



PARLIMEN MALAYSIA



RANG UNDANG-UNDANG
Kesatuan Sekerja (Pindaan) 1980
DR.7/1980

D.R. No. 7/80

Naskah sah—Bahasa Inggeris

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Ordinan Kesatuan Sekerja, 1959.

[]

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 Kesatuan Sekerja (Pindaan) 1980.

Tajuk
ringkas.

2. (1) Seksyen-kecil (1) seksyen 2 Ordinan Kesatuan Sekerja, 1959, yang dalam Akta ini disebut “Ordinan itu”, adalah dipinda dengan—

Pindaan
bagi
seksyen 2.
P.T.M.
23/59.

(a) memasukkan sebelum sahaja takrif “employer” yang terdapat dalamnya, takrif baru yang berikut—

““employee” when used with reference to a trade union or political party means any person who is engaged for hire or reward on a full-time or part-time basis;”

(b) menggantikan takrif “employer” yang terdapat dalamnya dengan yang berikut—

““employer” means any person or body of persons, whether corporate or unincorporate, who employs a workman, and includes the Government and any statutory authority;”

- (c) memasukkan selepas sahaja perkataan "source" dalam takrif "funds" yang terdapat dalamnya, yang berikut—

" , including the proceeds of any investment or other thing done under sub-section (1) of section 49";

- (d) memasukkan selepas sahaja takrif "funds" yang terdapat dalamnya, takrif baru yang berikut—

" "Government" means the Federal Government or the Government of a State;";

- (e) menggantikan takrif "lock-out" yang terdapat dalamnya dengan yang berikut—

" "lock-out" means—

(a) the temporary closing of a place of employment; or

(b) the suspension of work; or

(c) the refusal by an employer to continue to employ any number of workmen employed by him,

in furtherance of a trade dispute, done with a view to compelling those workmen to accept terms or conditions of or affecting employment;";

- (f) memasukkan selepas sahaja takrif "Minister" yang terdapat dalamnya, takrif baru yang berikut—

" "office-bearer", when used with reference to a political party, means any person who is the president, vice-president, secretary, assistant secretary, treasurer or assistant treasurer of the political party, or who holds any office or position, by whatever name called, which is analogous to any of those mentioned above, or who holds any office or position in the political party whereby he exercises management or control of the affairs of the political party;";

- (g) menggantikan takrif "Registrar" yang terdapat dalamnya dengan yang berikut—

"Registrar" means the Registrar of Trade Unions appointed under section 3, and includes a Deputy Registrar, a Senior Assistant Registrar, an Assistant Registrar, of Trade Unions, and a Trade Unions Registration Officer, appointed under section 4;";

- (h) memasukkan selepas sahaja takrif "Registrar" yang terdapat dalamnya, takrif-takrif baru yang berikut—

"regulations" means regulations made under section 58;

"statutory authority" means any authority or body established, appointed or constituted by any written law, and includes any local authority;";

- (i) menggantikan takrif-takrif "strike" dan "trade dispute" yang terdapat dalamnya masing-masing dengan yang berikut—

"strike" means the cessation of work by a body of workmen acting in combination, or a concerted refusal or a refusal under a common understanding of a number of workmen to continue to work or to accept employment, and includes any act or omission by a body of workmen acting in combination or under a common understanding, which is intended to or does result in any limitation, restriction, reduction or cessation of, or dilatoriness in, the performance or execution of the whole or any part of the duties connected with their employment;

"trade dispute" means any dispute between an employer and his workmen which is connected with the employment or non-employment or the term of employment or the conditions of work of any such workmen;";
dan

- (j) memasukkan dalam takrif "trade union", perenggan-kecil baru (iia) selepas sahaja perenggan-kecil (ii) perenggan (c), seperti berikut—

"(iia) the conducting of, or dealing with, trade disputes and matters related thereto; or".

(2) Seksyen-kecil (2) seksyen 2 Ordinan itu adalah diganti dengan yang berikut—

"(2) For the purposes of the definition of "trade union" in sub-section (1) and for the purposes of sections 15 (2), 26 (1A), 32, 33, 72 and 74, "similar" means similar in the opinion of the Registrar."

Pindaan
bagi
seksyen 3.

3. Seksyen 3 Ordinan itu adalah dipinda dengan menggantikan perkataan-perkataan "be responsible for the due performance of the duties and functions assigned to the Registrar under this Ordinance" yang terdapat dalamnya dengan perkataan-perkataan "have the general supervision, direction and control of all matters relating to trade unions throughout Malaysia".

Pindaan
bagi
seksyen 4.

4. Seksyen 4 Ordinan itu adalah dipinda dengan—

(a) menomborkannya semula sebagai "4. (1)" dan menggantikan perkataan-perkataan "and Assistant Registrars of Trade Unions" yang terdapat dalamnya dengan perkataan-perkataan "Senior Assistant Registrars and Assistant Registrars of Trade Unions, Trade Unions Registration Officers"; dan

(b) menambah selepas sahaja seksyen-kecil (1), seksyen-kecil baru (2) seperti berikut—

"(2) Subject to such limitations, if any, as may be prescribed by regulations, any Registrar appointed under sub-section (1) of this section shall perform all the duties and functions imposed and may exercise all the powers conferred upon the Registrar under this Ordinance, and every duty and function so performed and power so exercised shall be deemed to have been duly performed and exercised for the purposes of this Ordinance."

5. Ordinan itu adalah dipinda dengan memasukkan selepas sahaja seksyen 4, seksyen baru 4A yang berikut—

Seksyen
baru 4A.

“Powers of Registrar. 4A. In addition to the powers, duties and functions conferred on the Registrar by this Ordinance and any regulations, the Registrar shall have and may exercise all such powers, discharge all such duties and perform all such functions as may be necessary for the purposes of giving effect to and carrying out the provisions of this Ordinance.”.

6. Seksyen-kecil (1) seksyen 11 Ordinan itu adalah dipinda dengan memasukkan perkataan-perkataan “without the prior written permission of the Registrar and subject to such conditions as may be specified by the Registrar” selepas sahaja perkataan-perkataan “for or on behalf of such trade union” yang terdapat dalamnya.

Pindaan
bagi
seksyen 11.

7. Seksyen 12 Ordinan itu adalah dipinda dengan menggantikan seksyen-seksyen-kecil (2) dan (3) dengan yang berikut—

Pindaan
bagi
seksyen 12.

“(2) The Registrar may refuse to register a trade union if he is satisfied that there is in existence a trade union in respect of the particular trade, occupation or industry and it is not in the interest of the workmen in that particular trade, occupation or industry that there be another trade union in respect thereof.

(3) The Registrar shall refuse to register a trade union if—

(a) he is of the opinion that the trade union is likely to be used for unlawful purposes or for purposes contrary to or inconsistent with its objects and rules; or

(b) any of the objects of the trade union is unlawful; or

(c) he is not satisfied that the trade union has complied with the provisions of this Ordinance and of the regulations; or

(d) he is satisfied that the objects, rules, and constitution of the trade union conflict with any of the provisions of this Ordinance or of any regulations; or

(e) the name under which the trade union is to be registered is—

(i) identical to that of any other existing trade union, or so nearly resembles the name of such other trade union as, in the opinion of the Registrar, is likely to deceive the public or the members of either trade union; or

(ii) in the opinion of the Registrar, undesirable,

unless the trade union alters its name to one acceptable to the Registrar.”.

Pindaan
bagi
seksyen 13.

8. Seksyen 13 Ordinan itu adalah dipinda dengan memasukkan perkataan-perkataan “or withdrawn” selepas sahaja perkataan-perkataan “proved to have been cancelled” yang terdapat dalamnya.

Pindaan
bagi
seksyen 15.

9. Seksyen 15 Ordinan itu adalah dipinda dengan—

(a) menggantikan seksyen-kecil (2) dengan yang berikut—

“(2) Where two or more trade unions registered in respect of a particular trade, occupation, industry or place of employment exist, the Registrar may if he is satisfied that it is in the interests of the workmen of the said trade, occupation, industry or place of employment so to do—

(a) cancel the certificate of registration of the trade union or trade unions other than the trade union which has the largest number of workmen in the said trade, occupation, industry or place of employment as its members; or

(b) issue an order requiring the trade union or trade unions other than the trade union which has the largest number of

workmen in the said trade, occupation, industry or place of employment as its members to remove from the membership register those members as are employed in that trade, occupation, industry or place of employment; and thereafter the trade union or trade unions so ordered shall not enrol as members workmen in any trade, occupation, industry or place of employment similar to that trade, occupation, industry or place of employment except with the permission in writing of the Registrar; an order under this paragraph shall have full force and effect notwithstanding any provision of the rules of the trade unions concerned.”;

(b) memasukkan selepas seksyen-kecil (2), seksyen-seksyen-kecil baru yang berikut—

“(2A) Where the Registrar proposes to cancel or withdraw the certificate of registration of any trade union under paragraph (b) of sub-section (1) or paragraph (a) of sub-section (2), he shall give to the trade union not less than thirty days previous notice in writing specifying the ground on which it is proposed to cancel or withdraw its certificate of registration before such certificate is cancelled or withdrawn.

(2B) Where the Registrar proposes to issue an order to any trade union under paragraph (b) of sub-section (2), he shall prior to the issue of such order, notify the trade union of his intention to do so, and shall give it an opportunity to submit such representations as it may wish to make against such order being issued.”;

(c) menggantikan—

(i) perkataan-perkataan “sub-section (2)” yang terdapat dalam seksyen-kecil (3) dengan perkataan-perkataan “sub-section (2A)”;

- (ii) perkataan-perkataan "two months" yang terdapat dalam seksyen-seksyen-kecil (3) dan (4) masing-masing dengan perkataan-perkataan "thirty days"; dan

(d) memotong seksyen-kecil (6).

Pindaan
bagi
seksyen 16.

10. Seksyen-kecil (1) seksyen 16 Ordinan itu adalah dipinda dengan menggantikan—

(a) perkataan "Minister" yang terdapat dalamnya dengan perkataan "Registrar"; dan

(b) perkataan-perkataan "sub-section (2)" yang terdapat dalamnya dengan perkataan-perkataan "sub-section (2A)".

Pindaan
bagi
seksyen 17.

11. Seksyen 17 Ordinan itu adalah digantikan dengan yang berikut—

"Suspension of a branch of a trade union.

17. (1) The Registrar may, if he is satisfied that a branch of a trade union has contravened the provisions of this Ordinance or the rules of the union, by order direct the suspension of such branch.

(2) The order of suspension made under sub-section (1)—

(i) may contain such directions as the Registrar may consider expedient; and

(ii) shall be deemed to be duly served if it is delivered at the registered office of the trade union or if it is served personally on any officer of the branch.

(3) The order of suspension may at any time be revoked by the Registrar.

(4) Until the order of suspension is revoked by the Registrar, the branch of the trade union in respect of which the order of suspension is made, shall be prohibited from carrying on any activity, except as may be specified in the order of suspension."

12. Ordinan itu adalah dipinda dengan memasukkan selepas sahaja seksyen 17, seksyen baru 18 seperti berikut—

Seksyen
baru 18.

"Power of
the Minister
to suspend
a trade
union.

18. (1) Notwithstanding anything in this Ordinance, it shall be lawful for the Minister in his absolute discretion, but with the concurrence of the Minister responsible for internal security and public order, by order published in the *Gazette* to suspend for a period not exceeding six months any trade union, or any class or description of trade unions, which in his opinion is, or is being, used for purposes prejudicial to or incompatible with, the interests of the security of, or public order in, Malaysia or any part thereof.

(2) Where in the opinion of the Minister the exigencies of the situation so require, the Minister may bring such order into force immediately upon its being made and before its publication in the *Gazette*, but after publishing it in such manner as the Minister thinks fit.

(3) Where the Minister makes an order under sub-section (1) he may, either at the time of making the order or at any time subsequently thereto, give such directions of an ancillary or consequential nature or otherwise, as he may deem necessary or expedient, including directions in respect of any matter or proceeding before any authority, in relation to the trade union, under this Ordinance or any other written law.

(4) A direction given under sub-section (3)—

(a) may at any time be varied or revoked as the Minister deems necessary or expedient;

(b) shall be valid and have full force and effect notwithstanding anything inconsistent therewith or contrary thereto contained in this Ordinance.

(5) An order under sub-section (1) may at any time be varied or revoked by the Minister.

(6) Subject to any direction given by the Minister under sub-section (3), until an order of suspension is revoked by the Minister—

(a) the certificate of registration of the trade union in respect of which the order of suspension is made shall cease to have effect and the trade union shall cease to enjoy any of the rights, immunities and privileges of a registered trade union;

(b) the trade union shall be prohibited from carrying on any activity whatsoever;

(c) no person shall take any part in its management or organisation, or act or purport to act on behalf of the union or as an officer of the union.

(7) An order or direction of the Minister under this section shall be final and conclusive, and no such order shall be challenged, appealed against, reviewed, quashed or called in question in any court, and shall not be subject to certiorari, prohibition, mandamus, or injunction (whether interim, interlocutory or final) in any court on any account, and no court shall have jurisdiction to entertain any question, on any ground, regarding the propriety or validity of any such order, or of the continued operation of any such order, or otherwise in any manner relating to any such order.

(8) Any person who contravenes the provisions of sub-section (6) or any direction given under sub-section (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding three thousand ringgit, or to imprisonment for a term not exceeding three years, or to both.”.

13. Seksyen 19 Ordinan itu adalah dipinda dengan—

(a) menggantikan perkataan-perkataan “refused or cancelled” yang terdapat dalamnya dengan perkataan-perkataan “refused, withdrawn or cancelled”; dan

(b) menggantikan perkataan-perkataan "section 17" yang terdapat dalam perenggan (d) dengan perkataan-perkataan "section 71A against such refusal; withdrawal or cancellation".

14. Ordinan itu adalah dipinda dengan memasukkan dalam Bahagian IV, selepas sahaja seksyen 25, seksyen baru 25A yang berikut—

Seksyen
baru 25A.

"Strikes and lock-outs. 25A. (1) No trade union of workmen shall call for a strike, and no member thereof shall go on strike, and no trade union of employers shall declare a lock-out—

(b) in the case of a trade union of workmen, without first obtaining the consent by secret ballot of at least two-thirds of its total number of members who are entitled to vote and in respect of whom the strike is to be called; and in the case of a trade union of employers, without first obtaining by secret ballot the consent of at least two-thirds of its total number of members who are entitled to vote; or

(b) before the expiry of seven days after submitting to the Registrar the results of such secret ballot in accordance with the provisions of sub-section (5) of section 40; or

(c) if the secret ballot for the proposed strike or lock-out has become invalid or of no effect by virtue of the provisions of sub-section (2), (3), (6) or (9) of section 40; or

(d) in contravention of, or without complying with, the rules of the trade union; or

(e) in contravention of, or without complying with, any other provision of this Ordinance or any provision of any other written law.

(2) Any trade union which, and every member of its executive who, commences, promotes, organises or finances any strike or lock-out which is in contravention of sub-section (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit, or to imprisonment for a term not exceeding one year, or to both, and a further fine of one hundred ringgit for every day during which such offence continues.

(3) Any member of a trade union of workmen who commences, participates in, or otherwise acts in furtherance of, any strike which is in contravention of sub-section (1) shall forthwith cease to be a member of the trade union, and thereafter such member shall not be eligible to become a member of any trade union except with the prior approval of the Registrar in writing; and the trade union of which he has so ceased to be a member shall forthwith—

- (a) remove the name of such member from its membership register;
- (b) inform the Registrar and the member concerned of such removal; and
- (c) exhibit conspicuously in its registered office in a place where it may be easily read a list of members whose names are so removed.

(4) The Registrar may, where he is satisfied that the provisions of sub-section (1) have been contravened by any person and the trade union concerned has failed to carry out the provisions of sub-section (3), or where there is undue delay in so doing, after such investigation as he deems necessary, order the trade union to remove forthwith the names of the members concerned from its membership register.

(5) The satisfaction of the Registrar under sub-section (4) that the provisions of sub-section (1) have been contravened by any person may be arrived at regardless as to whether or not there is any prosecution of any person for contravention of the said sub-section (1).

(6) Any registered trade union which, and every member of its executive who, fails to comply with the provisions of sub-section (3) or with an order of the Registrar under sub-section (4) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit, and a further fine of one hundred ringgit for every day during which such offence continues.

(7) In every proceedings for an offence under this section the onus of proving that the requirements specified in sub-section (1) have been complied with shall be on the trade union, the member of its executive or the member of the trade union, as the case may be."

15. Seksyen 26 Ordinan itu adalah dipinda dengan—

Pindaan
bagi
seksyen 26.

(a) menggantikan perkataan-perkataan "under the Education Ordinance, 1957" yang terdapat dalam proviso kepada seksyen-kecil (1) dengan perkataan-perkataan "in any school, polytechnic, college, university, university college, or any other institution providing education, established by or under any written law";

(b) memasukkan selepas sahaja seksyen-kecil (1), seksyen-kecil baru (1A) yang berikut—

"(1A) No person shall join, or be a member, of or be accepted or retained as a member by, any trade union if he is employed or engaged in any trade, occupation or industry which is not similar to the trade, occupation or industry in respect of which the trade union is registered."; dan

(c) memotong seksyen-kecil (3).

Pindaan
bagi
seksyen 27.

16. Seksyen 27 Ordinan itu adalah dipinda dengan—

(a) menggantikan "seksyen-kecil (2) dengan yang berikut—

"(2) The Yang di-Pertuan Agong may by notification in the *Gazette* exempt from the provisions of sub-section (1), either wholly or subject to such condition as may be specified in such notification, any public officers or any category, class or description of public officers other than—

(a) members of the Royal Malaysian Police;

(b) members of any prison service;

(c) members of the Armed Forces;

(d) public officers engaged in a confidential or security capacity;

(e) public officers who are prohibited under any written law from forming or being members of a trade union; and

(f) public officers holding any post in the Managerial and Professional Group, except such public officers, or such class, category or description of public officers in such Group, as are excluded from the operation of this paragraph by a direction in writing given by the Chief Secretary to the Government.";

(b) memasukkan selepas sahaja perenggan (a) seksyen-kecil (3), perenggan baru (aa) seperti berikut—

"(aa) Notwithstanding paragraph (a) of this sub-section, any person employed by a statutory authority who—

(i) holds any post in the Managerial and Professional Group or the equivalent thereof, shall not join, or be a member of, or be accepted or retained as a member by, any trade union, except such of these persons, or such class, category or description of these persons, as are

excluded from the operation of this sub-paragraph by a direction in writing issued by the Chief Secretary to the Government; or

(ii) is engaged in a confidential or security capacity shall not join, or be a member of, or be accepted or retained as a member by, any trade union.”;

(c) memasukkan selepas sahaja perenggan (b) seksyen-kecil (3), perenggan baru (bb) seperti berikut—

“(bb) Notwithstanding sub-section (3) (b), two or more trade unions of workmen employed by statutory authorities, other than workmen employed by local authorities, may, with the approval of the Minister and subject to the provisions of Part XII of this Ordinance, form or create a federation of trade unions.”;

(d) memasukkan perkataan-perkataan “, but subject to paragraph (aa) thereof” selepas sahaja perkataan-perkataan “provisions of sub-section (3)” yang terdapat dalam seksyen-kecil (4); dan

(e) menggantikan seksyen-kecil (5) dengan seksyen-kecil (5) yang berikut dan menambah selepasnya seksyen-seksyen-kecil baru (6), (7) dan (8) yang berikut—

“(5) Any question under sub-section (2) or (3) as to whether a person is engaged in a confidential or security capacity shall be decided by the Chief Secretary to the Government.

(6) Any person or a group of persons who have sought a direction of the Chief Secretary to the Government under paragraph (f) of sub-section (2) or under sub-paragraph (i) of paragraph (aa) of subsection (3), and have failed to obtain such direction, or any person dissatisfied with any decision of the Chief Secretary to the Government under sub-section (5), may, within

thirty days of the failure to obtain such direction, or of such decision, as the case may be, appeal to the Minister responsible for public services, whose decision thereon shall be final and conclusive, and no such decision of such Minister shall be challenged, appealed against, reviewed, quashed or called in question in any court and shall not be subject to certiorari, prohibition, mandamus, or injunction (whether interim, interlocutory or final) in any court on any account, and no court shall have any jurisdiction to entertain any question, on any ground, regarding the propriety or validity of any such decision, or of the continued operation of any such decision, or otherwise in any manner relating to any such decision.

(7) Any person who, immediately before the commencement of this sub-section, is a member of a trade union but is disqualified from being a member thereof by virtue of the provisions of paragraphs (a) to (f) of sub-section (2), or by virtue of paragraph (aa) of sub-section (3), shall cease to be a member thereof upon the expiry of six months after the commencement of this sub-section, save that—

(a) in the case of a person to whom paragraph (f) of sub-section (2) applies, such person shall not cease to be a member thereof if within such period of six months he obtains the direction of the Chief Secretary to the Government under the said paragraph (f) and is exempted by a notification of the Yang di-Pertuan Agong under sub-section (2); and

(b) in the case of a person to whom subparagraph (i) of paragraph (aa) of sub-section (3) applies such person shall not cease to be a member thereof if within such period of six months he obtains

(1) the direction of the Chief Secretary to the Government under the said subparagraph (i):

Provided that where any such person is an officer of his trade union, he may continue to remain a member of such trade union until the expiry of the term of his office, or until he otherwise earlier ceases to hold such office, if the term of his office extends beyond the said period of six months.

(8) (a) In this section "Managerial and Professional Group" means the Kumpulan Pengurusan dan Iktisas referred to in paragraph 7.2 of the Pekeliling Perkhidmatan Bil. 2 Tahun 1977 dated 31st March, 1977 issued by the Jabatan Perkhidmatan Awam, Malaysia, or, when used with reference to persons employed by a statutory authority, it means any group of persons corresponding to those referred to in the said paragraph 7.2 of the said Pekeliling.

(b) The Minister responsible for public services may, from time to time, by notification in the *Gazette*, amend the definition of "Managerial and Professional Group" set out in this sub-section."

17. Seksyen 28 Ordinan itu adalah dipinda dengan—

Pindaan
bagi
seksyen 28.

(a) menggantikan perkataan-perkataan "(b) (iv) or (vi)" yang terdapat dalam perenggan (c) seksyen-kecil (1) dengan perkataan-perkataan "(b) (iv), (v) or (vi)";

(b) menggantikan perkataan "officer" yang terdapat dalam perenggan (c1) seksyen-kecil (1) dengan perkataan "office-bearer";

(c) menggantikan noktah bertindih di akhir perenggan (d) seksyen-kecil (1) dengan koma bernoktah dan menambah perkataan "or" selepas sahaja koma bernoktah itu;

(d) menambah perenggan baru (e) selepas sahaja perenggan (d) seksyen-kecil (1) seperti berikut—

"(e) he is a bankrupt: "; dan

(e) memasukkan selepas sahaja seksyen-kecil (1), seksyen-kecil (2) baru seperti berikut—

“(2) Where the Registrar certifies in writing to the executive of a trade union or a federation of trade unions that any person who is a member of the executive of that union or federation is disqualified from being a member of such executive, specifying in such certification the grounds on which such person is so disqualified, such person shall immediately thereupon cease to be a member of such executive.”.

Pindaan
bagi
seksyen 29.

18. Seksyen 29 Ordinan itu adalah dipinda dengan—

(a) menggantikan seksyen-kecil (1) dengan yang berikut—

“Employees
of a trade
union.

29. (1) A registered trade union may, subject to the provisions of sub-section (2) and of the rules of such union, employ and pay a secretary, treasurer and such other persons as may be necessary for the purposes of such union or of any federation of trade unions to which the union belongs:

Provided that no employee of such union other than—

(a) the holder of a full-time office as secretary, assistant secretary, treasurer or assistant treasurer who is elected in accordance with the rules of such union; or

(b) a secretary, assistant secretary, treasurer or assistant treasurer who is employed as such immediately before the commencement of this paragraph and possessing no power of voting in respect of the affairs of such union or of any of its committees,

shall be a member of the executive of such union.”;

(b) menggantikan perkataan “officer” yang terdapat dalam perenggan (c1) seksyen-kecil (2) dengan perkataan “office-bearer”; dan

(c) menggantikan seksyen-kecil (3) dengan yang berikut—

“(3) Any person who is disqualified to be employed by a trade union under the provisions of sub-section (1) or sub-section (2) and has himself so employed without first obtaining the exemption of the Minister under section 30 (b) of this Ordinance shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one year, or to a fine not exceeding two thousand ringgit, or to both.”.

19. Seksyen 35 Ordinan itu adalah dipotong.

Pemotongan
seksyen 35.

20. Seksyen 38 Ordinan itu adalah dipinda dengan—

Pindaan
bagi
seksyen 38.

(a) menggantikan perkataan-perkataan “romanised Malay” di mana jua terdapat dalam seksyen itu dengan perkataan-perkataan “National Language”; dan

(b) menggantikan noktah yang terdapat di akhir seksyen-kecil (3) dengan noktah bertindih dan memasukkan selepas sahaja noktah bertindih itu suatu proviso seperti berikut—

“Provided that any alteration of the rules which results in increasing the liability of the members to contribute or in decreasing the benefits to which members are entitled shall not be approved by the Registrar unless more than one-half of the members entitled to vote in accordance with the union’s rules have voted in favour of the proposed alteration.”.

21. Seksyen 39 Ordinan itu adalah digantikan dengan yang berikut—

Pindaan
bagi
seksyen 39.

“Power of Registrar to direct a union to amend its rules.” 39. (1) The Registrar may—

(a) if he is satisfied that any rule of a trade union is inadequate, ambiguous, or likely to mislead, or that it conflicts with or is inconsistent with the provisions of this Ordinance or any regulations made thereunder; or

(b) where the rules of a trade union do not provide for establishment of branches and it appears to him that it is necessary or desirable in the interests of the trade union or its members that the trade union should establish branches,

direct the trade union to amend its rules to remedy the matters referred to in paragraph (a), or to provide for the establishment of branches as referred to in paragraph (b), as the case may be, within such time as he may specify.

(2) Where the Registrar gives a direction under sub-section (1), then, notwithstanding anything to the contrary thereto in the rules of the trade union, the amendment shall be effected by a decision of the executive of the trade union.

(3) If the trade union fails to amend its rules in accordance with the direction of the Registrar given under sub-section (1), the Registrar may amend the rules on his own motion; such amendment shall be deemed to be a registered amendment under section 38 and the Registrar shall notify the trade union of the amendment so made.”.

Pindaan
bagi
seksyen 40.

22. Seksyen 40 Ordinan itu adalah digantikan dengan yang berikut—

“Secret
ballot.

40. (1) A trade union shall take a secret ballot to make a decision on any of the following matters:

(a) the election of delegates to a general meeting, if the rules of the union provide for meetings of delegates, or to a federation of trade unions;

(b) the election of officers (other than trustees) by the members in accordance with the rules of the union;

(c) all matters relating to strikes or lock-outs;

- (d) the imposition of a levy;
- (e) dissolution of the trade union or federation of trade unions;
- (f) amendment of the rules where such amendment results in increasing the liability of the members to contribute or in decreasing the benefits to which members are entitled;
- (g) amalgamation with another trade union or transfer of engagements to another trade union;
- (h) joining or forming a federation of trade unions or a consultative or similar body.

(2) Where a secret ballot is taken on any matter relating to a strike or a lock-out, it shall contain a resolution setting out clearly the issues leading to the proposed strike or lock-out and describing clearly the nature of the acts which are to be done or omitted to be done in the course of such strike or lock-out; and a secret ballot which does not fulfil these requirements shall be invalid and of no effect, and no strike or lock-out shall be carried out on the basis of such secret ballot.

(3) A secret ballot which has been taken on any matter relating to a strike or lock-out shall cease to have effect upon the expiry of ninety days after the date on which the secret ballot is taken and no strike or lock-out shall thereafter be carried out on the basis of such secret ballot.

(4) The rules of a registered trade union relating to the taking of decisions by secret ballot shall ensure, that every member thereof has an equal right and a reasonable opportunity to record his vote freely, that the results of the voting are correctly ascertained and declared, and that the secrecy of the ballot is properly secured.

(5) The results of a secret ballot taken to decide on any of the matters specified in sub-section (1) shall be submitted by the Secretary of the trade union to the Registrar in triplicate, substantially in the form prescribed by regulations, within fourteen days after the taking of the secret ballot.

(6) Where a trade union has taken a secret ballot to call for a strike or to declare a lock-out, the Registrar may upon receipt of the results thereof under sub-section (5), carry out all such investigations as he may deem necessary, and where he is satisfied that the proposed strike or lock-out if carried out would contravene this Ordinance or any other written law he shall direct the trade union not to commence the proposed strike or lock-out.

(7) The secretary of the trade union shall take all such steps as are necessary to ensure that all ballot papers and documents used in connection with or relevant to a secret ballot are kept at the registered office of the trade union for a period of not less than six months after the completion of the ballot.

(8) For the purpose of satisfying himself that a secret ballot taken by a trade union has been properly conducted, the Registrar may require any person to deliver to him any ballot papers, envelopes, lists, or other documents whatsoever, which have been used in connection with or are relevant to the secret ballot and which are in the possession or under the control of that person, and may inspect any such document and retain it for such period as he deems necessary; but save as aforesaid or as may be provided in the rules of the trade union no person shall be allowed to inspect or copy any document relating to a secret ballot.

(9) The Registrar may in any particular case declare a secret ballot taken by a trade union to be invalid if he is satisfied that the trade union has contravened any provision of this Ordinance, or of any regulations, or of any of its rules in carrying out such secret ballot.”.

23. Seksyen 41 Ordinan itu adalah digantikan dengan yang berikut—

Pindaan
bagi
seksyen 41.

“Notifica-
tion of
changes of
officers and
employees.

41. (1) A trade union shall exhibit prominently in its registered office in a place where it may be easily read a list showing the names and titles of the officers and employees for the time being of the union, and shall also so exhibit at the office of each branch of the trade union a list showing the names and titles of the officers and employees for the time being of the branch.

(2) Notice in the form prescribed by regulations of every change of officer, employee or of the title of any officer or employee shall, together with the fee prescribed by regulations, be sent to the Registrar within fourteen days after the change, and the Registrar shall, on being satisfied that such change is not contrary to the rules of the union or the provisions of this Ordinance or any regulations, alter the register accordingly.”.

24. Seksyen 44 Ordinan itu adalah dipinda dengan—

Pindaan
bagi
seksyen 44.

(a) menggantikan perkataan-perkataan “The Registrar” di mana jua terdapat dalam seksyen-seksyen-kecil (3) dan (4) dengan perkataan-perkataan “The Registrar of Trade Unions”; dan

(b) menggantikan perkataan-perkataan “the Deputy or any Assistant Registrar” di mana jua terdapat dalam seksyen-seksyen-kecil (3) dan (4) dengan perkataan-perkataan “any Deputy Registrar, or any Senior Assistant Registrar, or any Assistant Registrar”.

Pindaan
bagi
seksyen 49.

25. Seksyen 49 Ordinan itu adalah dipinda dengan—

(a) menggantikan perkataan-perkataan “Post Office Savings Bank” yang terdapat dalam perenggan (c) seksyen-kecil (1) dengan perkataan-perkataan “Bank Simpanan Nasional”;

(b) memasukkan selepas sahaja seksyen-kecil (2), seksyen-kecil baru (2A) seperti berikut—

“(2A) For the purpose of satisfying himself that an investment under this section has been properly made, the Registrar may order any person to deliver to him any document or accounts relating to the investment which are in the possession or control of that person and may inspect and retain them for such period as he deems necessary for such purpose, and any person who fails or neglects without reasonable excuse to comply with any such order, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.”; dan

(c) menggantikan perkataan-perkataan “one year” dan perkataan-perkataan “one thousand” yang terdapat dalam seksyen-kecil (3) masing-masing dengan perkataan-perkataan “two years” dan perkataan-perkataan “two thousand”.

Pindaan
bagi
seksyen 50.

26. Seksyen 50 Ordinan itu adalah diganti seperti berikut—

“Applica-
tion of
funds.

50. (1) The funds of a registered trade union may, subject to the rules thereof and to the provisions of this Ordinance, be expended only for the following objects—

(a) the payment of salaries, allowances and expenses to officers and employees of the trade union;

(b) the payment of costs and expenses of the administration of the trade union including audit of the account of the funds of the trade union;

- (c) the prosecution or defence of any legal proceeding to which the trade union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any right of the trade union as such or any right arising out of the relations of any member with his employer, or with a person whom the member employs;
- (d) the expenses incurred in the settlement of disputes under Part VI of this Ordinance;
- (e) the conduct of trade disputes on behalf of the trade union or any member thereof provided that such trade disputes do not contravene this Ordinance or any other written law;
- (f) the compensation of members for loss arising out of trade disputes involving such members provided that such trade disputes do not contravene this Ordinance or any other written law;
- (g) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members;
- (h) the payment of fees in respect of affiliation with, or membership of, any federation of trade unions registered under Part XII of this Ordinance, or any consultative or similar body in respect of which permission has been given by the Registrar under section 76A (1) or the Registrar has been notified under section 76A (2);
- (i) the payment of—
 - (i) all train fares, other essential transport expenses, cost of board and lodging, supported by vouchers, or such amounts as are laid down by the union;

- (ii) the amount of actual wages lost by representatives of trade unions attending meetings connected with or related to the promotion of industrial relations or attending to any matters as required by the Registrar in relation to this Ordinance or any regulations;
 - (iii) expenditure for the purpose of the establishment or maintenance of a federation of trade unions registered under Part XII of this Ordinance, or a consultative or similar body in respect of which permission has been given by the Registrar under section 76A (1) or the Registrar has been notified under section 76A (2);
 - (j) the editing, printing, publication and circulation of any journal, magazine, news sheet or other printed literature published by the registered trade union for the advancement of its objects or the promotion of the interests of the members in accordance with its registered objects and rules;
 - (k) the conduct of social, sporting, educational and charitable activities of the members;
 - (l) the payment of premia to insurance companies registered in Malaysia as may from time to time be approved by the Registrar.
- (2) The Minister may by notification in the *Gazette* add to, delete from or amend the objects specified in sub-section (1) of this section."

Seksyen
baru 52.

27. Ordinan itu adalah dipinda dengan memasukkan selepas sahaja seksyen 51, seksyen baru 52 yang berikut—

"Prohibition of use of funds for political objects.

52. (1) The funds of a registered trade union shall not be applied either directly or indirectly in any payment whatsoever to a political party or in furtherance of any political object.

(2) The expression "political object" referred to in sub-section (1) includes—

- (a) the payment of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election to the Dewan Rakyat or any Dewan Undangan Negeri before, during or after the election in connection with his candidature or election; or
- (b) the holding of any meeting or the distribution or any literature or documents in support of any such candidate or prospective candidate; or
- (c) the maintenance of any person who is a member of the Dewan Rakyat or any Dewan Undangan Negeri; or
- (d) the registration of electors or the selection of a candidate for membership of the Dewan Rakyat or any Dewan Undangan Negeri; or
- (e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind; or
- (f) any object which the Minister may by notification in the *Gazette* specify."

28. Seksyen 54 Ordinan itu adalah dipinda dengan—

Pindaan
bagi
seksyen 54.

- (a) menggantikan perkataan-perkataan "sub-section (2)" yang terdapat dalam seksyen-kecil (1) dengan perkataan-perkataan "sub-section (2A)";
- (b) menggantikan perkataan "three" yang terdapat dalam seksyen-kecil (1) dengan perkataan "six"; dan
- (c) memotong seksyen-seksyen-kecil (5), (6) dan (7).

29. Seksyen 56 Ordinan itu adalah dipinda dengan—

Pindaan
bagi
seksyen 56.

- (a) memasukkan perkataan-perkataan "audited in the manner prescribed by regulations" selepas sahaja perkataan-perkataan "A general statement" yang terdapat di permulaan seksyen-kecil (1);

- (b) memasukkan perkataan-perkataan “, and particulars of its membership,” selepas sahaja perkataan-perkataan “rules of the trade union in force” yang terdapat dalam seksyen-kecil (2); dan
- (c) menggantikan perkataan-perkataan “five hundred” dan perkataan-perkataan “three months” yang terdapat dalam seksyen-kecil (5) masing-masing dengan perkataan-perkataan “one thousand” dan perkataan-perkataan “six months”.

Pindaan
bagi
seksyen 57.

30. Seksyen 57 Ordinan itu adalah diganti dengan yang berikut—

“Keeping and inspection of accounts and records. 57. (1) Every registered trade union shall cause to be kept such account books and other records as may be prescribed by regulations.

(2) The books or records referred to in sub-section (1), the records of a trade union’s proceedings, and a list of its members shall at all reasonable times be open to inspection by any member of the trade union, or any person having an interest in the funds of the trade union, or the Registrar.

(3) The Registrar may, acting for a member or on his own behalf, in any particular case, order the account books and other records of a trade union to be made available for inspection or audit by a fit and proper person approved by him.

(4) Every trade union which, and every member of its executive who, contravenes the provisions of sub-sections (1) or (2) or fails to comply with any order under sub-section (3) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit, or to a term of imprisonment not exceeding six months, or to both.”.

Pindaan
bagi
seksyen 61.

31. Seksyen 61 Ordinan itu adalah dipinda dengan menggantikan perkataan-perkataan “one hundred” yang terdapat dalamnya dengan perkataan-perkataan “two hundred”.

32. Seksyen 62 Ordinan itu adalah dipinda dengan—Pindaan
bagi
seksyen 62.

(a) menomborkannya semula sebagai seksyen “62. (1)”;

(b) menggantikan perkataan-perkataan “five hundred” yang terdapat dalamnya dengan perkataan-perkataan “one thousand”; dan

(c) menambah seksyen-kecil baru (2) seperti berikut—

“(2) Any person who with intent to deceive submits to the Registrar any statement, return or document required under this Ordinance or any regulations, which he knows or has reason to believe is not correct, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit, or to imprisonment for a term not exceeding six months, or to both.”.

33. Seksyen 63 Ordinan itu adalah dipinda dengan—Pindaan
bagi
seksyen 63.

(a) menambah selepas sahaja perenggan (c) seksyen-kecil (1), perenggan baru (d) seperti berikut—

“(d) any summons, order, direction or condition given, made or imposed under this Ordinance,”;

(b) menggantikan perkataan-perkataan “five hundred” yang terdapat dalam seksyen-kecil (1) dengan perkataan-perkataan “one thousand”; dan

(c) menggantikan perkataan “Magistrate” dan perkataan “his” yang terdapat dalam seksyen-kecil (2) masing-masing dengan perkataan “court” dan perkataan “its”.

34. Seksyen 64 Ordinan itu adalah diganti dengan yang berikut—Pindaan
bagi
seksyen 64.

“Prosecution and power to enter premises.

64. (1) Any prosecution in respect of any offence under this Ordinance or any regulations may be conducted by the Registrar.

(2) The Registrar may—

- (a) for the purposes of discharging any of his duties or carrying out any of his functions under this Ordinance or any regulations, or otherwise for any of the purposes of this Ordinance or any regulations, enter at any reasonable time into the registered office of a trade union or any premises or place which he has reason to believe is kept or used for the purposes of the trade union and may carry out such inspection and examination as he may consider necessary; and
- (b) where he has reasonable grounds for believing that an offence under this Ordinance or any regulations has been committed, enter at any time, after obtaining a search warrant from a Magistrate, any office, premises or place which is specified in the search warrant, and carry out any search, inspection or examination, and seize or detain any article or document found in such office, premises or place which may be required for the purposes of any prosecution in respect of such offence.

(3) A search warrant under paragraph (b) of sub-section (2) may be issued by a Magistrate to the Registrar if he is satisfied upon written information by the Registrar that there is good reason to believe that an offence under this Ordinance or any regulations has been committed, and that the office, premises or place to be specified in the search warrant is kept or used for the purposes of the trade union.”.

35. Seksyen 67 Ordinan itu adalah dipinda dengan—Pindaan
bagi
seksyen 67.

- (a) menggantikan perkataan-perkataan "Societies Ordinance, 1949" di mana jua terdapat dalam seksyen-seksyen-kecil (1) dan (2) dengan perkataan-perkataan "Societies Act, 1966" dan menggantikan rujukan bidai "28 of 1949" yang terdapat bersetentangan dengan perkataan-perkataan tersebut dengan rujukan bidai "13/66"; dan
- (c) menggantikan perkataan-perkataan "sub-section (3)" yang terdapat dalam seksyen-kecil (2) dengan perkataan-perkataan "sub-section (4)".

36. Seksyen 69 Ordinan itu adalah dipinda dengan memasukkan perkataan-perkataan "withdrawn or" sebelum sahaja perkataan "cancelled" yang terdapat dalamnya.Pindaan
bagi
seksyen 69.**37. Seksyen 70 Ordinan itu adalah dipinda dengan menggantikan seksyen-kecil (1) dengan yang berikut—**Pindaan
bagi
seksyen 70.

"Inspection, production and evidence of documents of the Registrar.

70. (1) A certificate of registration of a trade union or any other document in the possession of the Registrar received from any trade union by virtue of its being required to be submitted to the Registrar under this Ordinance or any regulations, may, with the approval of the Registrar, be inspected by any person on payment of the prescribed fee, and any person may, on payment of the prescribed fee, obtain from the Registrar a certified copy or extract of the certificate of registration of any registered trade union or a certified copy of or extract from any other document as aforesaid in the possession of the Registrar :

Provided that the Registrar may in his absolute discretion and without assigning any reason therefor refuse to grant approval for the inspection of any document or refuse to supply a copy or an extract of any document."

Pindaan
bagi
seksyen 71.

38. Seksyen 71 Ordinan itu adalah dipinda dengan—

(a) menggantikan seksyen-kecil (1) dengan yang berikut—

“Power of
Registrar to
summon
witnesses.

71. (1) The Registrar may summon before him any person who he has reason to believe is able to give any information—

(a) as to the existence of or as to the operations of any trade union or suspected trade union, which is not registered under this Ordinance; or

(b) the activities of any registered trade union.”; dan

(b) menggantikan perkataan-perkataan “two hundred dollars” yang terdapat dalam seksyen-kecil (4) dengan perkataan-perkataan “five hundred ringgit”.

Seksyen
baru 71A.

39. Ordinan itu adalah dipinda dengan memasukkan dalam Bahagian XI, selepas sahaja seksyen 71, seksyen baru 71A yang berikut—

“Appeal to
Minister.

71A. (1) Any person who is dissatisfied with any opinion, order, declaration, refusal, cancellation, withdrawal, direction or decision, as the case may be, given, made or effected by the Registrar under any of the following provisions:

- (a) sub-section (2) of section 2;
- (b) section 12;
- (c) paragraph (b) of sub-section (2), or sub-section (4), of section 15;
- (d) sub-section (1) of section 16;
- (e) sub-section (1) of section 17;
- (f) sub-section (4) of section 25A;
- (g) paragraph (d) of sub-section (1) of section 28, or paragraph (b) of sub-section (2) of section 29;
- (h) sub-section (2) of section 34;
- (i) sub-section (1) of section 39;

(j) sub-section (6) or sub-section (9) of section 40;

(k) sub-section (1) of section 54;

(l) sub-section (1) of section 76A; or

(m) sub-section (1) of section 76C,

may, within thirty days from the date of the opinion, order, declaration, refusal, cancellation, withdrawal, direction or decision of the Registrar, appeal against the same to the Minister, in such manner as may be prescribed by regulations.

(2) An appeal under sub-section (1) shall not operate as a stay of execution of the opinion, order, declaration, refusal, cancellation, withdrawal, direction or decision, as the case may be, of the Registrar unless the Minister otherwise directs, and where he so directs he may impose such terms and conditions as he deems fit.

(3) The Minister may, after considering any such appeal, give such decision thereon as he deems just and proper.

(4) Any direction or decision of the Minister under this section shall be final and conclusive, and no such direction or decision shall be challenged, appealed against, reviewed, quashed or called in question in any court, and shall not be subject to certiorari, prohibition, mandamus or injunction (whether interim, interlocutory or final) in any court on any account, and no court shall have jurisdiction to entertain any question, on any ground, regarding the propriety or validity of any such direction or decision, or of the continued operation of any such direction or decision, or otherwise in any manner relating to any such direction or decision.”

Bahagian
XIIA baru.

40. Ordinan itu adalah dipinda dengan memasukkan selepas sahaja Bahagian XII, Bahagian XIIA baru yang berikut—

“PART XIIA

CONSULTATIVE BODIES

Prohibi-
tion
against the
formation
of or
affiliation
with
consultative
or similar
bodies.

76A. (1) No trade union registered under this Ordinance shall—

(a) form with any other trade union, whether registered under this Ordinance or not and whether within or outside Malaysia; or

(b) affiliate with, or be a member of,

any consultative or similar body, by whatever name called, whether established within or outside Malaysia, except with the prior permission in writing of the Registrar and subject to such conditions as he may impose:

Provided that no such permission shall be given where the Registrar is satisfied that such body pursues or intends to pursue any of the objects specified in the definition of “trade union” in sub-section (1) of section 2 of this Ordinance other than the regulation of relations between workmen and workmen or between employers and employers, as the case may be.

(2) Where any registered trade union is already affiliated with, or is a member of, any consultative or similar body immediately before the commencement of this Part, regardless whether such affiliation or membership took place with or without the approval of the Registrar, or of the Minister, the trade union shall within sixty days of the commencement of this Part notify the Registrar in writing of such affiliation or membership, and such notification shall be accompanied with a statement of the particulars referred to in sub-section (2) of section 76B.

Appli-
cation for
permission
to form or
affiliate
with
consultative
bodies.

76B. (1) Every application for the permission of the Registrar referred to in sub-section (1) of section 76A shall be made to the Registrar in the prescribed form and shall be signed by at least three principal officers of the union.

(2) Every application under sub-section (1) of this section shall be accompanied by a copy of the constitution and rules of the consultative or similar body and a statement of the following particulars, namely:

- (a) the name of such body and the address of its head office;
- (b) the objects for which such body is established;
- (c) the title, name, date of birth, address and occupation of each office-bearer of such body and such other information and particulars regarding such office-bearer as the Registrar may require to be furnished; and
- (d) such other information and particulars whatsoever relating to such body or to any person connected therewith or to the application as the Registrar may require to be furnished.

Power of
Registrar
to withdraw
permission.

76C. (1) The Registrar may, where he is satisfied that—

- (a) any trade union to which permission has been granted under sub-section (1) of section 76A; or
- (b) the consultative or similar body with which such trade union is affiliated, or of which it is a member,

has acted or is acting in contravention of any provision of this Ordinance or any other written law or any condition imposed by him, withdraw such permission and thereupon such trade union shall cease its affiliation with, or membership of, such consultative or similar body.

(2) The provisions of sub-section (1) shall apply to any trade union referred to in sub-section (2) of section 76A as if such trade union had been granted permission under sub-section (1) of section 76A.

Duty to inform the Registrar of appointment to an office or employment in consultative bodies.

76D. (1) If any member, officer or employee of a trade union holds any office in, or is employed by, any consultative or similar body, whether within or outside Malaysia, immediately before or after the commencement of this Part, he shall within sixty days of the commencement of this Part, or within sixty days of his appointment to the office or of his employment, as the case may be, inform the Registrar of such appointment or employment:

Provided that such information shall not absolve him from any requirement under any written law relating to such appointment or employment.

(2) A person who has been a member of the executive of any trade union the registration of which has been cancelled under the provisions of this Ordinance shall not hold office in or be employed by any consultative or similar body except with the permission in writing of the Minister and subject to such conditions as he may impose.

Application of Societies Act, 1966 to consultative body.
13/66.

76E. Nothing in this Part shall render or be construed as rendering inapplicable to a consultative or similar body referred to in this Part the provisions of the Societies Act, 1966 or any other written law relating to the registration or recording of societies.

Interpretation of consultative or similar body.

76F. For the purposes of this Part the expression "consultative or similar body" includes any trade union council, trade union co-ordinating or advisory body, trade secretariat or any other organisation composed of trade unions other than a federation of trade unions registered or required to be registered under Part XII of this Ordinance."

41. Jadual Pertama kepada Ordinan itu adalah dipinda dengan—

Pindaan
bagi
Jadual
Pertama.

(a) menggantikan perkataan-perkataan "The manner of establishing" yang terdapat dalam perenggan 8 dengan perkataan-perkataan "Where applicable, the manner of establishing";

(b) memasukkan perkataan-perkataan " , or a consultative body or similar body" selepas sahaja perkataan-perkataan "trade unions" yang terdapat dalam perenggan 9 (h); dan

(c) menggantikan perenggan 12 dengan yang berikut—

"12. Cessation of membership if members commence, participate or otherwise act in furtherance of any strike in contravention of sub-section (1) of section 25A of this Ordinance."

42. Jadual Kedua kepada Ordinan itu adalah dengan ini dipotong.

Pemotongan
Jadual
Kedua.

43. Akta Kesatuan Sekerja 1965 adalah dengan ini dimansuhkan.

Peman-
suhan.
81/65.

HURAIAN

Rang Undang-undang ini bertujuan meminda Ordinan Kesatuan Sekerja 1959 dalam berbagai hal yang berkaitan dengan pendaftaran, penyusunan dan perjalanan kesatuan-kesatuan sekerja, dan juga bertujuan menyatukan Ordinan itu dengan peruntukan-peruntukan Akta Kesatuan Sekerja 1965.

81/65.

2. *Fasal 2* bertujuan meminda seksyen 2 Ordinan itu dengan—

(a) menggantikan takrif bagi perkataan-perkataan "employer", "lock-out", "Registrar", dan "strike";

(b) memasukkan takrif bagi perkataan-perkataan "employee", "Government", "office-bearer", "regulations", dan "statutory authority";

(c) memasukkan perenggan-kecil baru (iiA) selepas sahaja perenggan-kecil (ii) perenggan (c) dalam takrif "trade union"; dan

(d) menggantikan seksyen-kecil (2) dengan yang baru.

3. *Fasal-fasal 3, 4 dan 5* bertujuan meminda seksyen-seksyen 3 dan 4 Ordinan itu dan mengadakan seksyen baru 4A dengan tujuan menerangkan kuasa-kuasa, tugas-tugas dan fungsi-fungsi Pendaftar Kesatuan Sekerja dan pegawai-pegawai lain yang bertanggungjawab menjalankan peruntukan-peruntukan Ordinan itu.

4. *Fasal 6* bertujuan meminda seksyen 11 Ordinan itu supaya membolehkan kesatuan-kesatuan sekerja memungut wang sebelum pendaftaran bagi pihak kesatuan-kesatuan sekerja dengan kelulusan bertulis dari Pendaftar.

5. *Fasal 7* bertujuan memasukkan ke dalam seksyen 12 Ordinan itu, peruntukan-peruntukan seksyen 2 Akta Kesatuan Sekerja 1965, yang akan dimansuhkan dan juga bertujuan meminda dan menyatukan peruntukan-peruntukan yang sedia ada mengenai kuasa Pendaftar untuk enggan mendaftar sesuatu kesatuan sekerja.

6. *Fasal 9* bertujuan memasukkan ke dalam seksyen 15 Ordinan itu, seksyen 3 Akta Kesatuan Sekerja 1965. *Fasal* ini juga bertujuan meminda seksyen 15 Ordinan itu supaya mengadakan bagi Pendaftar pilihan untuk memerintahkan pemecatan ahli-ahli tertentu sesuatu kesatuan sekerja sebagai alternatif bagi membatalkan perakuan pendaftarannya, setelah memberi notis yang sepatutnya kepada kesatuan sekerja itu.

7. *Fasal 10* bertujuan meminda seksyen 16 Ordinan itu supaya memberi kepada Pendaftar kuasa melarang sesuatu kesatuan sekerja yang pendaftarannya dicadang hendak dibatalkan supaya jangan menjalankan kegiatan-kegiatan tertentu. Pada masa ini kuasa ini adalah terletak pada Menteri.

8. *Fasal 12* bertujuan mengkanunkan seksyen 18 baru bagi membolehkan Menteri menggantung sesuatu kesatuan sekerja, atau mana-mana kelas atau jenis kesatuan-kesatuan sekerja, selama tempoh tidak melebihi enam bulan jika pada pendapatnya sesuatu kesatuan sekerja, atau sesuatu kelas atau jenis kesatuan-kesatuan sekerja, sedang digunakan bagi maksud-maksud yang mendatangkan mudarat kepada atau bertentangan dengan kepentingan keselamatan atau ketenteraman awam dalam Malaysia atau mana-mana bahagiannya. Kuasa Menteri dalam hal ini hendaklah dijalankan dengan persetujuan Menteri yang bertanggungjawab bagi keselamatan dalam negeri dan ketenteraman awam.

9. *Fasal 14* bertujuan mengadakan seksyen baru 25A dalam Ordinan itu yang memperuntukkan acara-acara tertentu yang kena diikuti oleh sesuatu kesatuan sekerja sebelum ia mengisytiharkan mogok, atau sebelum ahli-ahlinya melakukan mogok, atau sebelum ia mengisytiharkan tutup-pintu. Ia juga bertujuan memastikan bahawa kaedah-kaedah kesatuan sekerja dan peruntukan-peruntukan undang-undang adalah dipatuhi dalam mengisytiharkan mogok, melakukan mogok, atau mengisytiharkan tutup-pintu. Seksyen baru 25A yang dicadangkan itu juga mengadakan penalti bagi apa-apa pelanggaran terhadap

peruntukan-peruntutannya, dan kuasa memecat dari keanggotaan sesuatu kesatuan sekerja mana-mana daripada ahli-ahlinya yang melanggar kehendak-kehendak seksyen ini berkaitan dengan mogok dan tutup-pintu.

10. *Fasal 16* bertujuan menggantikan seksyen-kecil (2) seksyen 27 Ordinan itu supaya menentukan dengan jelasnya kategori-kategori pegawai-pegawai awam yang tidak boleh dikecualikan daripada larangan yang terkandung dalam seksyen-kecil (1) mengenai keanggotaan kesatuan sekerja. Ia juga bertujuan meminda seksyen-kecil (3) seksyen 27 supaya mengadakan sekatan-sekatan yang sama, di mana boleh dipakai, berkenaan dengan pihak-pihak berkuasa berkanun. Lain-lain pindaan kepada seksyen ini juga bertujuan memberi kepada Ketua Setiausaha Negara kuasa-kuasa sampingan yang tertentu berkenaan dengan kategori-kategori pegawai dan pekerja yang terlarang itu yang menjalankan tugas-tugas sulit atau keselamatan, atau yang memegang jawatan dalam Kumpulan Pengurusan dan Iktisas. Peruntukan juga dibuat bagi rayuan kepada Menteri yang bertanggungjawab bagi perkhidmatan awam terhadap arahan-arahan dan keputusan-keputusan Ketua Setiausaha Negara. Seksyen-kecil baru (7) yang dicadangkan bagi seksyen 27 adalah bertujuan mengadakan peruntukan-peruntukan peralihan bagi melonggarkan, selama suatu tempoh yang tertentu, sekatan-sekatan yang diadakan oleh pindaan-pindaan itu bagi orang-orang yang termasuk dalam kategori-kategori yang terlarang itu yang menjadi ahli atau pegawai kesatuan-kesatuan sekerja sebelum sahaja Akta ini mula berkuatkuasa.

11. *Fasal 17* bertujuan membuat pindaan-pindaan berbangkit yang tertentu kepada seksyen 28 Ordinan itu, dan selain dari itu membuat peruntukan supaya seseorang yang bankrap tidak layak menjadi ahli badan eksekutif sesuatu kesatuan sekerja atau mana-mana cawangannya, atau mana-mana gabungan kesatuan-kesatuan sekerja. Pindaan kepada seksyen ini juga bertujuan membuat peruntukan bagi memecat orang yang hilang kelayakannya dari badan eksekutif yang sedemikian itu atas perakuan yang dikeluarkan oleh Pendaftar.

12. *Fasal 18* bertujuan meminda seksyen 29 Ordinan itu supaya mengadakan peruntukan-peruntukan yang jelas berhubung dengan penggajian pegawai-pegawai oleh sesuatu kesatuan sekerja dan berhubung dengan sekatan terhadap keanggotaan mereka dalam badan eksekutif sesuatu kesatuan. Fasal itu juga bertujuan menambah seksyen-kecil baru (3) kepada seksyen 29 supaya mengadakan penalti bagi sesuatu pelanggaran terhadap peruntukan-peruntukan seksyen ini.

13. *Fasal 20 (b)* bertujuan meminda seksyen 38 Ordinan itu supaya perubahan kaedah-kaedah sesuatu kesatuan yang membuat peruntukan bagi apa-apa tambahan kepada tanggungan ahli-ahli untuk mencarum, atau apa-apa pengurangan faedah-faedah bagi ahli-ahli, tidak boleh diluluskan oleh Pendaftar melainkan jika lebih daripada setengah ahli-ahli kesatuan itu telah mengundi menyokong perubahan itu.

14. *Fasal 21* bertujuan mengganti seksyen 39 Ordinan itu dengan suatu seksyen yang membolehkan Pendaftar mengarah sesuatu kesatuan sekerja supaya membuat pindaan-pindaan yang perlu kepada kaedah-kaedahnyanya bagi memperbaiki kekurangan, kekaburan, atau peruntukan-peruntukan yang berlawanan dan yang berselisih dengan Ordinan itu atau peraturan-peraturan yang dibuat di bawah Ordinan itu, dan meminda kaedah-kaedah yang mungkin mengelirukan. Ia juga membuat peruntukan bagi pindaan-pindaan kepada kaedah-kaedah bagi membolehkan penubuhan cawangan-cawangan kesatuan sekerja. Jika kesatuan sekerja itu tidak mematuhi arahan Pendaftar, Pendaftar adalah diberikuasa untuk meminda kaedah-kaedah kesatuan sekerja itu dengan sendiri.

15. *Fasal 22* menggantikan seksyen 40 Ordinan itu dengan suatu seksyen yang menyatakan perkara-perkara yang mengenainya sesuatu kesatuan sekerja dikehendaki mencabut undi sulit untuk membuat keputusan. Seksyen-seksyen-kecil (2) dan (3) seksyen ini bertujuan membuat peruntukan-peruntukan khas berhubung dengan undi sulit yang dicabut dalam perkara-perkara yang berkaitan dengan mogok atau tutup-pintu; undi sulit yang sedemikian itu dikehendaki mengandungi suatu ketetapan yang menyatakan dengan jelasnya isu-isu yang membawa kepada mogok atau tutup-pintu yang dicadangkan itu dan memperihalkan dengan jelasnya jenis perbuatan yang akan dilakukan atau ditinggal daripada dilakukan semasa mogok atau tutup-pintu itu berjalan. Sesuatu undi sulit yang dicabut mengenai apa-apa perkara yang berkaitan dengan sesuatu mogok atau tutup-pintu akan habis kuatkuasanya sembilan puluh hari selepas tarikh ia dicabut. Seksyen-seksyen-kecil (4) hingga (9) seksyen ini mengandungi lain-lain peruntukan yang perlu berkaitan dengan undi sulit, dan memberi kuasa-kuasa yang perlu kepada Pendaftar berkenaan dengannya.

16. *Fasal 23* menggantikan seksyen 41 Ordinan itu dengan suatu seksyen yang menghendaki sesuatu kesatuan sekerja itu memamerkan butir-butir yang berkaitan berhubung dengan pegawai-pegawai dan pekerja-pekerjanya di pejabatnya dan di pejabat cawangan-cawangannya. Notis tentang perubahan-perubahan mengenai pegawai-pegawai dan pekerja-pekerja itu adalah dikehendaki diberi kepada Pendaftar dalam masa empat belas hari selepas perubahan itu.

17. *Fasal 25 (b)* bertujuan memasukkan seksyen-kecil baru (2A) ke dalam seksyen 49 Ordinan itu untuk memberikuasa kepada Pendaftar memerintah supaya diserahkan dokumen-dokumen atau akaun-akaun mengenai pelaburan bagi membolehkannya memuaskan hatinya bahawa sesuatu pelaburan yang dibuat oleh sesuatu kesatuan sekerja di bawah seksyen 49 telah dibuat dengan sewajarnya.

18. *Fasal 26* menggantikan seksyen 50 Ordinan itu dengan suatu seksyen yang memasukkan ke dalam seksyen itu, dengan beberapa ubahsuaian, peruntukan-peruntukan Jadual Kedua yang ada sekarang (yang mana akan dipotong) mengenai penggunaan wang sesuatu kesatuan sekerja berdaftar. Perkara 10 dan 12

dalam Jadual Kedua, yang berkaitan dengan persatuan-persatuan kebudayaan dan pelajaran dan dengan pembinaan bangunan, akan ditinggalkan, dan perkara-perkara baru yang dinyatakan dalam perenggan (d) dan (l) adalah dimasukkan antara perkara-perkara yang mengenainya sesuatu kesatuan sekerja berdaftar boleh membelanjakan wangnya.

19. *Fasal 27* bertujuan memasukkan seksyen baru 52 ke dalam Ordinan itu untuk melarang penggunaan wang kesatuan sekerja bagi apa-apa tujuan politik ("political object"). Seksyen-kecil (2) seksyen ini menyatakan setengah daripada perkara-perkara yang termasuk dalam perbahasaan "political object" itu.

20. *Fasal 30* menggantikan seksyen 57 Ordinan itu dengan suatu seksyen yang membuat peruntukan bagi penyimpanan dan juga pemeriksaan buku-buku akaun dan lain-lain rekod sesuatu kesatuan sekerja berdaftar, selain dari memberi kuasa kepada Pendaftar untuk memerintahkan supaya buku-buku akaun dan lain-lain rekod itu boleh didapati untuk pemeriksaan atau audit oleh seseorang yang layak dan sesuai yang diluluskan olehnya.

21. *Fasal 34* bertujuan menggantikan seksyen 64 Ordinan itu dengan suatu seksyen yang memberi kuasa kepada Pendaftar untuk menjalankan apa-apa pendakwaan mengenai apa-apa kesalahan di bawah Ordinan itu atau apa-apa peraturan yang dibuat di bawahnya. Seksyen-kecil (2) seksyen ini memberi kuasa kepada Pendaftar untuk memasuki pada bila-bila masa yang munasabah pejabat berdaftar sesuatu kesatuan sekerja atau mana-mana premis atau tempat yang ia ada sebab mempercayai adalah diselenggara atau digunakan bagi maksud-maksud kesatuan sekerja itu, dan untuk menjalankan apa-apa pemeriksaan dan penyelidikan yang difikirkannya perlu bagi maksud menunaikan apa-apa tugasnya atau menjalankan apa-apa fungsinya atau bagi mana-mana daripada maksud-maksud Ordinan itu atau peraturan-peraturan di bawahnya. Berhubung dengan kesalahan-kesalahan di bawah Ordinan itu atau peraturan-peraturan di bawahnya, ia juga memberi kuasa kepada Pendaftar untuk menjalankan pengeledahan, pemeriksaan dan penyelidikan ke atas mana-mana pejabat, premis atau tempat yang sedemikian itu setelah mendapat waran menggeledah dari seorang Majistret; Pendaftar juga diberi kuasa mensita atau menahan apa-apa barang atau dokumen yang dijumpai di dalamnya yang mungkin diperlukan bagi maksud pendakwaan.

22. *Fasal 37* menggantikan seksyen-kecil (1) seksyen 70 dengan suatu seksyen-kecil yang, sambil membolehkan pemeriksaan dokumen-dokumen dalam milik Pendaftar, dan sambil membolehkan didapati salinan-salinan yang diperakukan baginya, memberi kepada Pendaftar budibicara untuk enggan membenarkan pemeriksaan atau membekalkan salinan-salinan itu.

23. *Fasal 39* bertujuan memasukkan ke dalam Bahagian XI Ordinan itu seksyen baru 71A yang membuat suatu peruntukan bagi rayuan kepada Menteri mengenai berbagai perkara yang dilakukan oleh Pendaftar yang disenaraikan di bawah seksyen-kecil (1) seksyen ini. Sesuatu rayuan itu tidak akan berkesan sebagai penangguhan pelaksanaan dalam perkara yang terhadapnya rayuan dibuat, melainkan jika Menteri mengarah sebaliknya. Adalah diperuntukkan dalam seksyen-kecil (4) seksyen ini bahawa keputusan Menteri mengenai rayuan itu adalah muktamad dan tidak boleh dipersoalkan atau dijadikan perkara apa-apa pembicaraan dalam mana-mana mahkamah, dan tiada mana-mana mahkamah pun akan mempunyai bidangkuasa untuk melayani apa-apa persoalan mengenai keputusan Menteri.

24. *Fasal 40* bertujuan memasukkan Bahagian XIIA baru ke dalam Ordinan itu mengenai hal badan-badan perunding. Seksyen 76A dalam Bahagian ini memerlukan kebenaran bertulis dari Pendaftar sebelum sesuatu kesatuan sekerja boleh membentuk atau bergabung dengan, atau menjadi ahli, mana-mana badan perunding atau badan seumpama itu. Tetapi Pendaftar tidak boleh memberi kebenaran itu jika badan itu mengejar atau bercadang hendak mengejar objektif-objektif kesatuan sekerja, kecuali pengaturan perhubungan antara pekerja dan pekerja, atau antara majikan dan majikan. Dalam hal kesatuan-kesatuan sekerja yang sudah bergabung dengan atau menjadi ahli badan-badan yang sedemikian itu sebelum sahaja mula berkuatkuasanya Bahagian ini, mereka adalah dikehendaki memberitahu Pendaftar secara bertulis dalam masa enam puluh hari dan membekalkannya dengan butir-butir yang berkaitan.

Seksyen 76B dalam Bahagian ini membuat peruntukan bagi acara mengenai permohonan untuk kebenaran bertulis dari Pendaftar di bawah seksyen 76A sebagaimana tersebut tadi.

Seksyen 76C dalam Bahagian ini memberi kuasa kepada Pendaftar untuk menarik balik kebenaran yang diberi di bawah seksyen 76A (1) jika ia berpuashati bahawa kesatuan sekerja atau badan perunding itu telah atau sedang bertindak bertentangan dengan Ordinan itu atau mana-mana undang-undang bertulis yang lain atau apa-apa syarat yang dikenakan olehnya. Kuasa ini terpakai bagi kesatuan-kesatuan sekerja yang sudah bergabung sebelum mula berkuatkuasanya Bahagian ini, seolah-olah kebenaran telah diberi kepada mereka di bawah seksyen 76A (1).

Seksyen 76D meletakkan kewajipan atas ahli-ahli, pegawai-pegawai dan pekerja-pekerja kesatuan-kesatuan sekerja supaya memberitahu Pendaftar jika mereka memegang jawatan dalam atau bekerja dengan sesuatu badan perunding, sama ada sebelum sahaja atau selepas mula berkuatkuasanya Bahagian ini, dalam

masa enam puluh hari dari mula berkuatkuasanya Bahagian ini, atau dari tarikh perlantikan mereka ke jawatan itu atau tarikh mereka diambilkerja.

Seksyen 76E memastikan bahawa Akta Pertubuhan, 1966^{13/66.} atau mana-mana undang-undang bertulis yang lain mengenai pendaftaran atau hal merekodkan pertubuhan-pertubuhan, adalah terpakai bagi badan-badan perunding atau badan-badan seumpama itu.

Seksyen 76F memperuntukkan bahawa perbahasaan "consultative or similar body" (badan perunding atau badan seumpama itu) termasuklah majlis kesatuan sekerja, badan pelarasan atau penasihat kesatuan sekerja, dll., tetapi tidak termasuk gabungan kesatuan-kesatuan sekerja yang didaftarkan di bawah Ordinan itu.

25. *Fasal 43* membuat peruntukan bagi pemansuhan berbangkit Akta Kesatuan Sekerja, 1965.

26. Berbagai *Fasal* dan *Fasal-kecil* yang lain dalam Rang Undang-undang ini bertujuan untuk membuat pindaan-pindaan yang perlu dan berbangkit, dan juga lain-lain peruntukan kecil.

IMPLIKASI KEWANGAN

Rang Undang-undang ini tidak melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan. [PN. (U²) 953.]

RANG UNDANG-UNDANG KESATUAN SEKERJA (PINDAAN) 1980

Teks Bahasa Malaysia

Pindaan-pindaan yang akan dikemukakan dalam Jawatankuasa
oleh Y.B. Menteri Buruh dan Tenaga Rakyat

Fasal 2(1)(e): Potong perkataan "temporary" yang terdapat dalam perenggan (a) takrif "lock-out".

Fasal 12: Gantikan seksyen-kecil (7) yang terdapat dalam seksyen baru 18 yang dicadangkan itu dengan yang berikut -

"(7) An order or direction of the Minister under this section shall be final and conclusive."

Fasal 14: Hurufkan semula perenggan (e) seksyen-kecil (1) seksyen baru 25A yang dicadangkan itu sebagai perenggan (f), dan masukkan perenggan baru (e) selepas sahaja perenggan (d) seksyen-kecil tersebut seperti berikut -

"(e) in respect of any matter covered by a direction or decision of the Minister given or made in any appeal to him under any provision of this Ordinance; or".

Fasal 16: (a) Gantikan perkataan "given" yang terdapat dalam perenggan (f) seksyen-kecil (2) di bawah Fasal-Kecil (a) dengan perkataan "issued".

(b) Gantikan seksyen-kecil (6) yang terdapat di bawah Fasal-Kecil (e) dengan yang berikut -

"(6) Any person or a group of persons who have sought a direction of the Chief Secretary to the Government under paragraph (f) of subsection (2) or under sub-paragraph (i) of paragraph (aa) of subsection (3), and have failed to obtain such direction, or any person dissatisfied with any decision of the Chief

Secretary to the Government under subsection (5), may, within thirty days of the failure to obtain such direction, or of such decision, as the case may be, appeal to the Minister responsible for public services, whose decision thereon shall be final and conclusive."

Fasal 21: Gantikan Fasal 21 dengan yang berikut -

"Seksyen 21. Seksyen 39 Ordinan_c itu adalah dipotong."
39
dipotong.

Fasal 34: Masukkan selepas sahaja perkataan "Registrar" yang terdapat dalam seksyen-kecil (1) seksyen 64 perkataan-perkataan "with the prior written consent of the Public Prosecutor".

Fasal 39: (a) Potong perenggan (i) seksyen-kecil (1) seksyen 71A dan hurufkan semula perenggan-perenggan (j), (k), (l) dan (m) seksyen-kecil (1) tersebut masing-masing sebagai perenggan-perenggan (i), (j), (k) dan (l); dan

(b) Gantikan seksyen-kecil (4) seksyen 71A dengan yang berikut -

" (4) A direction or decision of the Minister under this section shall be final and conclusive."

HURAIAN

Butiran 1 bertujuan meminda Fasal 2(1)(e) Rang Undang-undang dengan memotong perkataan "temporary" yang terdapat dalam takrif "lock-out".

2. Butiran 2 bertujuan meminda Fasal 12 Rang Undang-undang dengan menggantikan seksyen-kecil (7) seksyen 18 yang baru itu.

3. Butiran 3 bertujuan menambah perenggan baru (e) kepada seksyen-kecil (1) seksyen 25A bagi membuat peruntukan mengenai larangan terhadap pemogokan atau penutupan pintu (lock-out) mengenai apa-apa perkara yang dinyatakan di dalamnya.
4. Butiran 4(b) bertujuan menggantikan seksyen-kecil (6) yang terdapat di bawah Fasal 16(c) Rang Undang-undang.
5. Butiran 5 bertujuan menggantikan Fasal 21 Rang Undang-undang bagi memotong seksyen 39 Ordinan itu.
6. Butiran 6 bertujuan meminda seksyen-kecil (1) seksyen 64 di bawah Fasal 34 Rang Undang-undang bagi membuat peruntukan mengenai persetujuan bertulis Pendakwa Raya sebelum Pendaftar boleh mendakwa atas sesuatu kesalahan di bawah Ordinan itu.
7. Butiran 7(b) bertujuan meminda Fasal 39 Rang Undang-undang dengan menggantikan seksyen-kecil (4) seksyen 71A yang baru itu.
8. Butiran-butiran 4(a) dan 7(a) bertujuan membuat pindaan-pindaan kecil dan berbangkit.

Kementerian Undang-Undang
dan Peguan Negara,
Kuala Lumpur.

2hb. April, 1980.

[P.N.(U2) 953.]