

D.R. 61/2024

RANG UNDANG-UNDANG

b e r n a m a

Suatu Akta untuk meminda Ordinan Buruh Sarawak.

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DIPERBUAT oleh Parlimen Malaysia seperti yang berikut:

Tajuk ringkas dan permulaan kuat kuasa

1. (1) Akta ini bolehlah dinamakan Akta Ordinan Buruh Sarawak (Pindaan) 2024.

(2) Akta ini mula berkuat kuasa pada tarikh yang ditetapkan oleh Menteri melalui pemberitahuan dalam *Warta* dan Menteri boleh menetapkan tarikh yang berlainan bagi permulaan kuat kuasa peruntukan yang berlainan dalam Akta ini.

Pindaan am

2. Ordinan Buruh Sarawak [*Sarawak Bab 76*], yang disebut “Ordinan” dalam Akta ini, dipinda—

(a) dengan menggantikan perkataan “worker” di mana-mana jua terdapat dengan perkataan “employee”;

- (b) dengan menggantikan perkataan “domestic servant” di mana-mana jua terdapat dengan perkataan “domestic employee”; dan
- (c) dengan menggantikan perkataan “domestic servants” di mana-mana jua terdapat dengan perkataan “domestic employees”.

Pindaan seksyen 2

3. Seksyen 2 Ordinan dipinda—

(a) dalam subseksyen (1)—

- (i) dengan memasukkan selepas takrif “agricultural undertaking” takrif yang berikut:

‘ “apprentice” means any person who has entered into an apprenticeship contract;’;

- (ii) dalam takrif “apprenticeship contract”, dengan menggantikan perkataan “shall not be less than two years” dengan perkataan “shall be for a minimum period of six months and a maximum period of twenty-four months”;

- (iii) dalam takrif “confinement”, dengan menggantikan perkataan “twenty-eight weeks” dengan perkataan “twenty-two weeks”;

- (iv) dengan memasukkan selepas takrif “confinement” takrif yang berikut:

‘ “constructional contractor” means any person, firm, corporation or company who or which is established for the purpose of undertaking, either exclusively or in addition to or in conjunction with any other business, any type of constructional work, and who or which is carrying out such constructional work for or on behalf of some other person under a contract entered into by him or them with such other person, and includes his or their heirs, executors, administrators, assignees and successors;’;

(v) dalam takrif “contract of service”, dengan menggantikan perkataan “other” dengan perkataan “employee”;

(vi) dengan memasukkan selepas takrif “contractor” takrif yang berikut:

‘ “contractor for labour” means a person who contracts with a principal, contractor or subcontractor to supply the labour required for the execution of the whole or any part of any work which a contractor or subcontractor has contracted to carry out for a principal or contractor, as the case may be;’;

(vii) dengan menggantikan takrif “Director” dengan takrif yang berikut:

‘ “Director” means the Director of Labour appointed under subsection (1) of section 3 and for the purposes of Part IVA, includes any officer or any suitable person who has been appointed under section 122AL;’;

(viii) dalam takrif “employee”—

(A) dalam perenggan (a), dengan menggantikan perkataan “Schedule” dengan perkataan “First Schedule”; dan

(B) dalam perenggan (b), dengan menggantikan perkataan “of section” dengan perkataan “or section”;

(ix) dengan memotong takrif “family”;

(x) dalam takrif “Minister”, dengan menggantikan perkataan “responsible for labour matters” dengan perkataan “charged with the responsibility for human resources”;

(xi) dengan menggantikan takrif “overtime” dengan takrif yang berikut:

‘ “overtime” means —

(a) the number of hours of work carried out in excess of the normal hours of work per day; or

(b) if any work is carried out after the spread over period of ten hours, the whole period beginning from the time that such spread over period ends up to the time that the employee ceases work for the day;’;

(xii) dengan menggantikan takrif “part-time employee” dengan takrif yang berikut:

‘ “part-time employee” means a person included in the First Schedule whose average hours of work per week as agreed between him and his employer do not exceed seventy per centum of the normal hours of work per week of a full-time employee employed by the same employer in a similar capacity;’;

(xiii) dengan menggantikan takrif “place of employment” dengan takrif yang berikut:

‘ “place of employment”, except for section 122H, means—

(a) any place where work is carried on for an employer by an employee;

(b) any place declared by the Minister under paragraph (d) of subsection (7); or

(c) for the purposes of Part IVA, any place specified under paragraph (a) or (b) and includes any place in which an employee is housed by an employer;’;

(xiv) dengan memotong takrif “recruit”;

(xv) dengan memasukkan selepas takrif “repatriation” takrif yang berikut:

‘ “sexual harassment” means any unwanted conduct of a sexual nature, whether verbal, non-verbal, visual, gestural or physical, directed at a person which is offensive or humiliating or is a threat to his well-being, arising out of and in the course of his employment;’;

(xvi) dengan memotong takrif “ship”;

(xvii) dengan memasukkan selepas takrif “ship” yang dipotong takrif yang berikut:

‘ “spread over period of ten hours” means a period of ten consecutive hours to be reckoned from the time of the employee commences work for the day, inclusive of any period or periods of leisure, rest or break within such period of ten consecutive hours;

“State Authority” means the Yang di-Pertua Negeri of the State of Sarawak;’;

(xviii) dengan memotong takrif “subcontractor for labour”; dan

(xix) dengan memasukkan selepas takrif “underground work” takrif yang berikut:

‘ “vessel” means any type of ship, boat or floating platform used in the maritime environment including any submersible craft;’;

(b) dalam perenggan (3)(c), dengan memasukkan selepas perkataan “a daily” perkataan “or an hourly”;

(c) dalam subseksyen (4), dengan memasukkan selepas perkataan “on a daily” perkataan “or an hourly”; dan

(d) dalam subseksyen (6)—

(i) dengan memasukkan selepas perkataan “order” perkataan “published in the *Gazette*”; dan

(ii) dengan menggantikan perkataan “Schedule” dengan perkataan “First Schedule, Second Schedule or Third Schedule”.

Penggantian seksyen 2B

4. Ordinan dipinda dengan menggantikan seksyen 2B dengan seksyen yang berikut:

<p>“General power to exempt or exclude.</p>	<p>2B. The Minister may, by order published in the <i>Gazette</i>, exempt or exclude, subject to such conditions as he may deem fit to impose, any person or class of persons or any building or class of buildings from all or any of the provisions of this Ordinance.”.</p>
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Pindaan seksyen 3

5. Seksyen 3 Ordinan dipinda—

(a) dalam subseksyen (2)—

- (i) dengan menggantikan perkataan “an order under Chapter II^A” dengan perkataan “a directive, decision or order under section 8^A or 8^I, subsection (4) of section 9^D or subsection (1) of section 19^A or Part IV^A”; dan
- (ii) dengan menggantikan perkataan “fourteen” dengan perkataan “twenty-one”; dan

(b) dengan memotong subseksyen (3).

Pindaan seksyen 7

6. Ordinan dipinda dengan memotong subseksyen 7(2).

Pindaan seksyen 8A

7. Ordinan dipinda dengan menggantikan perenggan 8A(2)(b) dengan perenggan yang berikut:

“(b) a contractor for labour against a principal, contractor or subcontractor for any sum of money which the contractor for labour claims to be due to him in respect of any labour provided by him under his contract with the contractor or subcontractor; or”.

Pindaan seksyen 8B

8. Seksyen 8B Ordinan dipinda—

- (a) dalam perenggan (a), dengan memasukkan selepas koma bernoktah di hujung perenggan itu perkataan “or”; dan
- (b) dengan memotong perenggan (b).

Pemotongan seksyen 8C, 8D dan 8E

9. Ordinan dipinda dengan memotong seksyen 8C, 8D dan 8E.

Pindaan seksyen 8F

10. Seksyen 8F Ordinan dipinda dengan menggantikan perkataan “sections 8A, 8C and 8D” dengan perkataan “sections 8A and 19A”.

Pindaan seksyen 8I

11. Subseksyen 8I(1) Ordinan dipinda—

- (a) dengan menggantikan perkataan “section 8A, 8C or 8D” dengan perkataan “section 8A or 19A”; dan
- (b) dengan menggantikan perkataan “subcontractor for labour” di mana-mana jua terdapat dengan perkataan “contractor for labour”.

Pindaan seksyen 8M

12. Subseksyen 8M(1) Ordinan dipinda dengan menggantikan perkataan “section 8A, 8C, 8D or 8I” dengan perkataan “section 8A or 8I, subsection (4) of section 9D or subsection (1) of section 19A”.

Bab baharu IIIA

13. Ordinan dipinda dengan memasukkan selepas seksyen 9 bab yang berikut:

“Chapter IIIA.

SEXUAL HARASSMENT.

Interpretation.

9A. For the purposes of this Chapter, “complaint of sexual harassment” means any complaint relating to sexual harassment made—

(a) by an employee against another employee;

(b) by an employee against any employer;
or

(c) by an employer against an employee.

Inquiry into
complaints
of sexual
harassment.

9B. (1) Upon receipt of a complaint of sexual harassment by any person mentioned in section 9A, an employer or any class of employers shall inquire into the complaint in a manner prescribed by the Minister.

(2) Subject to subsection (3), where an employer refuses to inquire into the complaint of sexual harassment as required under subsection (1), he shall, as soon as practicable but in any case not later than thirty days after the date of the receipt of the complaint, inform the complainant of the refusal and the reasons for the refusal in writing.

(3) Notwithstanding subsection (2), an employer may refuse to inquire into any complaint of sexual harassment as required under subsection (1) if—

- (a) the complaint of sexual harassment has previously been inquired into and no sexual harassment has been proven; or
- (b) the employer is of the opinion that the complaint of sexual harassment is frivolous, vexatious or is not made in good faith.

(4) Any complainant who is dissatisfied with the refusal of the employer to inquire into his complaint of sexual harassment, may refer the matter to the Director.

(5) The Director shall, after reviewing the matter referred to him under subsection (4)—

- (a) if he thinks the matter should be inquired into, direct the employer to conduct an inquiry; or
- (b) if he agrees with the decision of the employer not to conduct the inquiry, inform the person who referred the matter to him that no further action will be taken.

Findings of inquiry by employer.

9c. (1) Where the employer conducts an inquiry into a complaint of sexual harassment received under subsection (1) of section 9B, and the employer is satisfied that sexual harassment is proven, the employer shall—

- (a) in the case where the person against whom the complaint of sexual harassment is made is an employee,

take disciplinary action which may include the following:

- (i) dismissing the employee without notice;
 - (ii) downgrading the employee; or
 - (iii) imposing any other lesser punishment as he deems just and fit, and where the punishment of suspension without wages is imposed, it shall not exceed a period of two weeks; and
- (b) in the case where the person against whom the complaint of sexual harassment is made is a person other than an employee, recommend that the person be brought before an appropriate disciplinary authority to which the person is subject to.

Complaints of sexual harassment made to the Director.

9D. (1) If a complaint of sexual harassment is made to the Director, the Director shall assess the complaint and may direct an employer to inquire into such complaint.

(2) The employer shall inquire into the complaint of sexual harassment when directed to do so under subsection (1) and submit a report of the inquiry to the Director within thirty days from the date of such direction.

(3) If a complaint of sexual harassment received by the Director is made against an employer who is a sole proprietor, the Director shall inquire into such complaint himself in a manner prescribed by the Minister.

(4) Upon inquiry by the Director of the complaint of sexual harassment under subsection (3), the Director shall decide if sexual harassment is proven or not and such decision shall be informed to the complainant as soon as practicable.

(5) Notwithstanding subsection (3), the Director may refuse to inquire into any complaint of sexual harassment received under subsection (3) if—

- (a) the complaint of sexual harassment has previously been inquired into by the Director and no sexual harassment has been proven; or
- (b) the Director is of the opinion that the complaint of sexual harassment is frivolous, vexatious or is not made in good faith.

(6) Where the Director refuses to inquire into the complaint of sexual harassment received under subsection (3), he shall, as soon as practicable but in any case not later than thirty days after the date of the receipt of the complaint, inform the complainant of the refusal and the reasons for the refusal in writing.

Effect of
decisions of the
Director.

9E. (1) Where the Director decides under subsection (4) of section 9D that sexual harassment is proven, the complainant may terminate his contract of service without notice.

(2) If the complainant terminates the contract of service under subsection (1), the complainant is entitled to—

(a) wages as if the complainant has given the notice of the termination of contract of service; and

(b) termination benefits and indemnity,

as provided for under the Ordinance or the contract of service, as the case may be.

Offence.

9F. Any employer who fails—

(a) to inquire into complaints of sexual harassment under subsection (1) of section 9B;

(b) to inform the complainant of the refusal and the reasons for the refusal as required under subsection (2) of section 9B;

(c) to inquire into complaints of sexual harassment when directed to do so by the Director under paragraph (a) of subsection (5) of section 9B or subsection (2) of section 9D; or

(d) to submit a report of inquiry into sexual harassment to the Director under subsection (2) of section 9D;

commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Right of employee to appear or attend inquiry under this Chapter.

9G. (1) No person shall prevent or attempt to prevent any employee from appearing or attending an inquiry in pursuance of this Chapter.

(2) Any person who contravenes or fails to comply with subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand ringgit and in the case of a continuing offence, be liable to a fine not exceeding one thousand ringgit for each day during which such offence is continued after conviction.

Notice on sexual harassment.

9H. An employer shall, at all times, exhibit conspicuously at the place of employment, a notice to raise awareness on sexual harassment.”.

Seksyen baharu 10D

14. Ordinan dipinda dengan memasukkan selepas seksyen 10c seksyen yang berikut:

“Presumption as to who is employee and employer.

10D. (1) In any proceeding under this Ordinance or any other written law, in the absence of a written contract of service relating to any category of employee under the First Schedule, it shall be presumed until the contrary is proved that a person is an employee —

- (a) where his manner of work is subject to the control or direction of another person;
- (b) where his hours of work are subject to the control or direction of another person;

- (c) where he is provided with tools, materials or equipments by another person to execute work;
- (d) where his work constitutes an integral part of another person's business;
- (e) where his work is performed solely for the benefit of another person; or
- (f) where payment is made to him in return for work done by him at regular intervals and such payment constitutes the majority of his income.

(2) For the purposes of subsection (1), it shall be presumed until the contrary is proved that a person is an employer—

- (a) where he controls or directs the manner of work of another person;
- (b) where he controls or directs the hours of work of another person;
- (c) where he provides tools, materials or equipments to another person to execute work;
- (d) where the work of another person constitutes an integral part of his business;
- (e) where another person performs work solely for his benefit; or
- (f) whether or not payment is made by him in return for work done for him by another person.

(3) The first-mentioned person in subsection (2) includes the agent, manager or factor of such first-mentioned person.”.

Seksyen baharu 19A dan 19B

15. Ordinan dipinda dengan memasukkan selepas seksyen 19 seksyen yang berikut:

“Discrimination in employment. **19A.** (1) The Director may inquire into and decide any matter relating to discrimination in employment, and the Director may, pursuant to such inquiry, issue a directive or make an order to the employer as may be necessary or expedient to resolve the matter in respect of—

(a) any complaint by an employee; or

(b) any complaint pursuant to any dispute between an employee and—

(i) his employer; or

(ii) another employee.

(2) An employer who fails to comply with any directive or order of Director issued under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Prohibition of forced labour. **19B.** Any employer who threatens, deceives or forces an employee to do any activity, service or work and prevents that employee from proceeding beyond the place or area where such activity, service or work is done, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.”.

Pindaan seksyen 58

16. Seksyen 58 Ordinan dipinda dalam perenggan (a), dengan memotong perkataan “of twenty hectares or more”.

Pindaan seksyen 60

17. Ordinan dipinda dengan memotong subseksyen 60(2).

Seksyen baharu 71A

18. Ordinan dipinda dengan memasukkan selepas seksyen 71 seksyen yang berikut:

“Interpretation. **71A.** (1) In this Chapter, unless the context otherwise requires—

“employment” means employment in any labour for the purposes of gain, whether the gain be to a child, young person or to any other person;

“family” means the father, mother, sibling or any guardian who has custody, of a child or young person;

“light work” means any work performed by a child or young person which is not likely—

(a) to be harmful to his health, mental or physical capacity; or

(b) to prejudice his attendance at school that includes any place which teaches any religion, his participation in vocational orientation or training programmes approved by the competent authority or his capacity to benefit from the instruction received;

“public entertainment” means entertainment to which the public or any section of the public is admitted or in connection with which any charge, whether for admission or not, is made or at which any collection or subscription is received and includes performances for the making of films for public exhibition other than news films but does not include any entertainment given by the pupils of any school registered under the Education Act 1996 [Act 550] at or under the auspices of such school, or any entertainment promoted by a voluntary, social or welfare body which has been approved by the Director.

(2) For the purposes of this Chapter, the age of admission to light work as specified in paragraph (a) of subsection (2) of section 73 shall not be less than thirteen years.”.

Pindaan seksyen 73

19. Seksyen 73 Ordinan dipinda—

- (a) dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

“(1) No child or young person shall be, or be required or permitted to be, engaged in any hazardous work, or any employment other than those specified in this section.”;

- (b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

“(1A) Notwithstanding subsection (1), a young person may be engaged in any hazardous work with personal supervision if he is—

(a) under an apprenticeship contract; or

(b) undergoing a vocational training.”;

(c) dalam subseksyen (3)—

(i) dengan memotong perenggan (b);

(ii) dalam perenggan (c)—

(A) dengan memotong perkataan “bars,”;
dan

(B) dengan memotong perkataan “, club”;

(iii) dalam perenggan (e), dengan menggantikan
noktah bertindih di hujung perenggan itu dengan
noktah; dan

(iv) dengan memotong proviso;

(d) dengan menggantikan subseksyen (5) dengan subseksyen
yang berikut:

“(5) No child or young person shall be, or be
required or permitted to be, engaged in any employment
contrary to the provisions of the Occupational Safety
and Health Act 1994 [*Act 514*] or the Electricity
Ordinance Sarawak [*Sarawak Cap. 50*].”; dan

(e) dengan memasukkan selepas subseksyen (5) subseksyen
yang berikut:

“(6) Notwithstanding subsections (2) and (3), no
child or young person shall be, required or permitted
to be, engaged in any employment specified in the
Second Schedule.

(7) For the purposes of this section, “hazardous
work” means work specified in the Third Schedule.”.

Pindaan seksyen 74c

20. Seksyen 74c Ordinan dipinda dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(3) For the purposes of this section, “agricultural undertaking” means any work in which any person is employed under a contract of service for the purposes of agriculture or horticulture, the tending of domestic animals and poultry or the collection of the produce of any plants or trees, but does not include any work performed in a forest.”.

Pemotongan seksyen 75A

21. Ordinan dipinda dengan memotong seksyen 75A.

Pemotongan Bab XI_A

22. Ordinan dipinda dengan memotong Bab XI_A.

Pindaan Bab XI_B

23. Bab XI_B Ordinan dipinda dalam kepala dengan menggantikan perkataan “MATERNITY PROTECTION.” dengan perkataan “PREGNANCY AND MATERNITY.”.

Pindaan seksyen 84

24. Seksyen 84 Ordinan dipinda—

(a) dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

“(1) Every female employee shall be entitled—

(a) to maternity leave for an eligible period in respect of each confinement; and

(b) subject to this Chapter, to receive from her employer a maternity allowance to be calculated or prescribed as provided in subsection (2) in respect of the eligible period.”;

- (b) dengan menggantikan subseksyen (2) dengan subseksyen yang berikut:

“(2) Where a female employee is entitled to maternity leave under paragraph (a) of subsection (1), whether or not she is entitled to receive maternity allowance from her employer for the eligible period under subsection (5), or whether or not she has fulfilled the conditions set out in subsection (6), she may, with the consent of her employer, commence work at any time during the eligible period if she has been certified fit to resume work by a registered medical practitioner.”;

- (c) dalam subseksyen (7)—

(i) dengan menggantikan perkataan “this section” dengan perkataan “subsection (1)”; dan

(ii) dengan menggantikan perkataan “Chapter XVI B” dengan perkataan “paragraph (c) of subsection (2) of section 130o”; dan

- (d) dengan menggantikan subseksyen (11) dengan subseksyen yang berikut:

“(11) For the purposes of this Chapter—

(a) “children” means all natural children, irrespective of age; and

(b) “eligible period” means a period of maternity leave of not less than ninety-eight consecutive days.”.

Pindaan seksyen 92A

25. Seksyen 92A Ordinan dipinda—

(a) dalam nota birai, dengan menggantikan perkataan “dismissal” dengan perkataan “termination”; dan

(b) dalam subseksyen (2), dengan menggantikan perkataan “dismissed” dengan perkataan “terminated”.

Seksyen baharu 92B

26. Ordinan dipinda dengan memasukkan selepas seksyen 92A seksyen yang berikut:

“Restriction on termination of pregnant female employee.

92B. (1) Where a female employee is pregnant or is suffering from an illness arising out of her pregnancy, it shall be an offence for her employer to terminate her service or give her notice of termination of service, except on the grounds of—

(a) wilful breach of a condition of the contract of service under subsection (2) of section 13;

(b) misconduct under subsection (1) of section 14; or

(c) closure of the employer’s business.

(2) Where the service of a female employee under subsection (1) is terminated, the burden of proving that such termination is not on the ground of her pregnancy or on the ground of illness arising out of her pregnancy, shall rest on the employer.”.

Pindaan seksyen 97

27. Seksyen 97 Ordinan dipinda—

(a) dalam nota birai, dengan menggantikan perkataan “worker” dengan perkataan “employee”; dan

(b) dalam subseksyen (1), dengan menggantikan perenggan (e) dengan perenggan yang berikut:

“(e) upon—

(i) expiry of the Licence To Employ Non-Resident Employee; or

(ii) revocation of the Licence To Employ Non-Resident Employee in accordance with section 119F;”.

Pindaan seksyen 98

28. Ordinan dipinda dengan memotong subperenggan 98(a)(i).

Pindaan Bab XIII

29. Bab XIII Ordinan dipinda dalam kepala, dengan menggantikan perkataan “DOMESTIC SERVICE.” dengan perkataan “DOMESTIC EMPLOYEES.”.

Pindaan seksyen 101

30. Seksyen 101 Ordinan dipinda, dalam nota birai, dengan menggantikan perkataan “Domestic servants.” dengan perkataan “Domestic employees.”.

Seksyen baharu 101A

31. Ordinan dipinda dengan memasukkan selepas seksyen 101 seksyen yang berikut:

“Termination of contract.

101A. Subject to any express provision to the contrary contained therein, a contract to employ and to serve as domestic employee may be terminated either by the person employing the domestic employee or by the domestic employee giving the other party fourteen days’ notice of his intention to terminate the contract, or by the paying of an indemnity equivalent to the wages which the domestic employee would have earned in fourteen days:

Provided that any such contract may be terminated by either party without notice and without the paying of an indemnity on the ground of conduct by the other party inconsistent with the terms and conditions of the contract.”.

Pindaan seksyen 103

32. Seksyen 103 Ordinan dipinda—

(a) dalam subseksyen (1), dengan memasukkan selepas perenggan (e) perenggan yang berikut:

“(ea) to enable him to purchase a computer;

(eb) to enable him to pay for medical expenses for himself or his immediate family members;

(ec) to enable him to pay for daily expenses pending receipt of any periodical payments for temporary disablement under the Employees’ Social Security Act 1969 [Act 4];

(ed) to enable him to pay for educational expenses for himself or his immediate family members;”;
dan

(b) dengan memasukkan selepas subseksyen (1) subseksyen yang berikut:

“(1A) For the purposes of this section, “immediate family members” means the employees’ father, mother, spouse, children, siblings or any other person under the employee’s guardianship.”.

Pindaan seksyen 104

33. Seksyen 104 Ordinan dipinda dalam subseksyen (1)—

(a) dalam perenggan (a)—

(i) dengan menggantikan perkataan “sixteen” dengan perkataan “eighteen”;

(ii) dengan menggantikan perkataan “four” dengan perkataan “six”;

(iii) dalam subperenggan (iii), dengan memotong perkataan “and” di hujung subperenggan itu;

(iv) dengan menggantikan subperenggan (iv) dengan subperenggan yang berikut:

“(iv) the Workers’ Celebration Day;” dan

(v) dengan memasukkan selepas subperenggan (iv) subperenggan yang berikut:

“(v) the Malaysia Day; and

(vi) the Sarawak Independence Day;” dan

(b) dalam perenggan (b), dengan menggantikan proviso dengan proviso yang berikut:

“Provided that if any of the public holidays referred to in paragraphs (a) and (b) falls on—

(i) a rest day; or

(ii) any other public holiday referred to in paragraphs (a) and (b),

the working day following immediately the rest day or the other public holiday shall be a paid holiday in substitution of the first mentioned public holiday.”.

Pindaan seksyen 105

34. Seksyen 105 Ordinan dipinda—

(a) dalam nota birai, dengan memasukkan selepas perkataan “work” perkataan “and working at night”;

(b) dalam subseksyen (1), dengan menggantikan perkataan “forty-eight” di mana-mana jua terdapat dengan perkataan “forty-five”; dan

(c) dalam subseksyen (10), dengan memasukkan selepas perkataan “rates” perkataan “and prescribing matters relating to working at night”.

Pindaan seksyen 105A

35. Subseksyen 105A(1) Ordinan dipinda dengan menggantikan perkataan “forty-eight” di mana-mana jua terdapat dengan perkataan “forty-five”.

Pindaan seksyen 105c

36. Subseksyen 105c(3) Ordinan dipinda dengan memasukkan selepas perkataan “monthly” perkataan “or weekly”.

Pindaan seksyen 105E

37. Subseksyen 105E(1) Ordinan dipinda—

(a) dengan memotong proviso pertama; dan

(b) dalam proviso lanjut, dengan menggantikan perkataan “And provided further” dengan perkataan “Provided”.

Seksyen baharu 105EA

38. Ordinan dipinda dengan memasukkan selepas seksyen 105E seksyen yang berikut:

“Paternity
leave.

105EA. (1) Subject to subsection (3), a married male employee shall be entitled to a paid paternity leave at his ordinary rate of pay for a period of seven consecutive days in respect of each confinement.

(2) The paternity leave under subsection (1) shall be restricted to five confinements irrespective of the number of spouses.

(3) A married male employee shall be entitled to paternity leave from his employer if—

(a) he has been employed by the same employer at least twelve months immediately before the commencement of such paternity leave; and

(b) he has notified his employer of the pregnancy of his spouse at least thirty days from the expected confinement or as early as possible after the birth.

(4) A married male employee referred to under subsection (1) employed on a monthly rate of pay shall be deemed to have received his paternity leave pay if he continues to receive his monthly wages during his abstention from work during the paternity leave period without abatement in respect of the abstention for the month in which he takes such paternity leave.”.

Seksyen baharu 108c

39. Ordinan dipinda dengan memasukkan selepas seksyen 108B seksyen yang berikut:

“Calculation of wages for incomplete month of work.

108c. (1) Notwithstanding subsection (3) of section 2 and section 108, an employee who is employed on a monthly rate of pay and has not completed a whole month of service—

(a) where he commenced employment after the first day of the month;

(b) where his employment was terminated before the end of the month;

(c) where he took leave of absence without pay for one or more days of the month; or

(d) where he took leave of absence by reason of having been called up for national service under the National Service Act 1952 [Act 425], to present himself for national service training as required under the National Service Training Act 2003 [Act 628] or to comply with any other written laws relating to national service,

shall be paid wages due to him for that month calculated according to the following formula:

$$\frac{\text{Monthly wages}}{\text{Number of days of the particular wage period}} \times \text{Number of days eligible in the wage period.}''$$

Penggantian seksyen 109

40. Ordinan dipinda dengan menggantikan seksyen 109 dengan seksyen yang berikut:

“Time of payment of wages.

109. (1) Subject to subsection (2), every employer shall pay to each of his employees not later than the seventh day after the last day of any wage period the wages, less lawful deductions earned by such employee during such wage period.

(2) Wages for work done on a rest day, gazetted public holiday referred to in paragraphs (a) and (b) of subsection (1) of section 104 and overtime shall be paid not later than the last day of the next wage period.

(3) Notwithstanding subsections (1) and (2), if the Director is satisfied that payment within such time is not reasonably practicable, he may, on the application of the employer, extend the time of payment by such number of days as he thinks fit.”.

Seksyen baharu 109A dan 109B

41. Ordinan dipinda dengan memasukkan selepas seksyen 109 seksyen yang berikut:

“Payment on normal termination of contract.

109A. (1) The wages, less lawful deductions, earned by but not yet paid to an employee shall be paid to such employee on the day on which such contract of service is terminated in accordance with—

(a) subsection (1) of section 11A; or

(b) section 12 by either party.

(2) The wages earned by but not yet paid to an employee whose contract of service is terminated by his employer in accordance with section 12, such wages shall be paid to the employee on the day on which such contract of service is terminated or, if this is not possible, on the first day, not being a rest day or gazetted holiday, after the day on which such contract of service is terminated.

Payment on termination of contract in special circumstances and on breach of contract.

109B. (1) Where an employer terminates the contract of service of an employee without notice in accordance with subsection (1) or (2) of section 13 or paragraph (a) of subsection (1) of section 14—

(a) the wages, less any deductions which the employer is entitled to make under section 114, earned by

such employee up to and including the day immediately preceding the day on which the termination of the contract of service takes effect; and

- (b) in addition, where the employer terminates the contract of service under subsection (1) of section 13, the indemnity payable to the employee under that subsection,

shall be paid by the employer to the employee on the day on which such contract of service is so terminated.

(2) Where an employee terminates his contract of service with an employer without notice in accordance with subsection (1) or (2) of section 13 or subsection (3) of section 14, the wages, less any deductions which the employer is entitled to make under section 114, earned by such employee up to and including the day immediately preceding the day on which the termination of the contract of service takes effect shall be paid by the employer to the employee before the expiry of the seventh day after the day on which the contract of service is so terminated:

Provided that the employer may, subject to any order made by a court or the Director to the contrary, deduct from the wages due to the employee such sum as the employee is liable to pay in lieu of notice according to the provisions of section 13 or the terms of his contract, if any.”.

Penggantian seksyen 111

42. Ordinan dipinda dengan menggantikan seksyen 111 dengan seksyen yang berikut:

“Wages to be paid through financial institution.

111. (1) The entire amount of the wages earned by, or payable to, any employee in respect of any work done by him less any lawful deductions, shall be actually paid to him through payment into an account opened by a financial institution, being an account in the name of the employee or an account in the name of the employee jointly with one or more other persons as stipulated by the employee.

(2) Every employee shall be entitled to recover in the courts or before the Director acting under section 8A, so much of his wages, exclusive of sums lawfully deducted under section 114, as shall not have been actually paid to him in accordance with subsection (1).

(3) For the purposes of this Chapter, “financial institution” includes—

- (a) a licensed bank and an approved issuer of a designated payment instrument under the Financial Services Act 2013 [*Act 758*];
- (b) a licensed Islamic bank and an approved issuer of a designated Islamic payment instrument under the Islamic Financial Services Act 2013 [*Act 759*]; and
- (c) a prescribed institution under the Development Financial Institutions Act 2002 [*Act 618*].

(4) The Minister may, by order published in the *Gazette*, specify any approved issuer of a designated payment instrument or any approved issuer of a designated Islamic payment instrument under paragraphs (a) and (b) of subsection (3) to be a recognized approved issuer of a designated payment instrument or approved issuer of a designated Islamic payment instrument for the purpose of payment of wages under this Chapter.”.

Penggantian seksyen 111A

43. Ordinan dipinda dengan menggantikan seksyen 111A dengan seksyen yang berikut:

“Payment of wages other than through financial institution.

111A. (1) Notwithstanding subsection (1) of section 111, an employer may, upon a written request of the employee, make payment of his employee’s wages—

(a) in legal tender; or

(b) by cheque made payable to or to the order of the employee.

(2) The request by the employee under subsection (1) may be withdrawn by the employee, at any time, by notice in writing to the employer.

(3) The notice referred to in subsection (2) shall take effect at, but not before, the end of the period of four weeks beginning with the day on which the notice is given.

(4) Any dispute arising out of the request by the employee under subsection (1) shall be referred to the Director whose decision on the matter shall be final.

(5) Section 8A shall not apply in respect of any dispute under subsection (4).”.

Pindaan seksyen 117**44. Seksyen 117 Ordinan dipinda—**

(a) dalam subseksyen (1), dengan memasukkan selepas perkataan “approved service” perkataan “or any approved incentive payment scheme”; dan

(b) dalam subseksyen (2)—

(i) dengan memasukkan selepas perkataan “approved in writing any amenity or service” perkataan “or any incentive payment scheme”; dan

(ii) dengan memasukkan selepas perkataan “as an approved amenity or approved service” perkataan “or approved incentive payment scheme”.

Pindaan seksyen 117A

45. Subseksyen 117A(1) Ordinan dipinda dengan menggantikan perkataan “subcontractor for labour” di mana-mana jua terdapat dengan perkataan “contractor for labour”.

Pindaan seksyen 117B

46. Subseksyen 117B(1) Ordinan dipinda dengan menggantikan perkataan “subcontractor for labour” dengan perkataan “contractor for labour”.

Seksyen baharu 117D

47. Ordinan dipinda dengan memasukkan selepas seksyen 117C seksyen yang berikut:

“Information relating to supply of employees.

117D. (1) A contractor for labour who intends to supply or undertakes to supply any employee shall register with the Director in the prescribed form within fourteen days before supplying the employee.

(2) A contractor for labour referred to in subsection (1) who supplies any employee to a principal, contractor or subcontractor shall enter into a contract in writing and shall make such contract or any other document relating to such contract available for inspection.

(3) If a contractor for labour referred to in subsection (1) supplies any employee, he shall keep or maintain one or more registers as may be determined by the Director containing information regarding each employee supplied by him and shall make such registers available for inspection.

(4) A contractor for labour who—

- (a) supplies his employee without registering with the Director as required under subsection (1);
- (b) fails to make such contract or any other document relating to such contract available for inspection as required under subsection (2); or
- (c) fails to keep or maintain any register, or make available any register for inspection as required under subsection (3),

commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.”.

Pindaan seksyen 119A

48. Seksyen 119A Ordinan dipinda dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(3) If the service of a non-resident employee is terminated—

- (a) by his employer;

- (b) by reason of the expiry of any pass relating to employment issued by the Immigration Department of Malaysia to the non-resident employee; or
- (c) by reason of the repatriation or deportation of the non-resident employee,

the employer shall, within thirty days of the termination of service, inform the Director of the termination in the manner as may be determined by the Director.

(4) If a non-resident employee terminates his service or absconds from his place of employment, the employer shall, within fourteen days of the termination of service or after the non-resident employee's absence, inform the Director in the manner as may be determined by the Director.”.

Pemotongan seksyen 119B

49. Ordinan dipinda dengan memotong seksyen 119B.

Seksyen baharu 119F

50. Ordinan dipinda dengan memasukkan selepas seksyen 119E seksyen yang berikut:

“Revocation
of Licence
To Employ
Non-Resident
Employee.

119F. (1) The Director may, without any compensation, revoke a Licence To Employ Non-Resident Employee issued under subsection (1) of section 119 if he is satisfied that the employer including the officer of the employer referred to under section 130^{LA}—

- (a) has contravened or failed to comply with any of the provisions of this Ordinance or any subsidiary legislation made under this Ordinance;

- (b) has failed to comply with any conditions prescribed in respect of the licence issued under subsection (2) of section 119 and paragraph (n) of subsection (2) of section 130o;
- (c) has been wound up or dissolved under the provisions of the Companies Act 2016 [*Act 777*];
- (d) has ceased operating his business;
- (e) has terminated all the non-resident employees referred to in the Licence To Employ Non-Resident Employee;
- (f) has been convicted of an offence under—
 - (i) this Ordinance or the subsidiary legislation made thereunder;
 - (ii) any written law relating to labour or social security;
 - (iii) any written law relating to internal security;
 - (iv) any written law in relation to anti-trafficking in persons or forced labour; or
 - (v) any written law for the time being in force relating to immigration;
- (g) has failed to comply with any written directions issued by the Director under this Ordinance; or
- (h) has induced the granting of the licence by a false representation of fact.

(2) The Director shall not revoke a Licence To Employ Non-Resident Employee unless, after giving the employer a written notice specifying an opportunity to make any representation, reason or explanation in writing as to why the Licence To Employ Non-Resident Employee should not be revoked within the period specified in such written notice, he is satisfied with the representation, reason or explanation given in writing by the employer.

(3) After the expiry of the period specified in the written notice under subsection (2) or after considering the representation, reason or explanation made under subsection (2), the Director shall decide whether or not to revoke the Licence To Employ Non-Resident Employee.

(4) The Director shall inform the employer of his decision under subsection (3) by a notice in writing.

(5) Where a Licence To Employ Non-Resident Employee is revoked, the revocation shall be effective within thirty days after the notice under subsection (4) is communicated to the employer and the employer shall within fourteen days from the date of communication of the licence return the licence to the Director.

(6) Notwithstanding subsection (5), if the Director is satisfied that the period specified in subsection (5) is not reasonably practicable, he may, on the application of the employer, extend the time for such revocation to take effect as he thinks fit.”.

Bab baharu XIVB

51. Ordinan dipinda dengan memasukkan selepas seksyen 121 bab yang berikut:

“Chapter XIVB.

FLEXIBLE WORKING ARRANGEMENT.

Flexible
working
arrangement.

121A. (1) Subject to Chapter XIV or anything contained in the contract of service, an employee may apply to an employer for a flexible working arrangement to vary the hours of work, days of work or place of work in relation to his employment.

(2) Where there is a collective agreement, any application made by the employee under subsection (1) shall be consistent with the terms and conditions in the collective agreement.

Application for
flexible working
arrangement.

121B. (1) The employee shall make an application for flexible working arrangement under section 121A in writing and in the form and manner as may be determined by the Director.

(2) Upon the application made under subsection (1), an employer shall, within sixty days from the date such application is received, approve or refuse the application.

(3) The employer shall inform the employee in writing of the employer’s approval or refusal of the application under subsection (1) and in the case of a refusal, the employer shall state the ground of such refusal.”.

Bahagian baharu IVA

52. Ordinan dipinda dengan memasukkan selepas seksyen 122 bahagian yang berikut:

“PART IVA.

SPECIAL PROVISIONS RELATING TO EMPLOYEES’
MINIMUM STANDARDS OF HOUSING,
ACCOMODATIONS AND AMENITIES.

Chapter XVA.

PRELIMINARY.

Interpretation. **122A.** In this Part, unless the context otherwise requires—

“building” means, in relation to Chapter XVB, any building used for the housing of employees and includes a nursery and a community hall;

“contract of service” means any agreement, whether oral or in writing and whether express or implied, whereby one person agrees to employ another as an employee and that employee agrees to serve his employer as an employee;

“dependant” means the spouse, parent (including stepfather and stepmother), grandparent, child (including stepchild), brother and sister (including half-brother and half-sister and stepbrother and stepsister) of an employee, who is dependent on such employee, and includes—

(a) as respects a child, an illegitimate child or a child adopted in accordance with any written law relating to adoption; and

(b) as respects parents, the parents of an illegitimate child, and any person by whom the employee was adopted in accordance with any written law relating to adoption;

“District Engineer”, in respect of a district, means any engineer in the service of the Federal or State Government who is for the time being carrying out the duties of the Public Works Department for that district and, for the purpose of subsection (1) of section 122AN, includes any officer authorized in writing in that behalf by the District Engineer;

“employer” means —

- (a) any person who has entered into a contract of service to employ any other person as an employee and includes the agent, manager and factor of such first mentioned person; or
- (b) where the owner or lessee (including the agent, manager and factor of such owner or lessee) of a place of employment (hereinafter referred to as the first mentioned person) has entered into an agreement, whether oral or in writing and whether expressed or implied, with another person for the purpose of executing any work for or connected with any business, trade, operation or interest of such first mentioned person, the term “employer” shall also include such first mentioned person,

and the word “employ”, with its grammatical variations and cognate expressions, shall be construed accordingly;

“estate” means any agricultural land exceeding 40.46 hectares in extent upon which agricultural operations of any kind are carried on or upon which the produce of any plants or trees is collected or treated, or any mine or any other place of employment so declared by order of the Minister;

“Medical Officer of Health” means any medical practitioner in the service of the Government or any local authority who is for the time being carrying out the duties of a Medical Officer of Health in any area, district, or local authority area, and for the purpose of subsection (1) of section 122AN, includes any officer authorized in writing in that behalf by the Medical Officer of Health;

“private hospital” means a private hospital as provided under the Private Healthcare Facilities and Services Act 1998 [*Act 586*];

“resident manager”, in relation to an estate, means any employer or agent of an employer who resides on, or is in immediate charge of, the estate in which the employees are employed;

“resident registered medical practitioner” means any registered medical practitioner employed by the employer and who resides on the estate in which the employees are employed.

Chapter XVb.

HOUSING AND OTHER AMENITIES.

Building to
comply with
requirements.

122B. (1) Except as provided in subsection (2), no employer shall house or cause or permit to be housed any employee employed by him or by any other person (with whom he has contracted for the purpose of executing any work for or connected with his business, trade, operation or interest) in any building either owned by him or is within his possession or control which does not comply with the provisions of this Part or any rules made thereunder.

(2) Any building, which immediately before the commencement of this Part was used for the housing of employees, as a nursery or as a community hall, by an employer and was erected or converted in accordance with the requirements of any written law in force at the time of its erection or conversion may continue to be used by such employer:

Provided that such building be converted to comply with the provisions of this Part or any rules made thereunder.

(3) Notwithstanding the provision in subsection (2), the Director may, upon application by an employer, permit subject to any condition as he may impose, such building to continue to be used without conversion for such period as he deems fit.

(4) Pursuant to any investigation carried out on any place of employment, where the Director is satisfied that any building, which immediately before or after the commencement of this Part, was used for the housing of employees or their dependants, or as a nursery or as a community hall, does not comply with the provisions of this Part or any rules made under this Part, the Director may issue to the employer concerned a notice, of not less than three months, of his intention to order demolition and replacement, alteration, repair or making good any deficiency or defect thereof.

(5) Where, upon the expiry of the notice under subsection (4), the employer fails to take such action as required to the satisfaction of the Director, the Director may issue to the employer concerned, an order in writing requiring the employer to demolish and replace, alter or repair such building or to make good any deficiency or defect thereof within six months from the date of the order and subject to such conditions as the Director may specify in the order.

(6) The order under subsection (5) may include a directive that no employee or his dependants shall be permitted to occupy any such building pending such demolition and replacement, alteration or repair, or the making good of any defect or deficiency thereof, or until the requirements of the order have been complied with:

Provided that where an appeal has been made under section 122AO in respect of the order issued under subsection (5), then such order shall be suspended pending the determination of the appeal.

Supply of water and electricity and maintenance of houses.

122c. (1) Where employees and their dependants are provided with housing at their place of employment, it shall be the duty of the employer of such place of employment—

- (a) to provide free and adequate piped water drawn from a public main, or where the Director so permits in writing, to provide free and adequate supply of potable piped water drawn from any other source which shall be filtered and treated in a manner approved by the Director;
- (b) to provide adequate electricity supply;
- (c) to ensure that the buildings are kept in a good state of repair and painted to present a satisfactory appearance; and
- (d) to ensure that no unauthorized extensions or structural alterations are made to the buildings.

(2) For the purposes of this section, the adequacy of water and electricity supply shall be as determined by the Director:

Provided that the Director may, if he is satisfied in any case that it is impracticable to provide piped water supply for each house, approve any other means of water supply:

Provided further that the Director may, in any case where he is satisfied that the provision of electricity supply is not practicable or viable, exempt the employer in writing from the requirement of such provision.

(3) Where water supply is drawn from a source other than a public main, the Director may, for the purpose of ensuring that the water supply is suitable for consumption, cause the Medical Officer of Health to take samples of water supply for analysis and report, the costs of which shall be borne by the employer.

(4) Where water supply is obtained from a public main and is piped to each house, the Director may, on application made to him, partly or wholly exempt the employer in writing from the requirement to provide free water supply to the employees subject to such conditions as the Director may impose.

(5) Where any extension or structural alteration has been made to the buildings without the permission of the Director, the Director may, after giving one month's notice, require the employer to have the extension or structural alteration demolished.

Erection
of building
intended to
be used for
the housing of
employees, as
nursery or as
community hall.

122D. (1) In relation to a building which is to be erected or converted for the housing of employees or for use as a nursery or community hall, the employer shall submit to the Director for his endorsement, the plans of the building and of its site approved by the relevant authority.

(2) No work relating to the aforesaid building shall commence before the submission of such plan is endorsed by the Director.

(3) For the purpose of securing that the minimum standards required under this Part or any rules made thereunder are complied with, the relevant authority may approve such plans subject to such conditions (including alterations of the plans) as he may deem fit to impose thereon.

(4) For the purposes of this section, the relevant authority shall be the authorities as may be determined by the Minister after consultation with the State Authority.

Building
endangering
health or safety.

122E. (1) The Director shall cause to be inspected—

(a) by a Medical Officer of Health, any building, estate hospital, group estate hospital or clinic on a place of employment which, by reason of its design, site, size, sanitation, the quantity and quality of the water supply provided for the occupants of such buildings or other conditions, appears to the Director to be likely to endanger health; and

- (b) by the District Engineer, any building, estate hospital, group estate hospital or clinic on a place of employment which, by reason of its construction, state of repair or condition, appears to the Director to be likely to endanger the safety of any person.

(2) The Medical Officer of Health or the District Engineer or both, as the case may be, shall, after inspecting any building, estate hospital, group estate hospital or clinic under this section, submit to the Director a report of his or their findings, together with any recommendation made thereon relating to the necessary measures required to be taken in respect of such building, estate hospital, group estate hospital or clinic.

(3) Subject to subsection (4), on receipt of such report referred to in subsection (2), the Director may issue to the employer concerned, an order in writing requiring the employer to demolish and replace, alter or repair the building, estate hospital, group estate hospital or clinic or to make good any deficiency or defect within such time and subject to such conditions as the Director may specify in the order and such order may direct that no employee or his dependants shall be permitted to occupy any building, estate hospital, group estate hospital or clinic pending such demolition and replacement, alteration or repair or until the order has been complied with:

Provided that where an appeal has been made under section 122AO in respect of the order, then such order shall be suspended pending the decision of the appeal.

(4) No order under subsection (3) shall be issued unless a copy of the report under subsection (2) received by the Director has been furnished to the employer by the Director, and in making such order, the Director shall give due consideration to any representation that may be made by the employer in respect of the report.

Building not originally built for housing of employees.

122F. (1) Except as provided in subsection (2), a building originally built for a purpose other than the housing of employees shall not be used for, or be converted for, the purpose of the housing of employees by an employer without an approval by the Director.

(2) An employer may make an application to the Director in the manner specified under subsection (3) for the approval for the purpose specified under subsection (1).

(3) The application required to be made under subsection (2) shall be accompanied by a plan of the site of the building and a plan setting out the details of the building or of the conversion proposed to be made thereto and subsections (2) and (3) of section 122D shall apply to such plan as they apply to a plan of a building or of the site of a building mentioned in that section.

Nursery.

122G. (1) Where there are employees residing on the place of employment and such employees have together no less than five dependants under four years of age living with them, the Director may, by order, require the employer of such employees to construct at the aforesaid place of employment within such reasonable time as may be specified therein,

a nursery of a size capable of accommodating such number of employees' dependants, as may be specified therein, and on being so required, the employer shall construct such nursery accordingly:

Provided that any subsequent reduction in the number of dependants after the order has been issued shall not invalidate such order.

(2) The employer shall maintain the nursery and shall accommodate therein the dependants of the employees during the period in which such employees are away working for the employer:

Provided that he shall not accommodate therein such dependants in excess of the number specified in the order mentioned in subsection (1).

(3) On each day a dependant is accommodated at the nursery, the employer, at his own expense, shall provide for such dependant with play equipment and a supply of milk—

(a) in sufficient quantity; and

(b) of good quality.

(4) Any employer who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Allotment of
land.

122H. (1) Where there are employees residing on the place of employment, the employer of such employees shall set aside land which has been cleared, for allotment to such employees for cultivation, grazing or partly cultivation and partly grazing:

Provided that an employer is not required to excise any permanent cultivation which has been planted by him at least twelve months previously.

(2) An employee residing on the place of employment who has been employed for a period of not less than six months by the employer aforesaid shall be entitled to have allotted to him an area for cultivation for communal use and food supply.

(3) If an area of land allotted for cultivation (whether wholly or partly) shall remain unplanted for a period of six months from the date of the allotment, or if an employee uses the area of land allotted to him for a purpose different from that for which it was allotted, or if he does not use it at all for the purpose for which it was allotted, the employer may terminate such allotment and thereafter may allot such area of land to another employee.

(4) In relation to the setting aside of land under this section—

- (a) land allotted to employees shall be situated as near as possible to the houses of the employees; and
- (b) land for grazing shall be situated from the houses of the employees at a distance to be recommended in writing by a Medical Officer of Health.

(5) The Director may, for sufficient reason, exempt to such extent as may be stated in such exemption, any employer from compliance with this section on such terms and conditions and for such period as he may deem fit.

(6) Any employer who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

(7) For the purposes of this section, “place of employment” means an estate or such other place as may be prescribed by the Minister by notification in the *Gazette* to be a place of employment.

Community hall, sports and other recreational facilities.

122i. (1) The Director may, by order, require the employer in any place of employment where there are not less than one hundred employees residing at the place of employment—

- (a) to construct at the place of employment, within such reasonable time as may be specified, a community hall capable of accommodating such number of persons as may be specified; and
- (b) to provide facilities for sports and other recreational activities as may be specified.

(2) The employer shall maintain the community hall, sports and other recreational facilities in a satisfactory condition as the Director thinks fit.

(3) Any employer who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

No rent or charge to be levied for benefits under this Chapter.

122J. An employee shall not be required to make any payment for rent or charge in respect of any housing, nursery, community hall, sports and other recreational facilities, sanitation, or allotment of land provided for the employee under this Chapter.

Chapter XVC.

HEALTH, HOSPITAL, MEDICAL TREATMENT AND SANITATION.

Definition of dependant.

122K. For the purposes of this Chapter, “dependant” means such member of the employee’s family, namely, spouse, father, mother and children under the age of eighteen, including children adopted in accordance with any written law, who are living with and dependent on the employee.

Employer to construct and maintain estate hospital.

122L. (1) The Director may, at any time by order in writing, after consultation with the Minister of Health, require any employer to construct within a reasonable time to be stated in such order and thereafter to maintain at his own expense, a hospital, hereinafter called “estate hospital”, on or in the immediate neighbourhood of any estate upon which employees are employed by him with accommodation for such number of patients as may be stated in such order.

(2) Where there is already a hospital maintained by the employer, the Director may, by order in writing, after consultation with the Minister of Health, require the employer to enlarge or add to such hospital so as to provide accommodation for a further number of patients as may be stated in the order.

(3) For the purposes of subsection (1) or (2), the Director may further require the employer to employ a registered medical practitioner to reside at and have charge of such hospital or any hospital maintained by such employer, and to provide such medical practitioner with fit and proper house accommodation to the satisfaction of the Medical Officer of Health.

(4) In the case where two or more estates are so situated that the required accommodation for patients from such estates can be conveniently provided in one hospital, the Director may, after consultation with the Minister of Health, instead of ordering each employer to construct and maintain a separate hospital, order all the employers concerned to construct within a reasonable time to be stated in such order and thereafter to maintain at their own expense one hospital, hereinafter called a “group estate hospital”, for all such estates with accommodation for such number of patients as may be stated in the order.

(5) In the case of there is already a group estate hospital erected and maintained jointly by two or more employers (whether constructed under the provisions of this section or not), the Director may, after consultation with the Minister of Health, order all or any such employers to enlarge or add to such hospital so as to provide accommodation for such further number of patients from their estates as may be stated in the order.

(6) For the purposes of subsections (4) and (5), the Director may further require the employers to employ a registered medical practitioner to have charge of such group hospital and to provide such medical practitioner with fit and proper house accommodation to the satisfaction of the Medical Officer of Health.

(7) Where there already exists an estate hospital or group estate hospital, the Director may order the employers concerned to join such estate hospital or group estate hospital, as the case may be, and be jointly responsible for the maintenance of such hospital.

(8) Every employer referred to in this section and the resident manager of every estate concerned shall be responsible for the registration and the due maintenance of the estate hospital or group estate hospital, as the case may be, registered in accordance with the provisions of the Private Healthcare Facilities and Services Act 1998 and any regulation made thereunder.

(9) No employer who has constructed and maintained an estate hospital or a group estate hospital, whether in pursuance of an order of the Director under this section or otherwise, shall reduce the number of beds or discontinue the maintenance and operation of such estate hospital or group estate hospital without prior written permission of the Director.

Payment and recovery of hospital expenses by employer.

122M. (1) It shall be the duty of every employer to provide for every employee employed on an estate with medical attendance, care and treatment including diet at the estate hospital or group estate hospital established under section 122L or at the estate clinic established under section 122P.

(2) The employer may recover from such employee the expenses of such care, treatment and maintenance at such rate as the Minister may prescribe by notification in the *Gazette* in respect of any period in excess of thirty days during which such employee shall have remained in the hospital.

(3) For the purposes of this section, employee includes his dependants who reside on such estate or on any other land owned or leased by or is within the control of the employer.

Sick
employees
being
admitted to
hospital.

122N. (1) Every employee or any dependant of such employee, who is injured or falls ill during the course of the employee's employment shall be taken by the employer to a private hospital or a Government hospital, as the case may be.

(2) The expenses incurred under subsection (1) shall, whatever be the amount, be recoverable from the employer in a Civil Court at the suit of the Medical Officer in charge of such hospital, and the certificate of such Medical Officer shall be sufficient *prima facie* evidence that the amount therein specified is due from the employer:

Provided that not more than thirty days' expenses in hospital in respect of any employee or dependant shall be recoverable.

(3) The cost of maintenance and treatment of the employee referred to in subsection (1) shall be borne by the employer.

(4) No expenses paid by an employer under subsection (3) shall be recoverable from the employee.

Transportation
of sick
employees to
hospital.

122o. (1) It shall be the duty of the employer and of the resident manager at their own expenses—

- (a) to have every employee employed on an estate to be transported safely without delay to and from the estate hospital or group estate hospital or, if there is no such hospital, to and from the private hospital or Government hospital, as the case may be; and
- (b) to make arrangements and to provide appliances for the safe transport of a sick employee to and from an estate hospital, group estate hospital, private hospital or Government hospital as the case may be, as the Medical Officer of Health or any Medical Officer may, from time to time, require.

(2) The Medical Officer of Health or any Medical Officer may require the employer or resident manager to remove any employee on the estate who requires medical treatment to an estate hospital, group estate hospital, private hospital or Government hospital, as the case may be.

(3) Any employer or resident manager who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

(4) For the purposes of this section, “employee” includes any dependant of such employees who requires medical treatment.

Medical treatment in estate on which a hospital is not maintained.

122P. (1) On any estate where there is no estate hospital or a group estate hospital available, the Director may, by order, after consultation with the Medical Officer of Health, require an employer to establish and maintain a clinic or make such other provisions as are necessary for the treatment of sick employees and their dependants.

(2) The Director shall specify in such order the services, medicine, equipment and staff to be provided and the hours during which the treatment facilities shall be made available to the employees and their dependants.

(3) Where a clinic exists on any estate or is established pursuant to an order under subsection (1), it shall be the duty of the employer to arrange for a registered medical practitioner to be stationed at the clinic or to visit the clinic at least once a fortnight to supervise the operations and management of the clinic and to provide medical treatment to employees and their dependants.

(4) No employer who has established and maintained a clinic, whether pursuant to an order of the Director made under this section or otherwise, shall reduce the services, facilities or staff or discontinue the maintenance and operation of such clinic without prior written permission of the Director.

Duty to report suspected cases of infectious disease.

122Q. (1) It shall be the duty of the resident registered medical practitioner or, in his absence or if there is no resident registered medical practitioner, the resident manager—

(a) to isolate at once any employee or other person on an estate whom he may suspect to be suffering from any infectious disease as defined in the Prevention and Control of Infectious Diseases Act 1988 [*Act 342*];

- (b) to detain under observation any other person whom he may deem likely to have contracted such disease; and
- (c) to notify the nearest Medical Officer of Health of the action taken under paragraphs (a) and (b) with the least possible delay.

(2) Pending the arrival of the Medical Officer of Health on the estate, the resident registered medical practitioner or the resident manager shall take appropriate preventive measures and thereafter consult the Medical Officer of Health on any further action to be taken.

(3) Any person who neglects to perform the duty imposed upon him or contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Duty of employer to segregate employee suffering from infectious disease.

122R. (1) On the occurrence of any infectious disease on any estate, it shall be the duty of the employer forthwith, if so directed by the Medical Officer of Health—

- (a) to provide a place where an employee may be segregated in the interest of public health or of any other employee employed on the estate; and

(b) to make at his own expense such arrangements as deemed necessary to the Medical Officer of Health—

(i) for the maintenance of all the employees while so segregated; and

(ii) for the treatment of any employee suffering from such disease.

(2) It shall be lawful for the Medical Officer of Health to cause such employee to be removed to such place as he may direct and continued to be detained in such place until discharged by order in writing of the Medical Officer of Health if at any time it appears to the Medical Officer of Health—

(a) that an employee employed on any estate is suffering from any infectious disease; or

(b) that it is otherwise necessary in the interest of public health or of the health of any other employee employed on the estate.

Power of Medical Officer of Health to order immunization against infectious disease.

122s. The Medical Officer of Health may, at any time if it appears to him necessary for the health of the employees employed on any estate, by order in writing, direct any employer or resident manager, at his own expense, to make arrangements so that all or any of the employees and their dependants be given immunization against any infectious disease.

Weekly
inspection of
employees'
housing.

122t. (1) It shall be the duty of the employer of a place of employment where employees and their dependants are provided with housing accommodation to ensure that—

- (a) the area surrounding the employees' housing is kept clear of undergrowth and maintained in a clean and sanitary condition;
- (b) the perimeter drains around each dwelling or block of dwellings including all outlet drains are kept in a good state of repair and clear of refuse or undergrowth to permit free flow of water;
- (c) all refuse in the housing site is collected daily and disposed of satisfactorily; and
- (d) all communal latrines and bathrooms are kept in a clean, sanitary and working condition.

(2) It shall be the duty of the employer to ensure that all buildings used for the housing of employees, nurseries or community halls are visited and inspected weekly by a medical assistant registered under the Medical Assistants (Registration) Act 1977 [*Act 180*] employed by the employer or any other person authorized in writing by the employer who shall report to the employer if the buildings are not kept clean or if any refuse is allowed to accumulate in the neighbourhood of the buildings, and who shall also examine and if necessary, take or cause to be taken, to hospital any employee found in the buildings who appears to be suffering from any health complaint and report to the employer accordingly.

(3) The findings of the medical assistant registered under the Medical Assistants (Registration) Act 1977 employed by the employer or any other person authorized in writing by the employer shall be recorded in a book kept at the place of employment and be made available to the Director or Medical Officer of Health for inspection.

(4) In any case where the Medical Officer of Health shall consider that the visits, inspections or other duties, under subsection (2) are not satisfactorily carried out, he may notify the employer accordingly, specifying the matters in respect whereof he is not satisfied, and the employer shall thereupon make further or other arrangements as the Medical Officer of Health may require.

Chapter XV_D.

ACCOMMODATIONS.

Application. **122u.** This Chapter shall apply to employees who are employed otherwise than to work in an estate.

Interpretation. **122v.** In this Chapter—

“accommodation” means any permanent or temporary building or structure including any house, hut, shed or roofed enclosure used for the purpose of human habitation and includes centralized accommodation;

“centralized accommodation” means any building used for the housing of employees employed by one or more employers;

“centralized accommodation provider” means any person who provides and manages a centralized accommodation and supervises the services provided therein for one or more employers, but does not include an employer who provides accommodations for his own employees;

“person in charge of accommodation” means any person appointed by an employer or centralized accommodation provider to be responsible for the management of the accommodation, and safety and health of the employees and other amenities in the accommodation.

Requirement for accommodation.

122w. (1) The Minister may prescribe any class, category or description of employees that shall be provided with accommodation under this Chapter.

(2) All employers, whose class, category or description of employees is prescribed by the Minister, shall provide such employees with accommodation.

(3) Any employer who fails to provide accommodation or contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

Functions and powers of Director in relation to accommodation.

122x. (1) For the purposes of this Chapter, the Director shall have the following functions:

(a) to administer and regulate all matters relating to an accommodation;

- (b) to direct employer or centralized accommodation provider to submit any information and documents relating to an employee's accommodation;
- (c) to issue any directions to an employer or a centralized accommodation provider to provide any other amenities relating to an accommodation;
- (d) to issue a Certificate for Accommodation subject to any written law applicable; and
- (e) to do anything incidental to any of his functions under this Chapter.

(2) The Director shall have the powers to do all things necessary or expedient for or in connection with the performance of his functions under this Chapter.

(3) The Director may, in issuing directions to any employer or centralized accommodation provider pursuant to the exercise of his functions and powers under subsection (1) or (2), direct that any expenses incurred in complying with such direction to be borne by the employer or the centralized accommodation provider.

Accommodation to be certified with Certificate for Accommodation.

122Y. (1) No accommodation shall be provided to an employee unless certified with a Certificate for Accommodation.

(2) An application for a Certificate for Accommodation shall be made by an employer or a centralized accommodation provider to the Director in the form and manner as may be determined by the Director and shall be accompanied by the prescribed processing fee.

(3) An employer who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.

(4) A centralized accommodation provider who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding one day or to both for each day the offence continues after conviction.

Employer to give notice of occupation.

122z. (1) An employer shall, within thirty days from the date an accommodation is occupied by his employee, inform the Director of such occupation in the form and manner as may be determined by the Director.

(2) Any employer who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

Accommodation to comply with minimum standards.

122AA. An employer or a centralized accommodation provider shall ensure that every accommodation provided for employees complies with the minimum standards required under this Part or any subsidiary legislation made thereunder.

Power of Director to direct replacement, alteration and repair of accommodation and amenities.

122AB. (1) If the Director finds that any accommodation or amenities provided by an employer or a centralized accommodation provider to an employee does not comply with the minimum standards required under this Part, the Director may issue a notice to the employer or centralized accommodation provider, as the case may be, to direct the employer or centralized accommodation provider to replace, alter or repair the accommodation or amenities within the period as the Director may specify in the notice.

(2) All expenses incurred by the employer or centralized accommodation provider in complying with the direction given under subsection (1) shall be borne by the employer or centralized accommodation provider.

(3) The employer or centralized accommodation provider shall not recover from the employee the expenses incurred by the employer or centralized accommodation provider in complying with the direction given under subsection (1).

(4) Any person who contravenes subsection (1), (2) or (3) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Power of Director to direct employer or centralized accommodation provider to provide temporary accommodation.

122AC. (1) The Director may, if he thinks necessary for the safety and well-being of the employees, issue a notice to the employer or centralized accommodation provider, as the case may be, to further direct the employer or centralized accommodation provider to whom the direction has been given under subsection (1) of section 122AB to provide the employees with temporary accommodation in the manner as may be determined by the Director in the course of replacement, alteration or repair of the accommodation or amenities.

(2) The Director may impose any condition to the employer or centralized accommodation provider relating to the temporary accommodation provided to the employees under subsection (1).

(3) Section 122Y shall not apply to temporary accommodation referred to in subsection (1).

(4) All expenses incurred by the employer or centralized accommodation provider in complying with the direction given under subsection (1), including the cost for transportation of employees from the accommodation to the temporary accommodation, rent of temporary accommodation and travelling of employees between his place of employment and the temporary accommodation shall be borne by the employer or centralized accommodation provider.

(5) The employer or centralized accommodation provider shall not recover from the employees the expenses incurred by the employer or centralized accommodation provider in complying with the direction given under subsection (1).

(6) Any person who contravenes subsection (1), (2), (4) or (5) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Deductions in respect of rent or charge for accommodation.

122AD. (1) Subject to any conditions as may be prescribed by the Minister, an employer may collect from an employee any sum for rent or charge in respect of any accommodation provided by the employer or any centralized accommodation provider under this Chapter.

(2) The sum collected under subsection (1) shall be made by deductions from the wages of the employee.

Accommodation to comply with any written laws.

122AE. (1) Notwithstanding section 122Y, no employer or centralized accommodation provider shall use any building as accommodation if the building is unfit for human habitation in accordance with the relevant written laws.

(2) Any employer or centralized accommodation provider who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit.

Amenities.

122AF. An employer or a centralized accommodation provider shall provide decent and adequate amenities in accordance with this Part or any subsidiary legislation made thereunder.

Duties and responsibilities in respect of safety and health.

122AG. An employer or a centralized accommodation provider who provides accommodation for an employee under this Chapter shall have the following duties and responsibilities:

- (a) to provide separate accommodation to employees of the opposite gender;
- (b) to take necessary preventive measures to ensure employees' safety and well-being;
- (c) to take fire safety measures in accordance with the relevant written laws;

- (d) to ensure that the electrical wiring systems comply with safety requirements in accordance with the relevant written laws;
- (e) to ensure that the employees receive the necessary medical assistance; and
- (f) to take preventive measures to contain the spread of infectious diseases as ordered by the Medical Officer of Health in accordance with the relevant written laws and the employer shall, at his own expense, make arrangements as ordered by the Medical Officer of Health so that all or any of the employees be given immunization against any infectious disease.

Maintenance.

122AH. An employer and a centralized accommodation provider shall ensure that every accommodation provided for employees under this Chapter is maintained as directed by the Director.

Appointment of person in charge of accommodation.

122AI. (1) An employer or a centralized accommodation provider shall appoint at least one person in charge of accommodation provided under this Chapter, who will be responsible for the safety and well-being of the employees and the management of the accommodations and amenities, in accordance with the provisions of this Part or any subsidiary legislation made thereunder.

(2) It shall be the duty of the person in charge of accommodation—

- (a) to ensure that employees comply with any disciplinary rules as may be determined by the employer;

- (b) to visit and inspect the accommodation at least twice a month and keep a record of the inspection as may be determined by the Director in the place of employment; and
- (c) to ensure an employee is taken to a clinic or hospital if the employee complains of his health, or appears to be unwell or suffering from any disease or medical condition, and keeps a record of complaints as may be determined by the Director in the place of employment.

Notice to vacate accommodation.

122AJ. (1) Subject to subsection (2), if an employee resigns under a contract of service or his employment is otherwise terminated by not less than four weeks' notice, the employee shall vacate the accommodation upon the effective date of his resignation or the date the contract of service is terminated.

(2) Notwithstanding subsection (1), an employee whose contract of service is terminated by less than four weeks' notice or is terminated with immediate effect shall vacate the accommodation within four weeks from the date of the notice or the date the contract of service is terminated.

Employer not obligated to provide accommodation for employees' dependants.

122AK. Nothing in this Chapter shall render an employer obligated to provide accommodation for the dependants of an employee who is provided with accommodation under this Chapter.

GENERAL PROVISIONS, APPEALS AND OFFENCES.

Minister may appoint any officer or any suitable person with powers and duties.

122AL. The Minister may, subject to such restrictions and conditions as may be determined, appoint any officer or any suitable person to carry out all or any of the powers conferred upon the Director by this Part and every duty so performed and every power so exercised shall be deemed to have been performed and exercised for the purposes of this Part.

Power to issue directions.

122AM. The Minister may issue such directions as he considers necessary for the purpose of ensuring compliance with this Part.

Power of Director, etc. to inspect, investigate and to issue summons.

122AN. (1) The Director, Medical Officer of Health or District Engineer shall have power at all times without the need for previous notice—

- (a) to enter and inspect any place of employment or any building which he believes is used by an employer for the housing of his employees or as a nursery or as a community hall;
- (b) to enter and inspect any place of employment or any building which he believes is used by an employer or centralized accommodation provider for the accommodation of the employees;
- (c) to enter and inspect any estate hospital, group estate hospital and clinic where employees are provided with medical attendance, care and treatment; and

- (d) to make such inquiry or investigation as he considers necessary in relation to any matter within the provisions of this Part.

(2) In the course of an inspection under this Part, the Director, Medical Officer of Health or District Engineer may—

- (a) put questions relating to matters covered under the provisions of this Part, either in private or in the presence of witnesses, as they may choose, to the owner or occupier of the place of employment, or his representative, to the employer of any employee employed thereat or his representative, to any person in charge of the employees, to the employees themselves and to any other person whose evidence he may consider necessary; and all such persons shall be legally bound to answer such questions truthfully to the best of their ability;
- (b) require the employer to produce before him all or any of the employees employed by him together with any records, registers and documents relating to matters covered under the provisions of this Part including any contract of service, book of account of wages, register or any other document relating to such employees or their employment and to answer such questions in respect thereof as he may think fit to ask;
- (c) copy or make extracts from such record, contract of service, book of account of wages, register and any other document referred to in paragraph (b);

(d) take possession of such record, contract of service, book of account of wages, register and any other document where in his opinion—

(i) the inspection, copying or the making of extracts from such record, contract of service, book of account of wages, register or any other document cannot reasonably be undertaken without taking possession of them;

(ii) they may be interfered with or destroyed unless he takes possession of them; or

(iii) they may be needed as evidence in any legal proceedings under this Part; and

(e) take samples of water supplies for examination and analysis.

(3) As respects the power to inspect, inquire and investigate aforesaid, the Director may, by summons in the prescribed form, require any person, whom he has reason to believe to be able to give any information relevant to the matter in question, to give such information, and any person so summoned shall be bound to attend before the Director and to answer truthfully any question put to him by the Director relating to the said matter.

(4) Section 129 of this Ordinance shall apply to the service of a summons issued under this Part.

Appeals.

122Ao. (1) Subject to subsection (2), any employer or centralized accommodation provider aggrieved by any order or decision made under this Part or any subsidiary legislation made thereunder may, within thirty days of such order or decision in writing being received by him, appeal to the Minister.

(2) An appeal against the order or decision of an officer appointed under subsection (1A) of section 3 or any suitable person appointed under section 122AL shall not be brought to the Minister unless and until such appeal shall have first been brought to the Director within the time stipulated in subsection (1).

(3) The decision of the Minister in respect of an appeal under this section shall be final.

Failure to comply with order under section 122B, 122E, 122I, 122L or 122P.

122AP. Any employer who fails to comply with any order made under section 122B, 122E, 122I, 122L or 122P commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit and shall also, in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.”.

Seksyen baharu 124BA dan 124BB

53. Ordinan dipinda dengan memasukkan selepas seksyen 124B seksyen yang berikut:

“Jurisdiction.

124BA. (1) Notwithstanding the provisions of the Subordinate Courts Act 1948 [*Act 92*], all penalties for offences against this Ordinance may be had and recovered in the Sessions Court or the Court of a First Class Magistrate on complaint by any person aggrieved or by the Director or any person authorized by him in writing in that behalf.

(2) Notwithstanding the provisions of any written law to the contrary, the Court of a First Class Magistrate shall have jurisdiction to try any offence under this Ordinance and to award the full punishment for any such offence.

Court order for payments due to employee.

124BB. (1) Where an employer has been convicted of an offence relating to the payment of wages or any other payments payable to the employee under this Ordinance, the court before which he is convicted may order the employer to pay any payment due to the employee in relation to that offence.

(2) Where an employer fails to comply with an order made under subsection (1), the court shall, on the application of the employee, issue a warrant to levy the employer's property for any payments due under that subsection in the following manner:

(a) by way of distress and sale of employer's property in accordance with the same procedure of execution under the Rules of Court 2012 [*P.U. (A) 205/2012*] and this execution shall apply *mutatis mutandis* notwithstanding the amount in the order; or

(b) in the same manner as a fine as provided under section 283 of the Criminal Procedure Code [*Act 593*].”.

Pindaan seksyen 125A

54. Seksyen 125A Ordinan dipinda dengan menggantikan perkataan “and all officers” dengan perkataan “, any officer or person”.

Penggantian seksyen 125B

55. Ordinan dipinda dengan menggantikan seksyen 125B dengan seksyen yang berikut:

“Protection of
Director and
officers.

125B. No action shall lie or be brought, instituted or maintained in any court against—

- (a) the Director, the Deputy Director or any other officer duly appointed or authorized under this Ordinance for or on account of or in respect of any act ordered or done for the purpose of carrying out this Ordinance into effect;
- (b) any other person for or on account of or in respect of any act done or purported to be done by him under the order, direction or instruction of the Director, the Deputy Director or any other officer duly appointed or authorized under this Ordinance; or
- (c) any officer or suitable person appointed under section 122AL in respect of any act ordered or done for the purpose of carrying out Part IVA into effect,

if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served by it.”.

Pindaan seksyen 127

56. Seksyen 127 Ordinan dipinda dengan memasukkan selepas perkataan “under section 8A” perkataan “, 9D or 19A”.

Pindaan seksyen 129**57. Seksyen 129 Ordinan dipinda—**

(a) dalam subseksyen (1)—

- (i) dengan menggantikan perkataan “A summons” dengan perkataan “Any summons”;
- (ii) dengan memotong perkataan “in accordance with section 7 and Chapter II^A”;
- (iii) dalam perenggan (a), dengan memasukkan selepas perkataan “summoned” perkataan “cannot be found and”; dan
- (iv) dalam perenggan (b), dengan memotong perkataan “male”; dan

(b) dalam perenggan (2)(b), dengan menggantikan perkataan “post” dengan perkataan “registered post”.

Pindaan seksyen 130A**58. Seksyen 130A Ordinan dipinda—**

- (a) dengan menggantikan perkataan “of ten thousand ringgit” dengan perkataan “not exceeding fifty thousand ringgit”; dan
- (b) dengan menggantikan perkataan “of one hundred ringgit” dengan perkataan “not exceeding one thousand ringgit”.

Pindaan seksyen 130c**59. Seksyen 130c Ordinan dipinda—**

- (a) dalam perenggan (a), dengan menggantikan perkataan “subsection (1) of section 8A, subsection (1) of section 8C or subsection (1) of section 8D” dengan perkataan “Chapter II^A”;

- (b) dengan menggantikan perkataan “ten thousand ringgit” dengan perkataan “fifty thousand ringgit”; dan
- (c) dengan menggantikan perkataan “one hundred ringgit” dengan perkataan “one thousand ringgit”.

Pindaan seksyen 130D

60. Seksyen 130D Ordinan dipinda dengan menggantikan perkataan “ten thousand ringgit” dengan perkataan “fifty thousand ringgit”.

Pindaan seksyen 130E

61. Seksyen 130E Ordinan dipinda—

- (a) dalam perenggan (c), dengan menggantikan perkataan “paragraph (a)” dengan perkataan “paragraph (b)”; dan
- (b) dengan menggantikan perkataan “ten thousand ringgit” dengan perkataan “fifty thousand ringgit”.

Pindaan seksyen 130F

62. Subseksyen 130F(1) Ordinan dipinda—

- (a) dengan menggantikan perkataan “ten thousand ringgit” dengan perkataan “fifty thousand ringgit”; dan
- (b) dengan memasukkan selepas perkataan “both” perkataan “and, in the case of a second or subsequent offence, shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both”.

Pemotongan seksyen 130G

63. Ordinan dipinda dengan memotong seksyen 130G.

Pindaan seksyen 130H**64.** Seksyen 130H Ordinan dipinda—

- (a) dalam perenggan (d), dengan menggantikan perkataan “dismisses” dengan perkataan “terminates”;
- (b) dengan menggantikan perkataan “ten thousand ringgit” dengan perkataan “fifty thousand ringgit”; dan
- (c) dalam perenggan (aa), dengan menggantikan perkataan “Chapter XI^A” dengan perkataan “Chapter XI^B”.

Pindaan seksyen 130I**65.** Seksyen 130I Ordinan dipinda dengan menggantikan perkataan “ten thousand ringgit” dengan perkataan “fifty thousand ringgit”.**Pindaan seksyen 130J****66.** Seksyen 130J Ordinan dipinda—

- (a) dalam perenggan (f), dengan menggantikan perkataan “employer” dengan perkataan “employee”; dan
- (b) dengan menggantikan perkataan “ten thousand ringgit” dengan perkataan “fifty thousand ringgit”.

Pindaan seksyen 130L**67.** Seksyen 130L Ordinan dipinda—

- (a) dengan menggantikan perkataan “ten thousand ringgit” dengan perkataan “fifty thousand ringgit”; dan
- (b) dengan menggantikan perkataan “six months” dengan perkataan “a term not exceeding one year”.

Seksyen baharu 130LA

68. Ordinan dipinda dengan memasukkan selepas seksyen 130L seksyen yang berikut:

“Offence by
body corporate,
etc.

130LA. (1) Where an offence under this Ordinance has been committed by a body corporate, partnership, society or trade union—

- (a) in the case of a body corporate, an officer as defined under the Companies Act 2016 [Act 777] of the body corporate at the time of the commission of the offence;
- (b) in the case of a partnership, every partner in the partnership at the time of the commission of the offence; or
- (c) in the case of a society or trade union, every office-bearer of the society or trade union at the time of the commission of the offence,

shall be deemed to have committed the offence and may be charged jointly or severally in the same proceedings as the body corporate, partnership, society or the trade union.

(2) If the body corporate, partnership, society or trade union is found guilty of the offence, the person referred to under paragraph (a), (b), or (c) of subsection (1) shall be deemed to be guilty of that offence and shall be liable to the same punishment or penalty as an individual unless, having regard to the nature of his functions in the capacity and to all circumstances, he proves—

- (i) that the offence was committed without his knowledge; or
- (ii) that the offence was committed without his consent or connivance and that he had taken all precautions and exercised due diligence to prevent the commission of the offence.”.

Penggantian seksyen 130M

69. Ordinan dipinda dengan menggantikan seksyen 130M dengan seksyen yang berikut:

“General
penalty.

130M. (1) Any person who contravenes any provisions of this Ordinance or any subsidiary legislation made thereunder, commits an offence, in respect of which no penalty is provided, shall be liable, on conviction to a fine not exceeding fifty thousand ringgit.

(2) For the purposes of Part IVA, any person who contravenes any provisions of the Part or any subsidiary legislation made thereunder, commits an offence, in respect of which no penalty is provided, shall be liable, on conviction to a fine not exceeding fifty thousand ringgit and in the case of a continuing offence, be liable to a daily fine not exceeding one thousand ringgit for each day the offence continues after conviction.”.

Pindaan seksyen 130N

70. Subseksyen 130N(1) Ordinan dipinda—

- (a) dengan menggantikan perkataan “may, compound” dengan perkataan “may compound, with the consent in writing of the Public Prosecutor,”; dan
- (b) dengan menggantikan perkataan “any rule” dengan perkataan “any subsidiary legislation”.

Pindaan seksyen 130o

71. Seksyen 130o Ordinan dipinda—

- (a) dengan menggantikan subseksyen (1) dengan subseksyen yang berikut:

“(1) The Minister may—

- (a) with the concurrence of the State Authority, make such rules to deal with any matter peculiar to the State of Sarawak;

- (b) after consultation with the State Authority, make such rules as may be necessary or expedient for giving full effect to the provisions of this Ordinance, or for the further, better or more convenient implementation of the provisions of this Ordinance.”;

(b) dalam subseksyen (2)—

- (i) dengan memasukkan selepas perkataan “the Minister” perkataan “, after consultation with the State Authority,”;
- (ii) dengan memotong perenggan (b);
- (iii) dengan menggantikan perenggan (h) dengan perenggan yang berikut:

“(h) prescribing fees to be paid for filing of claims under sections 8A, 9D and 19A and for copies of notes of evidence recorded under Chapters IIA and IIIA and section 19A;”;

(iv) dalam perenggan (m)—

- (A) dalam subperenggan (i), dengan memasukkan selepas koma bernoktah di hujung subperenggan itu perkataan “and”;
- (B) dalam subperenggan (ii), dengan memotong perkataan “and” di hujung subperenggan itu; dan
- (C) dengan memotong subperenggan (iii);
- (v) dalam perenggan (o), dengan memotong perkataan “and” di hujung perenggan itu;

(vi) dengan menggantikan perenggan (p) dengan perenggan yang berikut:

“(p) prescribing for the calculation of overtime for piece rated employees and matters relating to working at night under subsection (10) of section 105;”;
dan

(vii) dengan memasukkan selepas perenggan (p) perenggan yang berikut:

“(q) prescribing the procedure to inquire into complaints of sexual harassment under Chapter IIIA;

(r) prescribing matters relating to entitlement of allowance during shift work; and

(s) prescribing anything which may be prescribed under this Ordinance.”;

(c) dengan memasukkan selepas subseksyen (2) subseksyen yang berikut:

“(2A) For the purposes of Part IVA, the Minister after consultation with the State Authority, may make rules—

(a) prescribing the minimum requirements for various classes of buildings (including temporary buildings) to be used for the housing of employees, or as nurseries or community halls, the minimum sanitary requirements, water supplies, potable water supplies and electricity supplies and other matters pertaining to health in respect of such buildings;

- (b) prescribing the minimum requirements for various classes of buildings to be used for the accommodation and centralized accommodation of employees and the minimum sanitary requirements, water supplies, potable water supplies and electricity supplies and other matters pertaining to health in respect of such buildings;
- (c) prescribing any class, category or description of employees that is required to be provided with accommodation under Chapter XV_D;
- (d) prescribing the maximum rental or charges for accommodation that may be collected under Chapter XV_D;
- (e) prescribing the minimum equipment and staff for nurseries and the type and amount of milk, play equipment and play activity programmes to be provided for the dependants accommodated therein under section 122G;
- (f) after consultation with the Minister of Health, prescribing—
 - (i) in respect of clinics, the minimum equipment, surgical and medical appliances, drugs, staff and the types of services to be provided and the registers and records to be kept; and
 - (ii) in respect of water supply, the manner in which water is to be filtered and treated;
- (g) prescribing the procedure for the submission and approval of plans of buildings and their sites;

(h) prescribing the form of any register, summons or order required to be kept, issued or made under Part IVA; and

(i) prescribing anything which may be prescribed under Part IVA.”; dan

(d) dengan memotong subseksyen (3).

Seksyen baharu 130p

72. Ordinan dipinda dengan memasukkan selepas seksyen 130o seksyen yang berikut:

“Amendment. **130p.** Any amendment to this Ordinance shall only be made after consultation with the State Authority.”.

Penggantian Jadual

73. Jadual kepada Ordinan dipinda dengan menggantikan Jadual dengan jadual yang berikut:

“FIRST SCHEDULE

[Subsection (1) of section 2]

(1) Employee	(2) Provision of the Ordinance Not Applicable
1. Any person who has entered into a contract of service	
2. Notwithstanding paragraph 1, the person whose wages exceeds four thousand ringgit a month	Definitions of “normal hours of work” and “overtime” in section 2, and subsections (6), (7), (8), (9) and (10) of section 104, and subsection (6) of section 105, and subsections (2), (3), (4) and (5) of section 105C, and section 105F, and paragraph (r) of subsection (2) of section 130o

(1)
Employee

(2)
Provision of the Ordinance Not
Applicable

3. Any person who, irrespective of the amount of wages he earns in a month, has entered into a contract of service with an employer in pursuance of which—

(a) he is engaged in manual labour including such labour as an artisan or apprentice:

Provided that where a person is employed by one employer partly in manual labour and partly in some other capacity, such person shall not be deemed to be performing manual labour unless the time during which he is required to perform manual labour in any one wage period exceeds one-half of the total time during which he is required to work in such wage period

(b) he is engaged in the operation or maintenance of any mechanically propelled vehicle operated for the transport of passengers or goods or for reward or for commercial purposes

(c) he supervises or oversees other employees engaged in manual labour employed by the same employer in and throughout the performance of their work

(1) Employee	(2) Provision of the Ordinance Not Applicable
(d) he is engaged in any capacity in any vessel registered in Malaysia and who—	Definitions of “approved incentive payment scheme”, “hourly rate of pay”, “normal hours of work”, “ordinary rate of pay” and “overtime” in section 2, and subsections (3), (4) and (5) of section 2, and sections 104, 105, 105A, 105B, 105C, 105D, 105E and 105EA, and subsection (2) of section 106
(i) is not an officer certificated under the Merchant Shipping Acts of the United Kingdom as amended from time to time	
(ii) is not the holder of a local certificate as defined in Part VII of the Merchant Shipping Ordinance 1952 [<i>Ordinance 70/1952</i>]	
(iii) has not entered into an agreement under Part III of the Merchant Shipping Ordinance 1952	
(e) he is engaged as a domestic employee	Definitions of “approved incentive payment scheme”, “hourly rate of pay”, “normal hours of work”, “ordinary rate of pay” and “overtime” in section 2, and subsections (3), (4) and (5) of section 2, and sections 11 and 12, and subsections (1) and (2) of section 14, and sections 58 and 59, and Chapter XIB, and sections 103, 104, 105, 105A, 105C, 105D, 105E, 105EA and 105F, and subsection (2) of section 106, and sections 119A, 119C, 119D and 119E, and Part IVA

(1) Employee	(2) Provision of the Ordinance Not Applicable
4. For the purposes of this First Schedule, “wages” means wages as defined in section 2, but shall not include any payment by way of commission, subsistence allowance and overtime payment”.	

Jadual baharu Kedua dan Ketiga

74. Ordinan dipinda dengan memasukkan selepas Jadual Pertama jadual yang berikut:

“SECOND SCHEDULE

[Subsection (6) of section 73]

Employment in which children or young persons shall not be required, permitted to be or engaged in—

1. All kind of employment that make use of, procure, or offer children or young persons for prostitution.
2. All kind of employment as social escorts or guest relation and any other related activities.
3. All kind of employment that require children or young persons to involve in the production or trade of alcoholic beverages.
4. All kind of employment related to gambling and lotteries activities.
5. All kind of employment that require children or young persons to work in any activities related to massage services or reflexology services.
6. All kind of employment that make use of, procure, or offer children or young persons for any kind of job related to pornography.
7. All kind of employment that make use of, procure, or involve children or young persons for the production and trade of drugs, narcotics, psychotropic substances and other addictive substances which are prohibited under any written law in operation.
8. All kind of activity that make use of, procure or involve children or young persons to conduct begging for gain.

THIRD SCHEDULE

[Subsection (7) of section 73]

LIST OF HAZARDOUS WORK

A. WORK RELATED TO MACHINES, INSTALLATIONS AND OTHER EQUIPMENT

1. Machinery—

- (a) Any machine tools or production machine which can pose high risk such as drilling machines, grinding machines, cutting machines, lathes machines, scraping machines, power press machine, knitting machines, weaving machines, packaging machines and bottling machines;
- (b) Steam boiler or internal combustion engine such as diesel engines, turbines and engines for generating electricity;
- (c) Hoisting and loading machine such as lift, hoist, crane, escalators, conveyor belts, gondolas and forklift;
- (d) High pressure vessels.

2. Heavy-duty machine such as tractors, rock breakers, graders, asphalt mixers, piling machine and agriculture machinery.

3. Installations such as pressure pipe, electricity, firefighting system and electricity transmission lines.

B. WORK CONDUCTED IN A HAZARDOUS ENVIRONMENT

1. Work that is exposed to physical hazards—

- (a) Underground work, underwater or in a confined space such as a well or a tunnel;
- (b) Working at height which can lead to serious bodily injury;
- (c) Working environment which involves electricity at high voltage power line;
- (d) Working in a caisson with limited ventilation;
- (e) Work that uses electric welding machines or gas welding machines;
- (f) Work in an environment with extreme temperature and moisture or high-speed wind;

- (g) Work in an environment with noise or vibration where intensity exceeds the permissible exposure limits;
- (h) Work to handle, store, use and transport radioactive substances;
- (i) Work that produces ionizing radiation or work in an environment with ionizing radiation;
- (j) Work in a dusty environment that is detrimental to health;
- (k) Work which may lead to electrocution, fire or explosion;
- (l) Manual handling works which may pose high risk such as lifting, lowering, pushing, pulling, carrying or moving a load.

2. Work that is exposed to chemical hazards—

- (a) Work in relation to production, processing, handling, storage, transport, removal, disposal or treatment of hazardous chemical as defined in the Occupational Safety and Health (Classification, Labelling and Safety Data Sheet of Hazardous Chemicals) Regulations 2013 [*P.U. (A) 310/2013*];
- (b) Work in relation to production, processing, handling, storage, transport, removal, disposal or treatment of pesticides and scheduled waste as defined in the Pesticides Act 1974 [*Act 149*] and the Environmental Quality (Scheduled Wastes) Regulations 2005 [*P.U. (A) 294/2005*].

3. Work that is exposed to biological hazards—

Work in an environment that relates to germs, bacteria, viruses, fungi, parasites and other biological agents such as works in clinical laboratories, slaughter house, meat processing place and silo or storage for storing crops.

C. WORK INVOLVING CERTAIN HAZARDOUS CONDITION AND OF HAZARDOUS NATURE

- 1. Construction work including construction of building, bridges, roads or irrigation project.
- 2. Work in timber industry such as cutting, transporting and unloading trees.
- 3. Work offshore such as working on a petroleum platform.
- 4. Work above or near water where the risk of drowning exists such as lifeguard, fishing activities and work in water treatment plan.”.

Kecualian dan peralihan

75. (1) Apa-apa aduan, penyiasatan, siasatan, perbicaraan, pendakwaan, prosiding atau rayuan yang telah dibuat, diambil atau dimulakan di bawah Ordinan sebaik sebelum tarikh permulaan kuat kuasa Akta ini, hendaklah diuruskan, diteruskan dan diselesaikan di bawah dan mengikut peruntukan Ordinan seolah-olah Ordinan tidak dipinda oleh Akta ini.

(2) Apa-apa kelulusan atau kebenaran yang diberikan di bawah Ordinan sebelum tarikh permulaan kuat kuasa Akta ini hendaklah terus sah sehingga habis tempoh kelulusan atau kebenaran itu seolah-olah Ordinan tidak dipinda oleh Akta ini.

(3) Apa-apa permohonan bagi kelulusan atau kebenaran Pengarah yang belum selesai sebelum tarikh permulaan kuat kuasa Akta ini hendaklah, pada tarikh permulaan kuat kuasa Akta ini, diuruskan oleh Pengarah di bawah peruntukan Ordinan sebagaimana yang dipinda oleh Akta ini.

(4) Apa-apa perintah, notis, saman, borang atau arahan yang dibuat, dikeluarkan atau diberikan di bawah Ordinan sebelum tarikh permulaan kuat kuasa Akta ini hendaklah, setakat yang ia selaras dengan Akta ini, terus sah dan disifatkan telah dibuat, dikeluarkan atau diberikan di bawah peruntukan Ordinan sebagaimana yang dipinda oleh Akta ini.

HURAIAN

Rang Undang-Undang ini bertujuan untuk meminda Ordinan Buruh Sarawak (Sarawak Bab 76) ("Ordinan") untuk mematuhi standard dan amalan antarabangsa sebagaimana yang dikehendaki di bawah Perjanjian Perkongsian Trans-Pasifik, Pelan Konsistensi Buruh Malaysia-Amerika Syarikat dan Pertubuhan Buruh Antarabangsa selaras dengan obligasi dan komitmen Malaysia di peringkat antarabangsa di samping sebagai langkah pertama ke arah pematuhan obligasi di bawah Perjanjian Malaysia 1963. Selanjutnya, pindaan ini juga bertujuan untuk menyelaraskan peruntukan yang terpakai di Semenanjung Malaysia di bawah Akta Kerja 1955 [Akta 265], Akta Kanak-Kanak dan Orang Muda (Pekerjaan) 1966 [Akta 350] dan Akta Standard Minimum Perumahan, Penginapan dan Kemudahan Pekerja 1990 [Akta 446] dengan Ordinan mengikut pemakaiannya.

2. *Fasal 1* mengandungi tajuk ringkas dan permulaan kuat kuasa Akta yang dicadangkan.

3. *Fasal 2* bertujuan untuk mengadakan peruntukan bagi pindaan am untuk menggantikan perkataan “worker”, “domestic servant” dan “domestic servants” dengan perkataan “employee”, “domestic employee” dan “domestic employees” masing-masing.
4. *Fasal 3* mengandungi pindaan kepada takrif bagi perkataan dan ungkapan tertentu yang digunakan dalam Ordinan.
5. *Fasal 4* bertujuan untuk meminda seksyen 2B Ordinan bagi memberi Menteri kuasa untuk mengecualikan mana-mana orang, kelas orang, bangunan atau kelas bangunan daripada semua atau mana-mana peruntukan Ordinan.
6. *Fasal 5* bertujuan untuk meminda seksyen 3 Ordinan untuk memasukkan pindaan berkenaan dengan rayuan kepada Pengarah terhadap apa-apa keputusan yang dibuat oleh mana-mana pegawai buruh selain Pengarah yang keputusan itu tidak melibatkan keputusan berhubung dengan tuntutan di bawah seksyen 8A, 8I atau subseksyen 9D(4), 19A(1) atau Bahagian IVA. *Fasal* ini juga bertujuan untuk memanjangkan tempoh rayuan daripada empat belas hari kepada dua puluh satu hari dan untuk memotong subseksyen 3(3) Ordinan.
7. *Fasal 6* bertujuan untuk untuk memotong subseksyen 7(2) Ordinan.
8. *Fasal 7* bertujuan untuk meminda perenggan 8A(2)(b) Ordinan bagi meluaskan kuasa Pengarah untuk mendengar dan memutuskan apa-apa tuntutan yang dibuat oleh kontraktor untuk tenaga kerja bagi kerja yang dilakukan bagi pihak prinsipal oleh kontraktor atau subkontraktor.
9. *Fasal 8* bertujuan untuk meminda perenggan 8B(b) Ordinan kerana kuasa Menteri di bawah Akta Perhubungan Perusahaan 1967 [Akta 177] telah dipotong dan untuk mengekalkan had kuasa Pengarah untuk tidak mendengar dan memutuskan keputusan yang telah diputuskan di bawah Akta 177.
10. *Fasal 9* bertujuan untuk memotong seksyen 8C, 8D dan 8E Ordinan berbangkit daripada perluasan skop Ordinan. Pemotongan ini akan membenarkan seseorang pekerja untuk membawa apa-apa pertikaian di hadapan Pengarah tanpa mengira amaun upah yang diterima. Di bawah peruntukan sedia ada, kelayakan tuntutan dihadkan kepada pekerja yang bergaji RM5,000.00 dan ke bawah.
11. *Fasal 10* dan *11* bertujuan untuk meminda seksyen 8F dan 8I Ordinan supaya selaras dengan seksyen 8A dan 19A Ordinan. Selain itu, *fasal 11* bertujuan untuk menggantikan perkataan “subcontractor for labour” dengan perkataan “contractor for labour” berbangkit daripada cadangan takrif baharu “contractor for labour” dan pemotongan takrif “subcontractor for labour”.
12. *Fasal 12* bertujuan untuk meminda seksyen 8M Ordinan bagi meluaskan pemakaian seksyen ini kepada mana-mana pihak yang tidak berpuas hati dengan keputusan atau perintah Pengarah yang dibuat di bawah seksyen 8A, 8I atau subseksyen 9D(4) atau 19A(1).
13. *Fasal 13* bertujuan untuk memasukkan Bab baharu IIIA ke dalam Ordinan bagi mengadakan peruntuk bagi perkara yang berhubungan dengan aduan terhadap gangguan seksual.

14. *Fasal 14* bertujuan untuk memasukkan seksyen baharu 10D ke dalam Ordinan bagi mengadakan peruntukan mengenai anggapan siapakah pekerja dan majikan.

15. *Fasal 15* bertujuan untuk memasukkan seksyen baharu 19A dan 19B ke dalam Ordinan berkenaan dengan diskriminasi dalam pekerjaan dan larangan buruh paksa.

16. *Fasal 16* bertujuan untuk meminda perenggan 58(a) Ordinan untuk memotong perkataan “of twenty hectares or more” untuk memberikan maksud yang biasa bagi perkataan “estate”.

17. *Fasal 17* bertujuan untuk memotong subseksyen 60(2) Ordinan.

18. *Fasal 18* bertujuan untuk memasukkan seksyen baharu 71A ke dalam Ordinan untuk mengadakan peruntukan bagi takrif bagi perkataan dan ungkapan tertentu yang digunakan di bawah Bab XI berkenaan dengan penggajian kanak-kanak dan orang muda.

19. *Fasal 19* bertujuan untuk meminda seksyen 73 Ordinan untuk melarang mana-mana kanak-kanak atau orang muda diambil bekerja dalam apa-apa kerja yang berbahaya.

20. *Fasal 20* bertujuan untuk meminda seksyen 74C Ordinan untuk mengadakan takrif baharu “agricultural undertaking” bagi maksud Bab XI.

21. *Fasal 21* bertujuan untuk memotong seksyen 75A Ordinan yang berhubungan dengan kuasa Menteri untuk menetapkan Perintah Gaji Minimum yang terpakai bagi Negeri Sarawak kerana ia telah diperuntukkan di bawah Akta Majlis Perundingan Gaji Negara 2011 [*Akta 732*].

22. *Fasal 22* bertujuan untuk memotong Bab XIa Ordinan untuk mematuhi kehendak Pertubuhan Buruh Antarabangsa berkenaan dengan sekatan terhadap wanita dalam pekerjaan.

23. *Fasal 23* bertujuan untuk meminda kepala Bab XIb Ordinan untuk menggantikan perkataan “MATERNITY PROTECTION.” dengan perkataan “PREGNANCY AND MATERNITY.”

24. *Fasal 24* bertujuan untuk meminda seksyen 84 Ordinan untuk menambah baik faedah materniti dengan menaikkan kelayakan cuti bersalin daripada enam puluh hari kepada sembilan puluh lapan hari dan elaun bersalinnya yang selari dalam tempoh cuti tersebut serta apa-apa perkara lain yang berhubungan dengannya.

25. *Fasal 25* bertujuan untuk meminda seksyen 92A Ordinan untuk menggantikan perkataan “dismissal” dengan perkataan “termination” dan untuk menggantikan perkataan “dismissed” dengan perkataan “terminated”.

26. *Fasal 26* bertujuan untuk memasukkan seksyen baharu 92B ke dalam Ordinan untuk mengadakan peruntukan kesalahan penamatan kontrak perkhidmatan pekerja wanita yang mengandungi selain dengan sebab yang diperuntukkan di bawah perenggan 92B(1)(a), (b) dan (c) Ordinan. *Fasal* ini juga mengadakan peruntukan bagi suatu anggapan fakta yang boleh dipatahkan bagi majikan untuk membuktikan bahawa penamatan pekerja wanita yang mengandungi itu bukanlah disebabkan oleh kehamilannya.

27. *Fasal 27* bertujuan untuk meminda seksyen 97 Ordinan dalam nota birai untuk menggantikan perkataan “worker” dengan perkataan “employee”. *Fasal* ini juga bertujuan untuk mempertanggungjawabkan kewajipan kepada majikan untuk menghantar pulang pekerja bukan pemastautin dengan perbelanjaan majikan disebabkan penamatan atau pembatalan Lesen Penggajian Pekerja Bukan Pemastautin.

28. *Fasal 29* bertujuan untuk meminda kepala Bab XIII dengan menggantikan perkataan “DOMESTIC SERVICE.” dengan perkataan “DOMESTIC EMPLOYEES.”.

29. *Fasal 30* bertujuan untuk meminda seksyen 101 Ordinan dalam nota birai dengan menggantikan perkataan “Domestic servants” dengan perkataan “Domestic employees”.

30. *Fasal 31* bertujuan untuk memasukkan seksyen baharu 101A ke dalam Ordinan bagi mengadakan peruntukan mengenai tempoh notis penamatan kontrak pekhidmat domestik dan apa-apa perkara lain yang berhubungan dengannya.

31. *Fasal 32* bertujuan untuk meminda subseksyen 103(1) Ordinan untuk memperluas pemakaian seksyen ini dengan membenarkan pembayaran pendahuluan dibuat kepada pekerja bagi pelbagai maksud seperti pembayaran perbelanjaan harian dan perbelanjaan lain yang perlu bagi membiayai keperluan pekerja dan anggota keluarga terdekatnya. *Fasal* ini juga bertujuan untuk memasukkan subseksyen baharu 103(1A) ke dalam Ordinan untuk mengadakan takrif baharu “immediate family members” bagi maksud seksyen tersebut.

32. *Fasal 33* bertujuan untuk meminda subseksyen 104(1) Ordinan untuk menaikkan kelayakan jumlah hari minimum cuti umum berbayar dan apa-apa perkara lain yang berhubungan dengannya.

33. *Fasal 34* dan *35* bertujuan untuk meminda seksyen 105 dan 105A Ordinan berbangkit daripada pengurangan waktu bekerja daripada empat puluh lapan jam kepada empat puluh lima jam dalam satu minggu. *Fasal* ini juga memberi Menteri kuasa untuk membuat perundangan subsidiari yang berhubungan dengan kerja malam dan kelayakan elaun kerja syif malam.

34. *Fasal 36* bertujuan untuk meminda subseksyen 105c(3) Ordinan untuk mengadakan peruntukan bagi pembayaran upah kepada pekerja yang dibayar upah mingguan yang bekerja pada hari rehat sebagai tambahan kepada pekerja yang dibayar gaji bulanan.

35. *Fasal 37* bertujuan untuk meminda perenggan 105E(1) Ordinan untuk menaikkan kelayakan cuti sakit berbayar.

36. *Fasal 38* bertujuan untuk memasukkan seksyen baharu 105^{EA} ke dalam Ordinan bagi memperuntukkan perkara yang berhubungan dengan cuti paterniti bagi pekerja lelaki yang berkahwin dan perkara lain yang berhubungan dengannya.

37. *Fasal 39* bertujuan untuk memasukkan seksyen baharu 108^C ke dalam Ordinan bagi mengadakan peruntukan mengenai pengiraan upah jika seseorang pekerja itu tidak melengkapkan sebulan penuh perkhidmatan.

38. *Fasal 40* bertujuan untuk meminda seksyen 109 Ordinan untuk memberi Pengarah kuasa untuk membenarkan pelanjutan masa sebagaimana yang difikirkannya patut bagi apa-apa bayaran kerja pada hari rehat, hari kelepasan am dan kerja lebih masa atas permintaan daripada majikan.

39. *Fasal 41* bertujuan untuk memasukkan seksyen baharu 109^A dan 109^B ke dalam Ordinan bagi mengadakan peruntukan yang lebih jelas mengenai masa bagi pembayaran upah dalam keadaan penamatan kontrak perkhidmatan sama ada oleh majikan atau pekerja atau disebabkan habisnya tempoh kontrak perkhidmatan atau atas hal keadaan khusus yang lain.

40. *Fasal 42* bertujuan untuk meminda seksyen 111 Ordinan untuk mempertanggungkan kewajipan kepada majikan untuk membuat pembayaran upah melalui institusi kewangan mengikut Akta Perkhidmatan Kewangan 2013 [Akta 758], Akta Perkhidmatan Kewangan Islam 2013 [Akta 759] dan Akta Institusi Kewangan Pembangunan 2002 [Akta 618]. *Fasal* ini juga bertujuan untuk mengadakan peruntukan bahawa Menteri boleh, melalui perintah, menetapkan mana-mana pengeluar instrumen pembayaran yang diluluskan di bawah Akta 758 atau Akta 759 bagi maksud pembayaran upah.

41. *Fasal 43* bertujuan untuk meminda seksyen 111^A Ordinan bagi membolehkan pembayaran upah pekerja dibuat dalam bentuk yang sah diperlakukan atau melalui cek dengan syarat telah mendapat persetujuan bertulis daripada pekerja.

42. *Fasal 44* bertujuan untuk meminda seksyen 117 Ordinan bagi memberi Pengarah kuasa untuk meluluskan apa-apa skim pembayaran insentif untuk pekerja atas permohonan majikan.

43. *Fasal 45* dan *46* bertujuan untuk menggantikan perkataan “subcontractor for labour” dalam subseksyen 117^A(1) dan 117^B(1) Ordinan dengan perkataan “contractor for labour” berbangkit daripada pemotongan takrif “subcontractor for labour” dan kemasukan takrif baharu “contractor for labour” ke dalam Ordinan.

44. *Fasal 47* bertujuan untuk memasukkan seksyen baharu 117^D ke dalam Ordinan untuk mengenakan kewajipan ke atas kontraktor tenaga kerja yang berniat atau mengaku janji untuk membekalkan pekerja untuk mendaftar dengan Pengarah dalam borang yang ditetapkan dalam tempoh empat belas hari sebelum membekalkan pekerja itu. *Fasal* ini juga bertujuan untuk menghendaki kontraktor tenaga kerja untuk menyimpan atau menyenggara maklumat mengenai pekerja yang dibekalkannya dalam suatu daftar dan daftar itu hendaklah tersedia bagi tujuan pemeriksaan. Seksyen baharu 117^D yang dicadangkan ini juga bertujuan untuk mengadakan peruntukan hukuman bagi ketidakpatuhan mana-mana peruntukan di bawah seksyen ini.

45. *Fasal 48* bertujuan untuk meminda seksyen 119A Ordinan dengan memasukkan subseksyen baharu (3) dan (4) bagi mempertanggungkan kewajipan kepada mana-mana majikan untuk memaklumkan kepada Pengarah mengikut cara dan syarat yang ditentukan di dalam Lesen Menggajikan Pekerja Bukan Pemastautin. *Fasal* ini juga menjadikan suatu kewajipan kepada majikan untuk memaklumkan kepada Pengarah dalam tempoh empat belas hari dari tarikh ketiadaan pekerja bukan pemastautin dari tempat pekerjaan.

46. *Fasal 49* bertujuan untuk memotong seksyen 119B Ordinan kerana peruntukan ini telah dimasukkan ke dalam seksyen baharu 19A yang dicadangkan ke dalam Ordinan.

47. *Fasal 50* bertujuan untuk memasukkan seksyen baharu 119F ke dalam Ordinan untuk memberikan kuasa kepada Pengarah untuk membatalkan Lesen Penggajian Pekerja Bukan Pemastautin atas sebab-sebab yang dinyatakan dalam seksyen baharu 119F yang dicadangkan dan untuk memperuntukkan apa-apa perkara lain yang berhubungan dengannya.

48. *Fasal 51* bertujuan untuk memasukkan Bab baharu XIVB ke dalam Ordinan bagi membolehkan pekerja memohon aturan kerja yang fleksibel kepada majikan secara bertulis yang berhubungan dengan perubahan waktu kerja, hari bekerja atau tempat bekerja.

49. *Fasal 52* bertujuan untuk memasukkan Bahagian baharu IVA ke dalam Ordinan bagi memperuntukkan bagi standard minimum perumahan, penginapan dan kemudahan pekerja dengan menerima pakai Akta Standard Minimum Perumahan, Penginapan dan Kemudahan Pekerja 1990 [*Akta 446*] ke dalam Ordinan, termasuk peruntukan mengenai perumahan, penginapan, kemudahan pekerja seperti pusat asuhan kanak-kanak, kemudahan kesihatan, hospital dan kemudahan sosial di tempat pekerjaan dan untuk memperuntukkan perkara lain yang berhubungan dengannya.

50. *Fasal 53* bertujuan untuk memasukkan seksyen baharu 124BA dan 124BB ke dalam Ordinan untuk memberikan kuasa kepada Mahkamah Majistret Kelas Pertama untuk membicarakan apa-apa kesalahan dan untuk menjatuhkan hukuman penuh di bawah Ordinan. *Fasal* ini juga bertujuan untuk memberikan kuasa kepada Mahkamah Majistret sebagaimana yang diperuntukkan di bawah Kaedah-Kaedah Mahkamah 2012 [*P.U. (A) 205/2012*] dan Kanun Tatacara Jenayah [*Akta 593*] untuk memerintahkan majikan membayar apa-apa pembayaran yang tertunggak kepada pekerja apabila majikan disabitkan dengan apa-apa kesalahan di bawah Ordinan.

51. *Fasal 54* bertujuan untuk meminda seksyen 125A Ordinan dengan menggantikan perkataan “and all officers” dengan perkataan “, any officer or person” untuk meluaskan skop bagi peruntukan anggapan pekhidmat awam dalam lingkungan maksud Kanun Keseksaan.

52. *Fasal 55* bertujuan untuk menggantikan seksyen 125B bagi mengadakan peruntukan mengenai perlindungan Pengarah dan pegawai yang dilantik di bawah Ordinan daripada apa-apa tindakan berbangkit daripada apa-apa perbuatan yang dilakukan dengan suci hati dan semasa menjalankan tugas dan kewajipan di bawah Ordinan.

53. *Fasal 56* bertujuan untuk meminda seksyen 127 Ordinan sebagai pindaan berbangkit kepada cadangan untuk memasukkan seksyen baharu 9D dan 19A ke dalam Ordinan.

54. *Fasal 57* bertujuan untuk meminda seksyen 129 Ordinan bagi menambah baik peruntukan berhubung dengan penyerahan saman di bawah Ordinan dan apa-apa perkara lain yang berhubungannya.

55. *Fasal 58, 59, 60, 61, 65 dan 66* bertujuan untuk meminda seksyen 130A, 130C, 130D, 130E, 130I dan 130J Ordinan dengan menaikkan amaun penalti yang dikenakan daripada sepuluh ribu ringgit kepada lima puluh ribu ringgit dan denda harian daripada satu ratus ringgit kepada satu ribu ringgit.

56. *Fasal 62* bertujuan untuk meminda seksyen 130F untuk meningkatkan perlindungan dan mencegah eksploitasi terhadap kanak-kanak dan orang muda berhubung dengan pekerjaan dengan menaikkan jumlah denda dari sepuluh ribu ringgit kepada lima puluh ribu ringgit dan untuk mengadakan peruntukan bagi kesalahan kali yang kedua atau yang berikutnya.

57. *Fasal 63* bertujuan untuk memotong seksyen 130G Ordinan.

58. *Fasal 64* bertujuan untuk meminda seksyen 130H Ordinan dengan menggantikan perkataan “dismisses” dan “Chapter XI” dengan perkataan “terminates” dan “Chapter XI” masing-masing dan untuk menaikkan amaun penalti daripada sepuluh ribu ringgit kepada lima puluh ribu ringgit.

59. *Fasal 67* bertujuan untuk meminda seksyen 130L Ordinan untuk menaikkan hukuman bagi kesalahan menggajikan pekerja bukan pemastautin tanpa lesen.

60. *Fasal 68* bertujuan untuk memasukkan seksyen baharu 130LA ke dalam Ordinan bagi mengadakan peruntukan dan tatacara mengenai kesalahan bagi badan korporat dan selainya.

61. *Fasal 69* bertujuan untuk meminda seksyen 130M Ordinan bagi mengadakan peruntukan mengenai penalti am bagi kesalahan melanggar mana-mana peruntukan Ordinan dan menaikkan amaun penalti yang dikenakan daripada sepuluh ribu ringgit kepada lima puluh ribu ringgit bagi apa-apa kesalahan di bawah Ordinan dan perundangan subsidiari yang dibuat di bawah Ordinan yang baginya tiada penalti ditetapkan.

62. *Fasal 70* bertujuan untuk meminda seksyen 130N Ordinan supaya selaras dengan Perkara 145 Perlembagaan Persekutuan berhubung dengan kuasa Pendakwa Raya.

63. *Fasal 71* bertujuan untuk meminda seksyen 130O Ordinan untuk memberikan Menteri kuasa untuk membuat kaedah-kaedah, antara lain, yang berhubung dengan aturan kerja fleksibel, kehendak minimum bangunan, keadaan khas berhubung dengan Negeri Sarawak dan apa-apa perkara lain yang boleh ditetapkan oleh Menteri di bawah Ordinan.

64. *Fasal 72* bertujuan untuk memasukkan seksyen baharu 130P ke dalam Ordinan bagi memperuntukkan bahawa apa-apa pindaan kepada Ordinan hendaklah dibuat setelah berunding dengan Pihak Berkuasa Negeri.

65. *Fasal 73* bertujuan untuk menggantikan Jadual sedia ada dengan Jadual baharu Pertama bagi meluaskan skop perlindungan pekerja di bawah Ordinan.

66. *Fasal 74* bertujuan untuk memasukkan Jadual baharu Kedua dan Ketiga ke dalam Ordinan. Jadual baharu Kedua yang dicadangkan bertujuan untuk mengadakan peruntukan berhubung dengan senarai pekerjaan yang kanak-kanak atau orang muda tidak dibenarkan untuk terlibat manakala Jadual baharu Ketiga yang dicadangkan bertujuan untuk mengadakan peruntukan bagi sekatan terhadap pekerjaan yang berbahaya kepada kanak-kanak dan orang muda tertakluk pada pembatasan sebagaimana yang dinyatakan dalam Ordinan.

67. *Fasal 75* memperkatakan peruntukan kecualian dan peralihan.

68. Pindaan lain yang tidak diperkatakan secara khusus dalam Huraian ini merupakan pindaan kecil atau berbangkit.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini akan melibatkan Kerajaan dalam perbelanjaan wang tambahan yang amaunnya belum dapat ditentukan sekarang ini.

[PN(U2)3365]