



PARLIMEN MALAYSIA



RANG UNDANG-UNDANG

Arkitek (Pindaan) 1987

DR.29/1987

D.R. 29/87

Naskhah Sahih—Bahasa Inggeris

RANG UNDANG-UNDANG

b e r n a m a

Suatu Akta untuk meminda Akta Arkitek 1967.

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MAKA INILAH DIPERBUAT UNDANG-UNDANG oleh Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong dengan nasihat dan persetujuan Dewan Negara dan Dewan Rakyat yang bersidang dalam Parlimen, dan dengan kuasa daripadanya, seperti berikut:

1. Akta ini bolehlah dinamakan Akta Arkitek (Pindaan) 1987. Tajuk ringkas.
2. Seksyen 2 Akta Arkitek 1967, yang dalam Akta ini disebut “Akta ibu”, adalah dipinda dengan memasukkan selepas sahaja takrif “Board” takrif baru yang berikut: Pindaan seksyen 2. Akta 117.

“body corporate practising as architects” means a body corporate incorporated under the Companies Act 1965 which has been approved by the Board to practise as architects under this Act;’ Act 125.
3. Seksyen 3 Akta ibu adalah dipinda— Pindaan seksyen 3.
 - (a) dengan menggantikan perkataan-perkataan “Board of Surveyors” dalam perenggan (f) subseksyen (2) dengan perkataan-perkataan “Board of Quantity Surveyors”; dan
 - (b) dengan menggantikan perkataan-perkataan “Board of Surveyors” dalam perenggan (f) subseksyen (2A) dengan perkataan-perkataan “Board of Quantity Surveyors”.

Pindaan
seksyen 4.

4. Seksyen 4 Akta ibu adalah dipinda—

- (a) dengan menomborkan semula sebagai subseksyen (1) seksyen itu;
- (b) dengan memasukkan selepas sahaja perkataan “order” dalam subseksyen (1) (c) yang dinomborkan semula perkataan-perkataan “the issuance of written reprimand, the imposition of a fine not exceeding five thousand ringgit, suspension for a period not exceeding one year or”; dan
- (c) dengan menambah selepas sahaja subseksyen (1) yang dinomborkan semula itu subseksyen (2) yang berikut:

“(2) Without prejudice to the general powers conferred by subsection (1) the Board shall have power—

- (a) to purchase or lease any land or building required for any of the purposes of the Board;
- (b) from time to time to borrow or raise money by bank overdraft or otherwise for the purposes specified in paragraph (a); and
- (c) to lease out, dispose of, or otherwise deal in any immovable property of the Board.”.

Penggantian
seksyen 7A.

5. Akta ibu adalah dipinda dengan menggantikan seksyen 7A dengan seksyen 7A yang berikut:

“Architect-
ural
practice
by bodies
corporate. 7A. (1) Notwithstanding section 7 (1), a body corporate may practise as architects and recover in any court any fee, charge or remuneration for any professional advice or services rendered by it pursuant to its practice as architects carried on by virtue of this section, if it has the written approval of the Board to so practise and has been issued with a valid permit in respect thereof.

(2) Every application by a body corporate for approval to practise as architects shall be made to the Board in the prescribed form and manner and shall be accompanied by the prescribed fee.

(3) The Board shall grant its approval for a body corporate to practise as architects, subject to such conditions and restrictions as it may deem fit to impose, if—

(a) the board of directors of the body corporate consists—

(i) entirely of individual persons who are Architects; or

(ii) of a majority of individual persons who are Architects and any other individual persons who are Professional Engineers, Quantity Surveyors, Land Surveyors registered under any written law relating to the registration of such professions or other individual persons belonging to a profession allied to the practice of architecture and who have been approved in writing by the Board; and

(b) all the shares in the body corporate are either held by the persons mentioned in paragraph (a) (i) or (a) (ii), as the case may be, provided always that the Architects shall have a controlling interest in the shares of the body corporate.

(4) A body corporate practising as architects shall, within thirty days of the occurrence of any change in the composition of its board of directors or its shareholders, furnish to the Board a true report in writing giving full particulars of the change.

(5) If the Board finds that—

- (a) the body corporate practising as architects or any of its directors or shareholders has breached, or failed to comply with or carry out, any of the terms, conditions or restrictions imposed by the Board when granting approval;
- (b) the composition of the board of directors or the shareholding of the body corporate practising as architects does not comply with subsection (3);
- (c) the body corporate practising as architects has breached any of the requirements of subsection (4); or
- (d) any director or shareholder of a body corporate practising as architects, whether such director or shareholder is an Architect or not, has committed, or is guilty of, or has contributed to, any of the acts or things set out in paragraphs (a) to (m) of section 15 (1),

the Board may, subject to subsection (6), by written notice to the body corporate, withdraw the approval given under subsection (3).

(6) (a) The Board shall not withdraw its approval given under subsection (3) unless—

- (i) there has been a hearing of the grounds of complaint against the body corporate and any of its directors or shareholders who has caused, contributed or been a party to, the grounds of complaint conducted by at least two-thirds of the total number of members of the Board; and

- (ii) an opportunity to be heard by a representative appointed in writing or by counsel in the case of a body corporate, or in person or by counsel in the case of any director or shareholder, has been given to such body corporate, director or shareholder, as the case may be.

(b) In any case where the grounds of complaint are based upon subsection (5) (d), the Board shall not withdraw its approval if, on the date of hearing, such body corporate satisfies the Board—

- (i) that the director or shareholder who has committed, or is guilty of, or has contributed to, such act or thing as forms the grounds for the complaint has ceased to be a director or shareholder, or both, of such body corporate;
- (ii) that notwithstanding that such director or shareholder has ceased to be a director or shareholder, or both, such body corporate is able to comply with all the terms, conditions and restrictions imposed by the Board pursuant to subsection (3); and
- (iii) that no other director or shareholder of such body corporate was, otherwise than by being its director or shareholder at the material date, in any way a party to, or connected with, the act or thing which forms the grounds for the complaint.

(7) Upon the Board withdrawing its approval pursuant to subsection (5), the body corporate shall cease to practise as architects but it shall be entitled to recover in any court any fee, charge or remuneration for any

professional advice or services rendered by it pursuant to its practice as architects where such advice was given or such services were rendered prior to the date of receipt of the notice from the Board withdrawing its approval.

(8) (a) The Board may at any time, upon receipt of an application by a body corporate whose approval to practise as architects has been withdrawn pursuant to subsection (5), grant a fresh approval to such body corporate if it is satisfied that—

- (i) the reason which led to the withdrawal of its approval no longer exists; and
- (ii) the body corporate, at the time of such application, complies with the terms, conditions and restrictions imposed by the Board pursuant to subsection (3) at the time of the original approval.

(b) In granting a fresh approval under paragraph (a) the Board may impose such additional terms, conditions and restrictions as it thinks fit.

(9) There shall be no appeal against—

- (a) any refusal of the Board to grant approval for a body corporate to practise as architects; or
- (b) any terms, conditions or restrictions imposed by the Board at the time of granting approval.

(10) The Registrar shall, upon receipt of the prescribed fee, issue to any body corporate whose application to practise as architects has been approved by the Board, a permit in the prescribed form.

(11) Every permit shall, subject to this Act, expire on the 31st day of December of the year in which it is issued and shall thereafter be renewable annually upon payment of the prescribed fee.

(12) A body corporate which has been approved by the Board to practise as architects before the commencement of this section shall be deemed to have obtained such approval under this section, and the provisions of this section shall apply to such body corporate in the same manner as they would apply to it if it had obtained the approval under this section.”.

6. Seksyen 8 Akta ibu adalah dipinda—

Pindaan
seksyen 8.

- (a) dengan menomborkan semula sebagai subseksyen (1) seksyen itu;
- (b) dengan menambah selepas sahaja subseksyen (1) yang dinomborkan semula itu subseksyen (2) yang berikut:

“(2) Nothing contained in any other written law shall prevent any Architect from making valuations of buildings and structures, and of plants, machinery and equipment related to the buildings or structures connected with his professional practice.”.

7. Seksyen 10 Akta ibu adalah dipinda—

Pindaan
seksyen 10.

- (a) dengan memotong perkataan-perkataan “and the Pertubuhan Akitek-Akitek Malaysia” dalam perenggan (b) subseksyen (1); dan
- (b) dengan menggantikan subseksyen (3) dengan subseksyen baru (3), (4) dan (5) yang berikut:

“(3) Subject to this Act, only a citizen or a permanent resident of Malaysia may qualify for registration as an Architectural Graduate or Architect and no person shall be entitled to

be registered as an Architect unless he is at the time of application for registration, and has been for a period of not less than six months prior to the date of application, residing in Malaysia.

(4) No person shall be entitled to be registered as an Architect if at any time prior to his registration there exists any facts or circumstances which would have entitled the Board to cancel his registration pursuant to section 15.

(5) Sections 17 (3) and 28 (1) shall apply *mutatis mutandis* to any person whose application for registration has been rejected pursuant to subsection (4).”.

Seksyen
baru 10A.

8. Akta ibu adalah dipinda dengan memasukkan selepas sahaja seksyen 10, seksyen baru 10A yang berikut:

“Temporary
registration
of foreign
architects.

10A. (1) Subject to this section and such conditions as the Board may think fit to impose, the Board may, upon payment of the prescribed fee, approve the temporary registration as an Architect of any foreign architect.

(2) A foreign architect may be considered for temporary registration if he satisfies the Board that—

- (a) he possesses the necessary qualification which is recognised for the practice of architecture as an Architect in the country where he normally practises; and
- (b) he possesses the necessary expertise and his physical presence is required in Malaysia for not less than one hundred and eighty days in one calendar year or he is a resident representative of the foreign component of a joint-venture.

(3) The Board may approve a temporary registration for a period not exceeding one calendar year and may renew such temporary registration as it deems fit.

(4) Any foreign architect dissatisfied with the decision of the Board to reject his application for temporary registration or the renewal thereof under this section may, within twenty-one days of being notified of the rejection, appeal to the Minister whose decision thereon shall be final and shall not be subject to appeal.

(5) A foreign architect registered under section 10 on or before the commencement of this section shall remain registered until the expiry of his registration.

(6) A foreign architect whose registration has expired may apply for temporary registration subject to the provisions of this section.

(7) For the purpose of this section, "foreign architect" means an architect who is not a citizen or permanent resident of Malaysia."

9. Seksyen 15 Akta ibu adalah dipinda—

Pindaan
seksyen 15.

- (a) dengan memasukkan selepas sahaja perkataan "order" dalam subseksyen (1) perkataan-perkataan "the issuance of written reprimand, the imposition of a fine not exceeding five thousand ringgit, suspension for a period not exceeding one year or";
- (b) dengan memasukkan selepas sahaja perkataan "turpitude" dalam perenggan (a) subseksyen (1) perkataan-perkataan "in Malaysia or elsewhere";
- (c) dengan memasukkan selepas sahaja perkataan "misrepresentation" dalam perenggan (d) subseksyen (1) perkataan-perkataan "or by

reason of any mistake or error made by the Board in considering the application for registration”;

- (d) dengan memotong perkataan “or” di akhir perenggan (g) subseksyen (1);
- (e) dengan memotong perkataan “or” di akhir perenggan (h) subseksyen (1);
- (f) dengan menggantikan noktah di akhir perenggan (i) subseksyen (1) dengan koma bertitik;
- (g) dengan menambah selepas sahaja perenggan (i) subseksyen (1) perenggan-perenggan (j), (k), (l), (m), (n) dan (o) yang berikut:
 - “(j) if he procures, or assists in procuring, or is knowingly a party to procuring, by fraud or misrepresentation, the approval of the Board for a body corporate to practise as architects;
 - (k) if he conceals or assists in concealing from the Board the existence of any facts or circumstances which, if known, would entitle the Board to withdraw its approval from any body corporate practising as architects in which he is a director or shareholder;
 - (l) if he contravenes, or fails to perform, or assists in the contravention of, any terms, conditions or restrictions imposed by the Board when granting approval to a body corporate under section 7A (3);
 - (m) if he causes or permits or suffers any body corporate in which he is a director or shareholder to practise as architects prior to the approval of the Board being obtained;

- (n) if he causes or permits or suffers any body corporate in which he is a director or shareholder to continue to practise architecture after the Board has withdrawn its approval under section 7A (5); or
- (o) if after being removed from the Register under section 16 (b) he fails to renew his registration for a continuous period of three years from the date of such removal.”;
- (h) dengan memasukkan selepas sahaja perkataan-perkataan “subsection (1)” dalam subseksyen (2) perkataan-perkataan “except for the issuance of written reprimand and the imposition of a fine not exceeding five thousand ringgit”;
- (i) dengan menomborkan semula subseksyen (3) yang sedia ada sebagai subseksyen (4); dan
- (j) dengan memasukkan selepas sahaja subseksyen (2) subseksyen (3) yang berikut:

“(3) The Board may, if it deems fit, suspend the registration of any Architect or body corporate practising as architects for a period not exceeding six months pending any investigation by the Board under this Act and during the period of such suspension he or it shall not exercise any of the rights or privileges accorded to him or it under this Act.”.

10. Seksyen 16 Akta ibu adalah dipinda dengan memotong perkataan-perkataan “certificate of” dalam perenggan (b). Pindaan seksyen 16.

11. Seksyen 17 Akta ibu adalah dipinda—

- (a) dengan memotong perkataan-perkataan “certificate of” dalam subseksyen (2); dan
- (b) dengan menggantikan perkataan-perkataan “six months” dalam subseksyen (3) dengan perkataan-perkataan “one year”.

Pindaan
seksyen 17.

Pindaan
seksyen 25.

12. Seksyen 25 Akta ibu adalah dipinda—

- (a) dengan memasukkan selepas sahaja perkataan “order” dalam baris pertama subseksyen (1) perkataan-perkataan “the issuance of written reprimand, the imposition of a fine not exceeding two thousand ringgit, suspension for a period not exceeding one year or”;
- (b) dengan memasukkan selepas sahaja perkataan “misrepresentation” dalam perenggan (c) subseksyen (1), perkataan-perkataan “or by reason of any mistake or error made by the Board in considering the application for registration”; dan
- (c) dengan memasukkan selepas sahaja perkataan-perkataan “subsection (1)” dalam subseksyen (2) perkataan-perkataan “except for the issuance of written reprimand and the imposition of a fine not exceeding two thousand ringgit”.

Pindaan
seksyen 33.

13. Seksyen 33 Akta ibu adalah dipinda dengan menggantikan perkataan “dollars” dalam baris terakhir dengan perkataan “ringgit”.

Pindaan
seksyen 34.

14. Seksyen 34 Akta ibu adalah dipinda—

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

“(1) Any person who contravenes or fails to comply with any of the provisions of this Act or any rules made thereunder shall be guilty of an offence and where no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding two thousand ringgit”; dan
- (b) dengan memasukkan selepas sahaja perkataan “Act” dalam subseksyen (2) perkataan-perkataan “or any rules made thereunder”.

15. Jadual kepada Akta ibu adalah dipinda—Pindaan
kepada
Jadual.

- (a) dengan menggantikan subperenggan (5) perenggan 2 dengan subperenggan (5) baru yang berikut:

“(5) Subject to subparagraphs (3) and (4), the Board shall determine its own procedure and, except in relation to section 15 but excluding the issuance of written reprimand, section 25 but excluding the issuance of written reprimand, and section 35, have power to delegate to committees appointed by the Board all or any of the functions of the Board upon such terms and subject to such conditions and restrictions as the Board may in its absolute discretion think fit. Any act, ruling or decision of any committee so appointed shall be deemed to be the act, ruling or decision of the Board.”; dan

- (b) dengan memasukkan selepas sahaja perkataan “proceedings” dalam subperenggan (6) perenggan 2 perkataan-perkataan “and of the proceedings of any committee appointed by it”.

16. Akta ibu adalah dipinda dengan menggantikan perkataan-perkataan “Pertubuhan Akitek-Akitek Malaysia” dan “personally” di mana-mana terdapat masing-masingnya dengan perkataan-perkataan “Pertubuhan Arkitek Malaysia” dan “in person”.

Pindaan
Am.

HURAIAN

Rang Undang-Undang ini bertujuan membuat pindaan-pindaan tertentu kepada Akta Arkitek 1967 (yang selepas ini disebut sebagai “Akta”).

2. *Fasal 2* bertujuan memperuntukkan takrif bagi istilah “body corporate practising as architects” berhubung dengan seksyen baru 7A.

3. *Fasal 4* bertujuan mengemukakan satu subseksyen (2) baru kepada seksyen 4 Akta untuk memberi kuasa kepada Lembaga memperoleh harta takalih bagi maksud-maksud Lembaga dan untuk meminda atau mendapatkan wang bagi membiayai pembelian harta tersebut.
4. *Fasal 5* bertujuan menggantikan seksyen 7A Akta dengan peruntukan-peruntukan yang diubahsuai untuk membolehkan Lembaga mengadakan kawalan yang lebih berkesan ke atas suatu pertubuhan perbadanan yang menjalankan amalan sebagai arkitek. Pindaan yang dicadangkan ini juga membenarkan orang-orang perseorangan lain seperti Jurutera Perunding berdaftar, Juruukur Bahan berdaftar dan Juruukur Tanah berdaftar menjadi anggota lembaga pengarah sesuatu pertubuhan perbadanan dan juga untuk memiliki syer-syer di dalamnya. Peruntukan-peruntukan lain dalam pindaan yang dicadangkan ini meliputi keadaan-keadaan di mana Lembaga boleh menarik balik kelulusannya bagi sesuatu pertubuhan perbadanan dari menjalankan amalan sebagai arkitek, bagaimana dan bila kelulusan baru boleh diberi dan kemuktamatan keputusan Lembaga berkenaan dengan perjalanan peruntukan-peruntukan tertentu dalam seksyen ini. Di bawah pindaan yang dicadangkan ini, sesuatu pertubuhan perbadanan adalah juga dikehendaki mengambil permit untuk menjalankan amalan sebagai arkitek.
5. *Fasal 6* bertujuan mengemukakan satu subseksyen (2) baru kepada seksyen 8 untuk memberi kuasa kepada arkitek membuat penilaian ke atas bangunan dan struktur, dan loji, jentera dan kelengkapan yang berhubungan dengan bangunan atau struktur tersebut yang berkaitan dengan amalan profesionalnya.
6. *Fasal 7* bertujuan mengemukakan subseksyen baru (3), (4) dan (5) kepada seksyen 10 Akta bagi memperuntukkan syarat-syarat tambahan bagi pendaftaran sebagai siswazah arkitek atau Arkitek.
7. *Fasal 8* bertujuan mengemukakan satu seksyen baru 10A untuk membuat peruntukan bagi pendaftaran sementara arkitek asing sebagai seorang Arkitek.
8. *Fasal 9 (a)* bertujuan memperuntukkan kuasa tambahan kepada Lembaga bagi memerintahkan pengeluaran cecai secara bertulis, pengenaan suatu denda tidak melebihi lima ribu ringgit, penggantungan selama tempoh tidak lebih dari satu tahun di atas mana-mana alasan yang dinyatakan di bawah seksyen 15 (1). *Fasal 9 (g)* bertujuan mengemukakan perenggan-perenggan baru (j) hingga (o) kepada subseksyen (1) seksyen 15 Akta untuk mengadakan alasan-alasan tambahan di mana Lembaga boleh membuat perintah di bawah subseksyen itu terhadap Arkitek berdaftar. *Fasal 9 (j)* bertujuan mengemukakan satu subseksyen

(3) yang baru kepada seksyen 15 untuk memberi kuasa kepada Lembaga mengantung pendaftaran mana-mana Arkitek berdaftar atau pertubuhan perbadanan yang menjalankan amalan sebagai arkitek sementara menunggu apa-apa siasatan oleh Lembaga di bawah Akta.

9. *Fasal 12* bertujuan memperuntukkan kuasa tambahan kepada Lembaga bagi memerintahkan pengeluaran celaan secara bertulis, pengenaan suatu denda tidak melebihi dua ribu ringgit, penggantungan selama tempoh tidak lebih dari satu tahun di atas mana-mana alasan yang dinyatakan di bawah seksyen 25.

10. *Fasal 14* bertujuan meminda seksyen 34 Akta bagi memperuntukkan dengan jelas bahawa pelanggaran mana-mana kaedah adalah termasuk di dalam batasan penalti am.

11. *Fasal 15* bertujuan meminda Jadual untuk membolehkan Lembaga mewakili fungsinya, tertakluk kepada sekatan-sekatan sebagaimana difikirkannya patut, kepada jawatankuasa-jawatankuasa yang dilantiknya.

12. Lain-lain pindaan yang dicadangkan kepada Akta yang tidak disebut secara khusus adalah pindaan-pindaan sampingan dan kecil.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan tambahan. [PN. (U²) 1391.]