice the sum received by such master, owner or agent in respect of such return ticket;

- c) that where any such pilgrim is detained for a longer period than that which is permitted by paragraph (b), the master, owner or agent of the ship shall pay to the Malaysian Ambassador or Consul at Jeddah an equivalent sum of two Malaysian ringgit a day as subsistence allowance for each such pilgrim until such pilgrim has had an opportunity of being conveyed back to Malaysia:

Provided that-

- (i) such thirty-five or twenty days shall not begin to run so long as the Port of Jeddah is declared infected or so long as the ship is prevented from carrying pilgrims on the homeward voyage by war disturbance, or viz. major of any kind; a

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ii) where the ship is prevented for a period of more than the said period of thirty-five or twenty days, as the case may be, by any of the above causes from carrying such pilgrims on the homeward voyage, the master, owner or agent of such ship may pay to every such pilgrim or to the Minister on behalf of the said pilgrim, a sum equal to one-half of the full passage money paid in respect of such pilgrim, and thereupon all liability of such master, owner or agent in respect of the return journey of such pilgrim shall cease.

Certificate.

(2) A certificate of such detention purporting to be signed and sealed with the consular seal by the Malaysian Ambassador or Consul at Jeddah shall be admissible in evidence of all the facts stated therein and shall be received in evidence without proof of signature in any Court in Malaysia or in any arbitration.

Penalty for carrying pilgrims in excess of authorized number.

60.(1) When the deposit specified in section 58 has been made, the Secretary to the Treasury shall if required certify in writing that the deposit has been so made.

(2) The proper officer of customs shall not grant a port clearance to a pilgrim ship proceeding from a port in Malaysia until the master, owner or agent has produced for inspection the certificate of the Secretary to the Treasury.

61.(1) If a pilgrim ship has on board a number of pilgrims greater than either -

- i) the number specified in the certificate referred to in paragraph (a) of subsection (1) of section 33; or
- ii) the number stated in Certificate A pursuant to paragraph (c) of subsection (1) of section 33,

whichever is the smaller, the master and owner shall be guilty of an offence and shall, for every pilgrim in excess of that number, be liable upon conviction to a fine not exceeding fifty ringgit, and the master shall further be liable upon conviction to imprisonment for a term not exceeding one week in respect of each such pilgrim:

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Provided that the aggregate term of imprisonment imposed upon the master or owner under this section shall not exceed six months.

- (2) The Harbour Master may cause all pilgrims over and above the number of permitted under subsection (1) to disembark and may forward them to any port at which they have contracted to land and recover the cost of so forwarding them from the owner of the ship.
- (3) A certificate under the hand of the Harbour Master shall be conclusive proof of the amount of the cost incurred under subsection (2).

62. A master of a pilgrim ship who lands any pilgrim at any port or place other than the port or place at which such pilgrim has contracted to land, unless with the said pilgrim's previous consent or unless the landing is made necessary by perils of the sea or other unavoidable accident, shall be guilty of an offence and shall be liable upon conviction for each offence to a fine not exceeding one hundred ringgit or to imprisonment for a term not exceeding one month or to both.

Penalty for landing pilgrim at a place other than that at which he has contracted to land.

63. (1) If a pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, calls at any port or place in contravention of any express or implied contract or engagement with the pilgrims with respect to the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and the owner shall be guilty of an offence and shall each be liable upon conviction to a fine not exceeding two hundred and fifty ringgit or to imprisonment for a term not exceeding three months or to both.

Penalty for making voyage in contravention of contract with pilgrims.

- (2) In the absence of any agreement to the contrary, nothing herein contained shall prevent any vessel not exclusively employed in the conveyance of pilgrims from calling at any port not more than one hundred miles out of her line of route for the purpose of coaling or taking in or discharging cargo:

Provided that no such vessel shall remain in such port more than forty-eight hours.

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Sanitary
taxes payable
by master.

64. The master of every pilgrim ship shall be bound to pay the whole amount of any sanitary taxes imposed by lawful authority on arrival at the ports visited, and these dues only shall be included in the cost of the ticket issued to the pilgrims.

65. (1) If any pilgrim ship carrying pilgrims from any port or place to any port or place in Malaysia is found on its arrival in Malaysia to be in a filthy or insanitary condition, the master of the ship shall be liable upon conviction to a fine not exceeding five hundred ringgit.

(2) The Port Health Officer shall inspect every such ship on its arrival, in order to ascertain the sanitary condition thereof.

66. All the obligations imposed by this Act or by any regulations made thereunder upon pilgrim ships proceeding from Malaysia with pilgrims journeying to the Hedjaz shall apply to pilgrim ship proceeding to Malaysia with pilgrims from the Hedjaz, unless it is expressly stated or necessarily implied that any obligation implies only in respect of the journey from Malaysia.

67.(1) The owner, master or agent of a pilgrim ship journeying to Malaysia with pilgrims from the Hedjaz, shall give to the Harbour Master and to the Surveyor of Ships at the first port of call in Malaysia not less than three clear days' notice of the arrival of the ship and shall also inform the Port Health Officer of the health condition in the ship at least twenty four hours before arrival.

(2) The ship shall on arrival be inspected by the Harbour Master and by the Surveyor of Ships.

(3) The Surveyor of Ships shall after inspection supply to the master of the ship a signed report (to be called Report A) on each of the matters, mutatis mutandis, set out in subsection (1) of section 33.

(4) The Harbour Master shall after inspection supply to the master of such ship, a signed report (to be called Report B) on each of the matters, mutatis mutandis, set out in subsection (2) of section 33.

- (5) Such deposit shall be held as security for the due performance or compliance with the conditions imposed by the Lembaga under subsection (2) or obligations imposed by section 67B and where such person who has been granted such permission or his agent resident in Malaysia fails to secure the performance of or compliance with any of the conditions or obligations as the case may be, such person or agent shall forfeit to the Government such sum not exceeding three thousand ringgit as the Minister may direct.
- (6) The person making the deposit shall be entitled to receive the interest accruing due on such securities or, in the case of cash deposit, interest at the rate of two per centum per annum.
- (7) It shall be lawful for the Secretary to Treasury from time to time to deduct from the deposit such amount or amounts as may be required-
 - a) to cover the amount of any forfeiture under subsection (5);
 - b) to pay any sum claimed by the Minister under the provisions of section 67B;
 - c) to repay any sum or sums which may have been paid by the Government under the provisions of subsection (7) of section 75:

Provided that if the whole or any part of the deposit is in the form of securities, the Secretary to the Treasury may realize such securities as may be sufficient to cover the amount or amounts to be deducted under this subsection.

- (8) Any dispute or different which may arise in connection with any deduction made under subsection (7) shall be referred to arbitration, and the provisions of the Arbitration Act 1952, shall apply to every such arbitration.

Obligations of person who has been granted permission. [Added Act A168.]

67B. (1) Every person who has been granted permission under section 67A, or his agent resident in Malaysia, shall be responsible for the due performance of and compliance with the following obligations in connection with every aircraft chartered or arranged by him-

- a) that where any pilgrim provided with a return ticket issued in Malaysia is detained at Jeddah or Mecca owing to no accommodation being offered by an aircraft for which his ticket is available; for a period longer than five days from the hour and date when such accommodation on an aircraft was to have been available, such person or agent shall pay to the Minister in respect of every such pilgrim any sum which the Minister may claim as the cost of repatriating such pilgrim which sum shall not exceed twice the price of such return ticket;
- b) that where any such pilgrim is detained for a period longer than twenty-four hours from the hour and date when such accommodation on an aircraft was to have been available, such person or agent shall pay to the Malaysian Ambassador or Consul at Jeddah an equivalent sum of five Malaysian ringgit a day as subsistence allowance for each such pilgrim until such pilgrim has had an opportunity of being conveyed back to Malaysia:

Provided that such period of five days or twenty-four hours shall not begin to run so long as the aircraft is prevented from carrying pilgrims on the homeward voyage by war disturbance or viz. major of any kind.

- (2) A certificate of such detention purporting to be signed and sealed with the consular seal of the Malaysian Ambassador or Consul at Jeddah shall be admissible as evidence of all facts stated therein and shall be received in evidence without proof of signature in any Court in Malaysia or in any arbitration.

PART VII PILGRIMS

68. No pilgrim shall travel or attempt to travel in pilgrim ship or pilgrim aircraft unless he has in his possession a passport Haji duly issued to him

Medical
inspection
and
permission
required
before
embarkation.

69. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in Malaysia until-
- a) he has been examined by the Port Health Officer;
 - b) the Harbour Master has given permission for the embarkation of pilgrims to commence;
 - c) he has obtained a passport Haji and a return ticket; or
 - d) in the case of a pilgrim to whom written authority has been granted under subsection (1) of section 75 he has obtained a passport Haji and a ticket for the single journey.
- (2) The Port Health Officer shall not permit the embarkation of any pilgrim -
- a) who does not produce a valid certificate issued by a Government Medical Health Officer or a Municipal Health Officer showing a vaccination against smallpox and inoculation against cholera as laid down by the Government of Saudi Arabia from time to time in the "Vaccination Certificate Requirements for International Travel" published by the World Health Organization:

Provided that in the case of smallpox no certificate shall be required from pilgrims who show marks which in the opinion of the Port Health Officer are unmistakable signs of their having had smallpox;
 - b) who in the opinion of the Port Health Officer is suffering from a disease or shows any symptoms of a disease which would make his presence on the pilgrim ship harmful or objectionable to other pilgrims; or
 - c) who in the opinion of the Port Health Officer is liable to transmit any infectious or contagious disease.
- (3) All articles which have been contaminated by persons suffering from disease or are suspected of having been so contaminated shall before being taken on board a pilgrim ship be disinfected to the satisfaction of the Port Health Officer.

(4) No pilgrim shall be received on board any pilgrim aircraft at any airport in Malaysia unless- [Ins. Act A 168].

- a) he is in possession of a valid certificate issued by a Government Medical Health Officer or a Municipal Health Officer showing vaccination against smallpox and inoculation against cholera as laid down by the Government of Saudi Arabia from time to time in the "Vaccination Certificate Requirements for International Travel" published by the World Health Organization; and
- b) he has obtained a passport Haji and a return ticket; or
- c) in the case of a pilgrim to whom written authority has been granted under subsection (1) of section 75 he has obtained a passport Haji and a ticket for the single journey.

70. (1) Any pilgrim who embarks or attempts to embark in a pilgrim ship at any port or place in Malaysia -

- a) without having obtained the certificates required in paragraph (a) of subsection (2) of section 69;
- b) without having submitted himself to examination by the Port Health Officer; or
- c) before the Harbour Master has given permission for the embarkation of pilgrims to commence,

shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding one hundred ringgit.

(2) Any pilgrim who boards or attempts to board any pilgrim aircraft at any airport in Malaysia without being in possession of the certificate required under subsection (4) of section 69 shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding one hundred ringgit.

Penalty for embarking in contravention of section 69. [Am. Act A168.]

71. (1) A medical examination of all persons on board may be held by the Port Health Officer-

- a) where a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board; or
- b) where there is reason to suspect that any person on board
- c) is suffering from any infectious or contagious disease.

(2) Any person who is found on such examination to be suffering from infectious or contagious disease or who shows any symptoms of such disease shall together with all articles belonging to him be at once removed from the ship.

Medical
examina-tion
of women.

72. So far as may be practicable and subject to any regulations made under this Act the medical examination of female pilgrims shall be carried out by women.

Penalty for of
section 69 or
[Am Act 168]

73. Any master of a pilgrim ship or captain of a pilgrim aircraft who breach

- a) knowingly receives on board any pilgrim or any contaminated article in contravention of section 69; or A 168].
- b) keeps on board any pilgrim or article ordered to be removed under section 71 of this Act,

shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two hundred and fifty ringgit for each pilgrim and to a fine not exceeding twenty-five ringgit for each article so received or kept on board, or to imprisonment for a term not exceeding three months or to both.

Offences.

74. (1) Where in a pilgrim ship-

- a) any pilgrim after warning by the master or other officer thereof molests or continues to molest any other pilgrim;
- b) any person after having been refused admission to a pilgrim ship by the owner or any person in his employ on account of the ship being full and having had the amount of his fare, if he had paid it, returned or tendered to him, nevertheless persists in attempting to enter the ship;

- (c) any person having gone on board a pilgrim ship at any place and being requested on account of the ship being full by the owner or any person in his employ to leave the ship before it quits that place, and having had the amount of his fare, if he has paid it, returned or tendered to him does not comply with that request;
- (d) any person travels or attempts to travel in a pilgrim ship without a passport Haji or without first paying his fare and with intent to avoid payment thereof; and
- (e) any person fails when requested by the master or other officer thereof, either to pay his fare or exhibit his ticket or passport Haji,

such pilgrim or person shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding twenty ringgit for each offence:

Provided that such liability shall not prejudice the recovery of any fare payable by him.

- (2) Any pilgrim who willfully does or causes to be done anything in such manner as to-
 - a) obstruct or injure any part of the machinery or tackle of a pilgrim ship; or
 - b) obstruct, impede or molest the crew or any of them in the navigation or management of the ship or otherwise in the execution of their duty on or about the ship.

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred ringgit for each offence.

- (3) The master or other officer of any pilgrim ship and all persons called by him to assistance may without any warrant detain any person who commits an offence against this section or section 70 and shall bring the offender with all convenient dispatch before the court of a Magistrate to be dealt with according to law, and such court shall as soon as is expedient try the case summarily.

- (4) Any person who-
 - a) commits an offence against this section; and refuses on the application of the master of the pilgrim ship or any

other person in the employ of the owner thereof to give his name and address, or gives a false name or address,

shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding two hundred ringgit.

Issue and production of tickets and refund of passage money [Am. Act A 168].

75. (1) Subject to the provisions hereinafter contained every owner or agent of a pilgrim ship and every person who has been granted permission under section 67A or his agent who issues to a pilgrim a ticket for the journey to the Hedjaz shall issue also to such pilgrim a ticket for the return journey and if he fails so to do he shall be guilty of an offence against this Act:

Provided that a ticket for the return journey need not be issued to any pilgrim who produces a written authority, of the Menteri Besar or Chief Minister of the State in which he normally resides, for the issue to such pilgrim of a ticket for the single journey only.

- (2) The tickets shall be in the prescribed form, and the pilgrim shall be bound to produce the tickets to such officers on such occasions as are prescribed.

[Am. Act A 168].

- (3) Every pilgrim prevented from embarking or boarding under section 69, or removed from the ship under section 71 or otherwise prevented from proceeding shall be entitled to the refund of any passage money which he has paid, subject to such conditions or deductions as may be prescribed.

[Am. Act A 168].

- (4) The legal personal representative of a pilgrim who, having purchased a ticket for the return journey, dies on board a pilgrim ship or pilgrim aircraft on the voyage to the Hedjaz, or the person entitled to become the legal personal representative, shall be entitled on the production of the passage ticket and passport Haji of the pilgrim and on proof of the death to a refund of thirty per centum of the passage money paid by such pilgrim, subject to such conditions as may be prescribed.

[Am. Act A 168].

- (5) The legal personal representative of every pilgrim who, having purchased a ticket for the return journey, dies in the Hedjaz, or the person entitled to become the legal personal representative, shall be entitled to the like refund as is specified in subsection (4) on the production of passage ticket and passport Haji of the pilgrim together with a letter certifying such death signed by the Pilgrimage Commissioner stationed at Mecca or other port or airport of disembarkation of pilgrims proceeding to the Hedjaz or signed by an officer of the Malaysian Embassy or Consulate in the Hedjaz and sealed with the seal of such Embassy or Consulate

(6) The person primarily liable to make the refund referred to in subsections (3), (4), and (5) shall be the person to whom the passage money was paid by the pilgrim, and if it is in any case impossible to recover within a reasonable time from that person or from his legal personal representative the amount for which such person is liable under this section and the impossibility is certified under the hand of a Chief Police Officer, the owner or the agent of the ship or the person who has been granted permission under section 67A or his agent whereon the pilgrim was prevented from embarking, boarding or proceeding or wherefrom he was removed or whereon he died or whereby he traveled to the Hedjaz, as the case may be, shall be liable to make the refund referred to in subsections (3), (4) and (5):

[Am. Act A
168].

[Am. Act A
168].

Provided that if the owner or agent or the person who has been granted permission under section 67A or his agent fails within a reasonable time to make such refund the amount thereof may be paid by the Government for and on behalf of such owner or such person who has been granted permission under section 67A.

- (7) A payment made in good faith to a person producing the passage ticket and passport Haji of any deceased pilgrim and representing himself as entitled to become the legal personal representative of such pilgrim or as an officer of the Government shall be a good discharge to the person paying the same.
- (8) Where any person by reason of his being the person entitled to become the legal personal representative of any deceased pilgrim is paid any money, he shall apply such money in his capacity of such legal personal representative.

76.(1) No passage ticket shall be sold to a pilgrim unless the price at which it is so sold is legibly marked upon it in the Malay and English languages.

Price to be
marked upon
ticket.

(2) Any person who contravenes this section shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding one hundred ringgit.

Liability of pilgrims traveling by non-pilgrim-ship. [Am. Act A 168].

77. Any pilgrim traveling with a pilgrim ticket by a ship or aircraft which is not a pilgrim ship or pilgrim aircraft shall be liable to all the obligations imposed by this Act and by any regulations made thereunder on pilgrims traveling by a pilgrim ship or pilgrim aircraft

Owner or agent to issue ticket. [Am. Act A 168].

PART VIII PILGRIM TICKETS

78. (1) Subject to the provisions of this Act, no person other than the owner or agent of a pilgrim ship or the person who has been granted permission under section 67A or his agent shall issue a pilgrim ticket.

Issue of pilgrim tickets [Am. Act A 168].

(2) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act.

79. (1) A pilgrim ticket shall be issued only to a person who is in possession of a passport Haji.

•Pilgrim ticket not transferable and to be in prescribed form.

(2) The owner or agent of a pilgrim ship or the person *who* has been granted permission under section 67A or his agent shall be bound, provided accommodation is available, on tender of the price and production of his passport Haji by a pilgrim *to* issue a pilgrim ticket *to* such person.

Register of pilgrim tickets. [Am. Act A 168].

80. A pilgrim ticket shall be in the prescribed form and shall not be transferable.

81. (1) Every person *who* issues any pilgrim tickets shall keep a register of tickets issued in the prescribed form and shall enter therein such particulars as may be prescribed.

[Am. Act A 168].

(2) Every such person shall keep such register available for inspection at all reasonable times by any Police Officer not below the rank of Inspector and shall not destroy such register or cause or allow it to be destroyed until the expiration of five years from the date of its last being used for the making of an entry therein.

82. Any owner or agent or any person who has been granted permission under section 67A or his agent who contravenes or fails to comply with any of the provisions of this Part shall be guilty of an offence against this Act.

Offences by owner of pilgrim ship. Am Act A 168.

PART IX PILGRIM AGENTS

83. Subject to any regulations that the Minister may make from time to time the Lembaga may engage such persons as it thinks fit to act as pilgrim agents, on such conditions and subject to such restrictions and limitations as may be prescribed.

Employment of pilgrim agents.

84. Every agent so engaged shall be authorized by the Lembaga in writing and shall specify-

Authorized in writing.

- a) the name and address of the agent;
- b) the period for which it shall be in force;
- c) the conditions on which, and the restrictions and limitations subject to which he is engaged.

Penalty for acting as pilgrim agent without authority.

85. Any person who without authority in writing from the Lembaga acts as a pilgrim agent shall be guilty of an offence and shall upon conviction be liable for each offence to a fine not exceeding five hundred ringgit.

86. Any pilgrim agent who-

Cheating by pilgrim agent.

- a) commits a breach of any of the terms or conditions of his authority; or
- b) by fraud or false representation induces any pilgrim to travel by any ship other than specified to him by the Lembaga,

shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding two years or to both and his agency may in addition thereto be canceled.

Liability of pilgrim agent for act of servant

87. (1) Any pilgrim agent who would be liable under this Act or under any regulations made thereunder to any punishment, penalty or cancellation of any agency for any act, omission, neglect or default, shall be liable to the same punishment, penalty or cancellation for every similar act, omission, neglect or default of any partner, sub-agent, servant or other person employed by him in the course of his business as such pilgrim agent.
- (2) Every partner, sub-agent, servant or other person employed by a pilgrim agent in the course of his business shall also be liable to every punishment or penalty prescribed for such acts, omissions, neglects or defaults mentioned in subsection (1) as if such sub-agent or servant had been the person to whom the pilgrim agency had been granted.

PART X SUPPLEMENTAL

Information to be sent to ports of debarkation and discharge

- 88.(1) The Harbour Master shall send a report containing any particulars which he deems important respecting any pilgrim ship and the pilgrims carried therein to the Harbour Master at any port of place from which such ship commenced her voyage and to the Harbour Master at any other port or place within Malaysia where the pilgrims or any of them embarked or are to be discharged.
- (2) The Harbour Master, Port Health Officer or a Police Officer may enter on and inspect such ship, in order to ascertain whether the provisions of this Act as to the number of pilgrims and other matters have been complied with.

Rules for numbering pilgrims (Am Act A 168)

89. For the purpose of any legal proceeding under this Act statements delivered or made under sections 41, 42, 43, and 44 shall be received in evidence, and every person ascertained to have been on board a pilgrim ship or pilgrim aircraft as a passenger at any time since her departure from her last port, airport or place shall be deemed to be still a passenger or arrival of the pilgrim ship or pilgrim aircraft at any port, airport or place in Malaysia, whether such passenger is on board or not when the pilgrim ship or pilgrim aircraft is examined or such arrival.

90. In any proceeding for the adjudication of any penalty incurred under this Act -

Evidence under the Act.

- a) any document purporting to be a report of such particulars as are referred to in subsection (1) of section 88;
- b) any like document purporting to be made and signed by any officer of any Malaysian or foreign Embassy or Consulate; and
- c) any copy of the proceedings of any Court of Justice duly authenticated,

shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is held.

Provision as to jurisdiction.

91. For the purpose of giving jurisdiction under this Act -

- a) every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose or in any place in which the offender or person complained against is found;
- b) where any district within which any court has jurisdiction either under this or any other written law for any purpose whatever is situate on the coast of any sea or is abutting on or projecting into any bay, channel, lake, river or other navigable water, every such court shall have jurisdiction over any vessel, being in or near that bay, channel, lake, river or navigable water and over all persons on board that vessel or for the time being belonging thereto, as if the vessel or persons were within the limits of the original , jurisdiction of the court.

92. Any person guilty of an offence against this Act for which no specific penalty is provided shall on conviction be liable-

General penalty.

- a) in respect of a first offence to a fine not exceeding two hundred and fifty ringgit; and
- b) in respect of the second or any subsequent offence to a fine not exceeding five hundred ringgit or to imprisonment for a term not exceeding six months or to both.

Poser of
Lembaga of
make
Regulations
and to
establish
corporations

93.(1) The Lembaga may with the approval of the Minister make regulations-

- a) with respect to any of the matters concerning the establishing of Finance and Welfare Committees referred to in Part N and the procedure of such Committees;
- b) imposing fees in such cases as may be determined by the Lembaga;
- c) for the keeping, closing and auditing of accounts of the Lembaga;
- d) to regulate its own procedure including those relating to the borrowing of monies;
- e) regarding deposits to and withdrawals from the Savings Fund.
- f) prescribing for the responsibilities and control of officers and servants of the Lembaga and in respect of salaries, allowances, terms and conditions of services, period of service and leave of its officers and servants;
- g) to prescribe the manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Lembaga;
- h) to prescribe the navigational and other equipment to be provided on board pilgrim ships;
- i) to prescribe the apparatus and precautions to be taken to prevent and extinguish fires on board;
- j) to prescribe the boats and other life-saving appliances, and means for making signals of distress to be provided and the precautions to be taken to ensure the safety of passengers;
- k) to prescribe the scale of *which* and manner in *which* food and water shall be supplied to pilgrims and the quality of such food and water;
- l) to prescribe the quality, quantity and stowage of the cargo to be carried;
- m) to prescribe the number of superficial and cubic feet of space to be provided in the between-decks or in superstructures for pilgrims of each class or the manner in which a berthing system may be installed;
- n) to provide for the allotment of the upper-deck space between the various classes of pilgrims;
- o) to prescribe the amount and to provide for the distribution of the baggage of pilgrims;
- p) to prescribe the nature and the extent of the hospital

- accommodation and the medical stores, disinfectants, and other - appliances and fittings to be provided on board for maintaining health, cleanliness and decency;
- q) to prescribe the tonnage and steam-power to be required in the case of pilgrim ships and the voyages to which and seasons at which the rules as to tonnage and steam-power shall respectively apply;
 - r) to prescribe the qualifications of medical officers, the number of attendants to be carried and the diaries, reports and other returns to be kept or submitted by medical officers;
 - s) to prescribe the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship;
 - t) to provide for the manner in which and the person by whom the medical inspection of women shall be carried out;
 - u) to provide for the supply of pilgrim tickets, the production thereof to public officers both in Malaysia and at Jeddah or other port of disembarkation, the conditions and other matters to be specified thereon and the amount of sanitary taxes to be included in the cost thereof
 - v) to prescribe the functions of the master, medical officer or officers and other officers during the voyage;
 - w) to prescribe the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Act hi that behalf,
 - x) to prescribe the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board, and the hours between which she may put to sea;
 - y) to provide for the issue of passport Haji;
 - z) to prescribe the persons by whom and the conditions upon which passport Haji may be granted;
- aa) to provide for the issue of pilgrim tickets;
 - bb) to provide for the establishment, regulation and management of premises where pilgrims may be provided with lodging, board or house accommodation and the fees to be charged;
 - cc) to prescribe the fees to be charged for passport Haji and for the issue of any written authority, the grants of any certificate or the supply of any report under this Act;
 - dd) to provide for the establishment and management of a contributory provident fund for the officers **appointed** under the provisions of this Act, or for the payment of pensions,

- allowances or gratuities to the said officers on retirement or otherwise ceasing to hold office as such officers;
- ee) to prescribe the procedure in the making of loans to officers and servants appointed under the provisions of this Act for the purpose of acquiring buildings or purchasing houses or acquiring means of conveyance for their personal use:

Provided that in every case where the Lembaga is making loan to any officer or servant for the purpose of acquiring a building or purchasing a house, the building or the house including the land on which it stands shall be mortgaged to the Lembaga as security for such loan;

[Ins. Act A
168].

- ff) in respect of a pilgrim aircraft and for that purpose may prescribe in respect of any of the matters specified in the preceding paragraphs as applicable to a pilgrim aircraft with such modifications as circumstances may require;
- gg) to prescribe anything which may be prescribed under this Act.

- (2) The Lembaga may with the approval of the Minister and the concurrence of the Minister of Finance, from time to time establish a corporation by such name as the Lembaga may think fit to carry out and have the charge, conduct and management of any project, scheme or enterprise which has been planned or undertaken by the Lembaga; and the provisions of the Third Schedule shall apply to a corporation established under this subsection.

94. All rules and appointments issued or made and any written authority issued under the written law repealed by this Act shall remain in force, so far as they are not inconsistent with the provisions of this Act, until revoked or replaced by regulations or appointments made or written authority issued under this Act.

PART I
TRANSITIONAL

95. Upon the coming into force of this Act (hereinafter referred as the "appointed day")-

- i) the Malaysian Muslim Pilgrims Savings Corporation Act 1962 (in this Part referred to as "the said Act" shall cease to have effect and such cessor shall be deemed to be a repeal of that said Act for the purpose of the Interpretation Act 1967;
 - ii) the Malaysian Muslim Pilgrims Savings Corporation (in this Part referred to as "the Corporation") being a body corporate established under the said Act Shall likewise cease to exit.
- Repeal of
Malayan
Muslim
Pilgrims
Savings
Corporation
Act. 34/1962
23/1967

96. (1) Subject to the provisions of this Act, all written laws, orders, rules and regulations affecting the Corporation and in force immediately before the appointed day shall, until amended or revoked by the authority having power so to do, continue in force on and after the appointed day and be construed as if this Act had not been passed

Continuance
of laws, etc.

Provided that any references therein to the Corporation unless the context otherwise requires shall be construed as reference to the Lembaga, and expressions importing such a reference shall be construed accordingly.

(2) All orders, directions, appointments, notifications, rules and regulations made under the provisions of the said Act and in force immediately before the appointed day shall insofar as they are not inconsistent with the provisions of this Act, be deemed to have been made under this Act and shall continue in force until other provisions shall be made under this Act or until the date upon which they expire.

97. Subject to the provisions of this Act, all powers, rights, privileges, duties, liabilities or obligations which immediately before the appointed day were those of the Corporation shall as from that day devolve on the Lembaga.

Transfer of
powers,
rights,
liabilities
and duties

98. (1) Subject to the provisions of this Act, all lands immediately before the appointed day vested in or reserved under the provisions of any written law relating to land for the purpose of the Corporation shall, on that day, as the case may be, vest in or be deemed to be reserved for the purpose of the Lembaga.

(2) Subject to the provision of this Act and to any direction of the Minister, all property and assets other than land which immediately before the appointed day vested in the Corporation on in any person on behalf of the Corporation shall on that day vest in the Lembaga.

Existing
contracts

99. Subject to the provisions of this Act, all deeds, bonds, agreements, instruments and working arrangements subsisting immediately before the appointed day and affecting any of the property transferred under section 98 shall be of full force and affect against or in favor of the Lembaga and enforceable as fully and effectually as if, instead of the Corporation, or any person acting on behalf of the Corporation, the Lembaga had been named therein or had been a party thereto.

Continuance
of criminal
and civil
proceedings

100.(1) Subject to the provisions of this Act, neither the repeal of the said Act nor anything contained in this Act shall affect any person's liability to be prosecuted or punished for offences committed under the said Act before the appointed day, or any proceedings brought or sentence imposed before that day in respect of such offence.

(2) Subject to the provisions of this Act, any proceedings (whether civil or criminal) or cause of action pending or existing immediately before the appointed day by or against the Corporation or any person acting on behalf of the Corporation may be continued or instituted by or against the Lembaga as it might have been by or against the Lembaga as it might have been by or against the Corporation of such persons if this Act had not been passed.

- (3) Any appeal brought or any leave to appeal applied on or after the appointed day against a decision given in any legal proceedings before that day may be brought by or against the Lembaga.

101.(1) Subject to the provisions of this Act, all monies standing in, and due to be paid to, the fund of the Corporation established under the said Act shall on the appointed day be transferred to the Fund

Transfer of Funds

102. Every person who immediately before the appointed day was employed as an officer or servant of the Corporation shall on that day be employed as an officer or servant, as the case may be, of the Lembaga upon the same terms and conditions of service as those obtaining immediately before the appointed day.

Continuance of officers and servants

103. If any difficulty arises with respect to the foregoing transitional provisions of this Act the Minister may by order make such modifications in those provisions as may appear to him necessary for preventing anomalies:

Prevention of anomalies

Provided that the Minister shall not exercise the powers conferred by this section after the expiration of two years from the appointed day.

Repeal. 56/1951. 34/1962

104. The Muslim Pilgrims Ordinance 1951 and the Malayan Muslim Pilgrims Savings Corporation Act 1962 are hereby repealed.

FIRST SCHEDULE (Section 3)

1. (1) The following persons shall be disqualified from being appointed or being members of the Lembaga-
- Disqualifi-
cation
- a) a bankrupt;
 - b) a person who has been convicted of an offence and sentenced to imprisonment for a term of not less than one year;
 - c) a person who is unsound mind or is otherwise incapable of performing his duties.

(2) A member of the Lembaga shall vacate his office if he fails to attend three consecutive meetings of the Lembaga without the permission in writing of the Chairman of the Lembaga or if he becomes disqualified wider sub-paragraph (1).

2. Any minutes made of meetings of the Lembaga shall, if duly signed and every meeting of the Lembaga 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 thereat to have been duly qualified to act. Minutes receivable in evidence.

SECOND SCHEDULE (PART IV)

Disqualification

1. (1) The following persons shall be disqualified from being appointed or being members of the Finance or Welfare Committee-

- a) a bankrupt;
- b) a person who has been convicted of an offence and sentenced to imprisonment for a term of not less than one year;
- c) a person who is of unsound mind or is otherwise incapable of performing his duties.

(2) A member of the Finance or Welfare Committee shall vacate his office if he fails to attend three consecutive meetings of such committees without the permission in writing of the Director General or if he becomes disqualified under sub-paragraph (1).

Meeting of the Committee
[Am. Act A
168].

2.(1) The Finance and Welfare Committees shall meet at least once in every two months.

(2) The Chairman and two other members of the Finance Committee shall be a quorum at any meeting of that Committee.

(3) The Chairman and two other members of the Welfare Committees shall be a quorum at any meeting of that Committee.

Minutes
receivable in
evidence

3. Any minutes of the meetings of the Finance or Welfare Committee shall, if duly signed, be receivable in evidence in all legal proceedings without further proof and every meeting of the Finance or Welfare Committee 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 thereof to have been duly qualified to act.

THIRD SCHEDULE
(Section 93)

1. The Lembaga shall, on or before the date on which any corporation is established under section 93, make regulations in defining-
 - a) the purpose and objects for which such corporation is established;
 - b) the rights, powers, duties and functions of such corporation;
 - c) the system of management thereof, and
 - d) the relations between such corporation and the Lembaga and its . rights of control over such corporation.
2. Subject to the provisions of this Act, any regulations made under paragraph 1 shall be binding on the corporation in respect of which they were made and shall have effect for all purposes as if they had been enacted in this Act.
3. The Lembaga may at any time amend, revoke, or add to, any regulations made in respect of any corporation under paragraph 1.
- 4.(1) The Lembaga may direct that any corporation established by it shall be wound up and dissolved.
 - (2) Upon the dissolution of any corporation under this paragraph assets of the corporation after payment of all liabilities shall be transferred to and vested in the Lembaga

(3) The winding-up of a corporation under this paragraph shall be conducted in such manner as the Lembaga may prescribe.

5. Every corporation established under section 93 shall be a body corporate by such name as the Lembaga shall give to such corporation and shall have perpetual succession and a common seal and may sue and be sued in such name, and may enter into contracts and may hold and deal in or with any immovable or movable property and may do all other matters and things incidental or appertaining to a body corporate not inconsistent with the provisions of this Act and subject to such restrictions or limitations as may be prescribed by the Lembaga in each case.

6.(1) Every such corporation shall have a common seal, which shall bear such device as the corporation, with the approval of the Lembaga, may approve, and such seal may from time to time be broken, changed, altered and made anew by the corporation, with the approval of the Lembaga as the corporation shall think fit.

(2) Until a seal is provided by the corporation under this paragraph a stamp bearing the name of the corporation encircling the letters "LUTH" may be used as a common seal.

(3) The common seal, or the stamp referred to in sub-paragraph (2) shall be in the custody of such person as the corporation shall direct and shall be authenticated by such person; and all deeds, documents and other instruments purporting to be sealed with the seal, authenticated as aforesaid, shall until the contrary is proved, be deemed to have been validly executed:

Provided that 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 corporation; or any such document or instrument may be executed on behalf of the corporation by any officer or servant of the corporation generally or specially authorized by the' corporation in that behalf.

(4) The seal of every corporation shall be officially and judicially noticed.

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ISLAMIC RESEARCH AND TRAINING INSTITUTE (IRTI)

Establishment of IRTI

The Islamic Research and Training Institute was established by the Board of Executive Directors of the Islamic Development Bank (IDB) in 1401H (1981). The Executive Directors thus implemented Resolution No.BG/14-99 which the Board of Governors of IDB adopted at its Third Annual Meeting held on 10 Rabi Thani 1399H (14 March 1979). The Institute became operational in 1403H (1983).

Purpose

The purpose of the Institute is to undertake research for enabling the economic, financial and banking activities in Muslim countries to conform to shari'ah, and to extend training facilities to personnel engaged in economic development activities in the Bank's member countries.

Functions

The functions of the Institute are:

- (A) To organize and coordinate basic and applied research with a view to developing models and methods for the application of *Shari'ah* in the field of economics, finance and banking;
- (B) To provide for the training and development of professional personnel in Islamic Economics to meet the needs of research and shari'ah-observing agencies;
- (C) To train personnel engaged in development activities in the Bank's member countries;
- (D) To establish an information center to collect, systematize and disseminate information in fields related to its activities; and
- (E) To undertake any other activities which may advance its purpose.

Organization

The President of the IDB is also the President of the Institute. The IDB's Board of Executive Directors acts as its supreme policy-making body.

The Institute is headed by a Director responsible for its overall management and is selected by the IDB President in consultation with the Board of Executive Directors. The Institute consists of three technical divisions (Research, Training, Information) and one division of Administrative and Financial Services.

Location

The Institute is located within the headquarters of IDB in Jeddah, Saudi Arabia.

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